

RESOLUTION NO. 35 -18

(Approving the issuance and sale by the City of Gaithersburg of its economic development revenue bonds in an approximate principal amount not to exceed \$130,000,000, and the loan of the proceeds thereof to Asbury Atlantic, Inc. to be used, among other purposes, to refund certain tax-exempt bonds issued for the purpose of financing and refinancing, among other things, the costs of the acquisition of certain facilities in Calvert County, Maryland, owned by Asbury Atlantic, Inc., known as Asbury Solomons Island)

RECITALS

Sections 12-101 through 12-118, inclusive, of the Economic Development Article of the Annotated Code of Maryland, being the Maryland Economic Development Revenue Bond Act (the "Act") empowers any public body (as defined in the Act) to issue and sell bonds (as defined in the Act), as its limited obligations and not upon its faith and credit or pledge of its taxing power, and to loan the proceeds of the sale of such bonds to one or more facility users (as defined in the Act) to finance or refinance any costs of the acquisition or improvement (as defined in the Act) of a facility or facilities (as defined in the Act) for one or more facility users or to refund outstanding bonds.

The Act states the declared legislative purpose of the General Assembly of Maryland to (1) relieve conditions of unemployment in the State of Maryland (the "State"); (2) encourage the increase of industry and commerce and a balanced economy in the State; (3) assist in the retention of existing industry and commerce and in the attraction of new industry and commerce in the State through, among other things, port development and the control, reduction or abatement of pollution of the environment and the utilization and disposal of waste; (4) promote economic development; (5) protect natural resources and encourage resource recovery; and (6) promote the health, welfare and safety of the residents of the State.

The City of Gaithersburg (the "City") has received a request from Asbury Atlantic, Inc. (the "Facility Applicant"), a Maryland non-stock, non-profit organization and a 501(c)(3) organization within the meaning of Section 150(a)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), and a "facility applicant" and a "facility user" as defined in the Act, for the City to issue and sell its bonds pursuant to the Act in an aggregate principal amount not to exceed \$130,000,000 (the "Bonds") and to loan the proceeds of the sale thereof (the "Loan") to the Facility Applicant, for the

purpose of (1) refunding all or a portion of the outstanding principal amount of the City's Economic Development Refunding Revenue Bonds (Asbury Maryland Obligated Group), Series 2006A (the "2006A Refunded Bonds") and the City's Economic Development Refunding Revenue Bonds (Asbury Maryland Obligated Group), Series 2014, (ii) financing or refinancing a termination payment with respect to an existing interest swap agreement, (iii) funding one or more capitalized interest or working capital accounts or debt service reserve funds, if necessary, (iv) financing or refinancing certain capital improvements to Asbury Methodist Village (described below), and (v) paying certain costs of issuance of the Bonds and/or other related costs.

The 2006A Refunded Bonds were issued to refund certain prior bonds issued by the City and County Commissioners of Calvert County (the "County") to (i) finance and refinance all or a portion of the costs of the acquisition and improvement of (A) the continuing care retirement community known as "Asbury Methodist Village," located on an approximately 130-acre campus located at 201 Russell Avenue, Gaithersburg, Montgomery County, Maryland 20877 (the "Gaithersburg Facilities") and (B) the continuing care retirement facility known as "Asbury-Solomons Island," located on approximately 58 acres of land at 11000 Asbury Circle, Solomons, Calvert County, Maryland 20688 (the "Solomons Facilities" and, together with the Gaithersburg Facilities, the "Facilities"), (ii) fund a debt service reserve fund for the 2006A Refunded Bonds and (iii) pay certain costs of issuance and other related costs. The Facilities are used by the Facility Applicant in its capacity as a 501(c)(3) organization, within the meaning of Section 150(a)(4) of the Code, for tax-exempt purposes in its activities as an owner and operator of continuing care retirement communities for senior citizens.

Section 147(f) of the Code provides that prior to the issuance and sale of the Bonds by the City, the elected legislative body or chief elected executive officer of the county or municipality in which the facilities refinanced with the proceeds of the bonds are located shall conduct a public hearing relating to such bonds and facilities and thereafter approve such bonds and the refinancing of such facilities.

The Facility Applicant has requested that the County approve the refinancing of the Solomons Facilities and the issuance and sale of the Bonds by the City.

The Bonds will be limited obligations of the City and will not be an obligation or liability of the County, the State or any other political subdivision or public body of the State.

The County has held a public hearing concerning the issuance of the Bonds and the location and nature of the Solomons Facilities following reasonable public notice (within the meaning of Section 147(f) of the Code).

The County has determined, based upon the findings and determinations hereinafter set forth, that it is in the best interests of the citizens of the County that the County approve the refinancing of the Solomons Facilities and the issuance and sale of the Bonds by the City in an aggregate principal amount not to exceed \$130,000,000.

NOW, THEREFORE,

SECTION 1. BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That, it is hereby found and determined that the Solomons Facilities and the refinancing by the City of the acquisition thereof will promote the declared legislative purposes of the Act, and thus will (i) sustain jobs and employment, thereby relieving conditions of unemployment in the State and the County; (ii) encourage the increase of industry and commerce and a balanced economy in the State and the County; (iii) assist in the retention of existing industry and commerce in the State and the County; (iv) promote economic development; and (v) promote the health, welfare and safety of the residents of the County and the State. Accordingly, it is in the interests of the public welfare of the citizens of the County and the State that the County approve the refinancing by the City of the Solomons Facilities within the geographical boundaries and jurisdiction of the County.

SECTION 2. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That the County hereby approves:

(a) the refinancing of the Solomons Facilities; and

(b) the issuance and sale by the City of one or more series of the City's limited obligation economic development revenue bonds in an aggregate principal amount not to exceed \$130,000,000 (the "Bonds"), the proceeds of which may be used by the City to make the Loan to the Facility Applicant for the purpose of, among others, refunding the 2006A Refunded Bonds and refinancing the Solomons Facilities.

The foregoing approvals shall become effective upon the City's approval of the issuance of the Bonds.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That the President of the Board of County Commissioners of the County is hereby authorized to execute a certificate or such other documents as may be requested by the Facility Applicant evidencing the public approval of the County pursuant to Section 147(f) of the Internal Revenue Code, as amended.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That the Bonds and the interest thereon are not debts or charges against the general credit or taxing powers of the City or the County within the meaning of any constitutional or charter provision or statutory limitation and may not give rise to any pecuniary liability of the City or the County. The Bonds and the interest thereon shall be limited obligations of the City, payable by the City solely from the revenues derived from Loan repayments (both principal and interest) made to the City by the Facility Applicant on account of the Loan and from any other moneys made available to the City for such purpose.

SECTION 5. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That the Bonds shall be authorized, issued, sold and delivered without direct or indirect cost to the County, and to that end, the Facility Applicant shall pay all necessary expenses of preparing, printing, selling and issuing the Bonds and all other costs contemplated and permitted by the Act, including without limitation, any and all costs, fees and expenses (including, without limitation, attorneys' fees) incurred by or on behalf of the County in connection with this Resolution or the publication of notices of any public hearings to be held in connection herewith, whether or not the proposed financing is consummated.

SECTION 6. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That the passage of this Resolution shall not in any way indicate the approval of, or constitute any commitment for approval by, the County or any of its officers or employees of, any license, permit, application, or any other request to the County with respect to the Solomons Facilities.

SECTION 7. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That no further action by the County is necessary to effect the refinancing of the Solomons Facilities or the completion of the transactions contemplated in this Resolution, including without limitation, the issuance and sale of the Bonds.

SECTION 8. AND BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, That this Resolution shall take effect immediately.

DONE, this 24th day of July, 2018, by the Board of County Commissioners for Calvert County, Maryland, sitting in regular session.

Aye: 5
Nay: 0
Absent/Abstain: 0

ATTEST:

Maureen L. Frederick
Maureen L. Frederick,
Clerk to the Board of
County Commissioners
of Calvert County

COUNTY COMMISSIONERS OF
CALVERT COUNTY

By: Evan K. Slaughenhaupt
Evan K. Slaughenhaupt, Jr., President

Tom Hejl
Tom Hejl, Vice President

Mike Hart
Mike Hart, County Commissioner

Pat Nutter
Pat Nutter, County Commissioner

Steven R. Weems
Steven R. Weems, County Commissioner

Approved for legal sufficiency
on July 10, 2018 by

Cheryl O'Donnell Guth
Cheryl O'Donnell Guth
McGuireWoods LLP
Bond Counsel

Received for Record... July 25, 2018
at... 3:50, o'clock... 7, M. Same day
recorded in Liber KPS No. 55
Folio... 19, COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.

Gathry P. Smith