

MARYLAND STADIUM AUTHORITY

In Re: Sports Entertainment Facilities and Events
(Part of HB 897 Acts of 2022)

PROPOSAL: Creation of the Sports Entertainment Facilities and Events Program Oversight Committee (the “Committee”).

EXPLANATION: HB 897 titled *Economic Development – Sports Entertainment Facilities and Events, Prince George’s County Blue Line Corridor Facilities, and Racing Facilities*, was enacted as Chapter 61 of the Acts of 2022 (the “Act”) and codified in Title 10 subtitle 6 of the Economic Development Article, Maryland Annotated Code. A portion of the Act sets forth the terms, conditions, and requirements for financing sports entertainment facilities (“Projects”) as defined therein, and authorizes the Authority to issue up to \$200 million in taxable or tax-exempt bonds to finance qualifying Projects.

The Authority recognizes there will be great demand on limited financial resources. Therefore, it has established policies to (1) help applicants understand funding requirements, and (2) identify the process by which the Authority will review and recommend Projects for funding.

PURPOSE: The general purpose of the Committee is to provide an additional level of oversight in to the process used by staff to review proposed Projects. Specifically, the Committee will provide standards for oversight, ensure each proposed Project is considered consistently, and that underwriting standards are applied evenly across all opportunities that come to the Authority.

MEMBERS: Board Chair, ex officio and two members of the Board appointed by the Board Chair.

MEETING FREQUENCY: As necessary to review and prepare recommendation(s) to the Board.

MARYLAND STADIUM AUTHORITY
SPORTS ENTERTAINMENT FACILITIES PROGRAM
POLICIES

I. PURPOSE

The Sports Entertainment Facilities Program (the “Program”) was enacted as Chapter 61 (House Bill 897) of the Maryland legislative acts of 2022 (the “Act”). The purpose of the Program is to provide financing for acquisition, construction, renovation, and related expenses for construction management, professional fees, and contingencies in connection with Sports Entertainment Facilities as defined in the Act and set forth below.

II. FACILITY ELIGIBILITY

A. A Sports Entertainment Facility, unless otherwise noted, shall satisfy the following criteria to be considered for financing under the Program (an “Eligible Sports Facility”):

1. Be a structure or other improvement at which minor league games are played or other non-major league sporting events are or will be held.
2. A high school, collegiate, or recreational venue *only* if it generates positive incremental tax benefits to the State.
3. Subject to Section V.B.1.ii. herein, may include parking lots, garages, and other property adjacent and directly related to an Eligible Sports Entertainment Facility.
4. The Sponsor (*defined in section III.A.1. below*) shall own the property on which the Sports Entertainment Facility is to be constructed or renovated in fee simple or under a ground lease acceptable to the Authority; or
5. Have identified the property(ies) required for construction of the Sports Entertainment Facility. (*see section III. B. below*)

B. A Sports Entertainment Facility does *not* include, and is *not* eligible for financing under the Program (“Ineligible Sports Facility”) if:

1. It is located at Camden Yards as defined in §10-601 of the Economic Development Article (“ED”) of the Maryland Annotated Code.
2. Is a stadium primarily for professional football, major league professional baseball, or both, in the Baltimore metropolitan region as defined in ED § 13-301.
3. Are practice fields or other areas where professional football or other major league professional baseball teams practice or perform.

4. Are offices for professional football and major league professional teams or franchises.
5. Is a high school, collegiate, or recreational venue that will *not* generate positive incremental tax benefits to the State.
6. Are parking lots, garages, and any other property adjacent to and directly related to an item listed in 1 through 5 of this section B.

III. FUNDING REQUEST

A. To be considered for funding under the Program, the Authority shall receive:

1. A written request executed by the chief executive officer or the equivalent officer and the head or president of the legislative body for the political subdivision (collectively and including a municipal corporation, the “Sponsor”) for financing and construction management services in which the Sports Entertainment Facility will be located providing:
 - i. The location and address of the existing or proposed Sports Entertainment Facility;
 - ii. For a *proposed* Sports Entertainment Facility, a description of the anticipated use, and any feasibility or economic studies or reports completed in the past two years;
 - iii. For an *existing* Sports Entertainment Facility, a general description of the type of renovations or improvements needed and any relevant studies or reports completed in the past two years;
 - iv. Identify all committed or pending State or local funding available for the project.
2. If a proposed Sports Entertainment Facility is in a municipal corporation, the written request required under A.1. above shall be from the chief executive officer and the head or president of the legislative body of the municipal corporation.

IV. ELIGIBLE PROJECTS

A. To qualify as an eligible Project for funding, the Project shall satisfy the following requirements:

1. The project is an Eligible Sports Entertainment Facility.
2. It is owned by a Sponsor as set forth in Section II.A.4. herein.
3. Has enough committed funds, including Authority funding if approved, to achieve successful completion of the project.

4. Shall have a useful life of a length satisfactory to the Authority with a detailed maintenance plan and a funding source for maintenance.

5. It promotes the purposes of the Act and these policies.

B. Positive incremental tax benefits to the State:

1. If the proposed project is a high school, collegiate, or recreational venue it shall generate positive incremental tax benefits to the State.

For the purposes of the Program, positive incremental State tax benefit shall mean a tax benefit demonstrated by either a feasibility study under Section III. C below, or other evidence satisfactory to the Authority in its sole discretion.

C. Feasibility studies.

1. Projects under Section IV. B. 1. shall require a feasibility study to determine eligibility under the Program.

2. Feasibility studies shall be conducted in accordance with ED § 10-622.

3. The costs of a feasibility study shall be the sole responsibility of the Sponsor.

4. Feasibility studies may be requested in accordance with ED § 10-622 for other proposed projects under the Program to assist with identifying location, potential obstacles, and economic benefits.

5. A feasibility study does not guarantee funding under the Program.

D. General considerations for project funding.

1. The Authority shall take into consideration such factors as the Authority may deem appropriate, which may include:

i. Compliance requirements in order to retain an affiliation with a major league team;

ii. Project need in the region within which the project is to be located – including other similar facilities;

iii. General geographic diversity of projects under consideration for or already approved for funding;

iv. Readiness to proceed with construction;

v. Economic feasibility of the project to support ongoing projected maintenance and operation requirements;

- vi. Local support for the project;
- vii. Sources and level of funding commitment(s) other than Authority bonds;
- viii. Proposed owner, operator, and manager of the project (*see section V.A. below*);
- ix. Economic impact on the local economy and overall economic benefit to the State.

E. Funding Availability and Project Priority.

1. Announcements of funding availability (“Funding Announcement”) will be made on the Authority website found here ____
2. Anyone who wishes to apply for funding must
 - i. follow the Funding Announcement directions including meeting deadlines for document submission; and
 - ii. satisfy the requirements of these policies applicable to the proposed project.
3. Funding Announcements will indicate which type of potential projects set forth in subsection 4 below will be eligible for funding consideration at that time.
4. Taking into consideration any or all of the factors listed under section D. above, the Authority intends to prioritize funding for proposed projects in this order:
 - i. minor league baseball stadiums with affiliated teams;
 - ii. minor league baseball stadiums with nonaffiliated teams;
 - iii. other Sports Entertainment Facilities. that generate positive economic impact for the State.
5. The Authority may, in its sole discretion, finance particular projects, decline to finance otherwise eligible projects, based on its assessment of the project’s overall merit and its merit relative to competing alternatives.

V. FINANCING TERMS AND REQUIREMENTS.

A. Written Agreement.

1. Prior to financing a project, the Sponsor shall enter into a written agreement with the Authority which includes the following:
 - i. Identifies the source of funding and the order in which funds will be spent is described;
 - ii. Allocation of risks if funding is inadequate to complete the project; ¹

¹ For example, risk allocation may be based on construction management responsibility and control; accuracy of construction estimates, the entity responsible for design changes and change orders, unavailable or reduced funding from previously represented committed funding sources.

- iii. the Sponsor agrees to own, market, promote, and operate or contract for the marketing, promotion and operation of the project in a manner that maximizes the project's economic return;
- iv. the Sponsor agrees to maintain and repair or contract for the maintenance and repair of the project so as to keep the project in first-class operating condition; and
- v. any other terms or conditions deemed necessary or appropriate by the Authority.

B. Amount.

1. The Authority shall determine the approved costs of any eligible project.

- i. Subject to subsection (ii) below, approved costs means development costs including those costs of construction, acquisition, and professional fees approved by the Authority and, if applicable, permitted under the IRC for the bonds issued.
- ii. Approved costs do not include maintenance costs, fan amenities or replacement reserves of any kind.
- iii. In addition to those costs under (ii) above, bonds shall not be available for land acquisition or off-site infrastructure, including but not necessarily limited to water or sewer services, stormwater management, gas or electrical access, etc.

C. Term. The Authority shall establish financing terms

D. Useful Life. The useful life of the project shall be not less than the maturity date of bonds issued by the Authority for the project if applicable.

E. Security.

- 1. The sole source of security for financing by the Authority shall be money on deposit in the Sports Entertainment Facilities Financing Fund (the "Fund").
- 2. The Sponsor and any other party(ies) deemed necessary or appropriate by the Authority shall enter into and execute such documents as required by the Authority including by way of example and not limitation, leases and agreements to satisfy the security requirements of the banks, underwriter(s) or rating agencies to sell the bonds with a rating satisfactory to the Authority.

VI. APPROVALS AND GENERAL CONDITIONS

A. Authority Board of Directors

1. The HB 897 Oversight Committee (the "Committee") appointed by the Chairman of the Authority Board of Directors (the "Authority Board") shall review and submit to the Authority Board for approval the following at various times:

- i. the proposed project and recipient of financing;
- ii. a financing plan for the project;
- iii. the agreement between the Authority and the Sponsor described in Section V.A.1 herein;

- iv. the issuance of the bonds (if applicable), or other financing, and related documents on the terms contained therein;
- v. construction contracts and agreements; and
- vi. any other matters the Committee determines require Authority Board approval.

B. The Board of Public Works

1. Financing from the Authority requires the Board of Public Works (“BPW”) review and approve the following documents:

- i. the agreement between the Authority and the Sponsor described in Section V.A.1. herein.;
- ii. the financing plan (after a 45-day review and comment period by the fiscal committees of the General Assembly);
- iii. issuance of bonds or other financing, and related documents on the terms contained therein; and
- iv. Construction contracts and agreements.

C. Sponsor Approval

1. Sponsor is solely responsible for identifying and obtaining all approvals required in the jurisdiction in which the project is to be constructed.
2. Sponsor shall provide the Authority with copies of all resolutions, ordinances, or other evidence of local approval.

D. Insurance Requirements

1. Sponsor shall maintain or cause to be maintained all insurance on the project and property as required by the Authority.
2. During construction, the Authority shall require any contractor and other parties under contract with the Authority (or subcontractor) to obtain and maintain the following insurance as applicable:
 - i. Contractor’s builder’s risk;
 - ii. Contractor’s liability;
 - iii. Architect’s errors and omissions;
 - iv. Engineer’s errors and omissions.
3. A company registered with the Maryland Insurance Administration shall write all insurance required under this section.

E. Procurement and Project Management

1. Procurement for all good and services required for the project and funded by the Authority shall be conducted in accordance with the Authority's procurement policies. ([Procurement Policies and Procedures](#)).
2. The Authority shall determine on a project by project basis if it shall manage some or all of the planning, design and construction of the Project.

F. Waiver

1. Conditions and requirements set forth herein may be waived in the *sole discretion* of the Authority Board provided such a waiver:

- i. Is not in violation of the Act in the Authority's sole determination;
- ii. Is not a violation or risk of violation of Internal Revenue Code laws or regulations in connection with the issuance of the bonds if applicable;
- iii. Does not contradict advice by the Authority's underwriter;
- iv. Does not, in the Authority's sole determination undermine the Authority's bond rating on any of its bonds.