

AGENDA ITEM #3J
March 31, 2009
Action

M E M O R A N D U M

March 27, 2009

TO: County Council

FROM: Essie McGuire, Legislative Analyst 

SUBJECT: **Action – Resolution to approve recording in the County’s land records a notice of the State’s right of recovery: property leased to CHI Centers, Inc., at the former Hillandale Elementary School**

CHI Centers is a private corporation operating in the former Hillandale Elementary School. In 2004 and 2006, the State Board of Public Works approved two grants totaling \$1,670,915 toward the cost of renovating this facility.

Capital grants from the State to be expended at the Hillandale facility cannot be released until a right of recovery on behalf of the State is filed in the land records of the County. The right of recovery ensures that the State can recover grant monies from the County if CHI Centers, Inc., fails to provide services for a minimum of thirty years. Under Section 20-38A of the County Code, the Director of Finance may consent to the recording of a right to recovery subject to approval by the Council. The Council is advised that CHI Centers, Inc., has agreed to indemnify the County against any liability for repayment of the grants, should the State seek to recover the grant funds.

A March 10 memorandum from Jennifer Barrett, Director of Finance, and a resolution to approve the filing of a notice of the State’s right to recovery are attached. The Council introduced this resolution on March 24.



DEPARTMENT OF FINANCE

Isiah Leggett
County Executive

Jennifer E. Barrett
Director

MEMORANDUM

March 10, 2009

TO: Stephen Farber, Council Staff Director

FROM: Jennifer E. Barrett, Director of Finance 

SUBJECT: Resolution to file in the County's property records a right of recovery on behalf of the State of Maryland for property leased to CHI Centers, Inc.

I am transmitting to the Council a resolution to approve the filing of a right of recovery on behalf of the State of Maryland pursuant to State grants approved for expenses at CHI Center, Inc.'s facility in the former Hillandale Elementary School.

Under State law certain capital grants cannot be released to recipients until the recipients' landlord files a right of recovery on behalf of the State in the land records of the County. The filing of the right of recovery ensures that the State can recover these grant monies from the recipients' landlord if within thirty (30) years the property is sold or transferred to any person, agency or organization that would not qualify as an applicant under said Subtitle, or that is not approved as a transferee by the Board of Public Works, or if, within the same period, the improvements cease to be a "facility" as defined in Subtitle 6 of Title 24 of the Health-General Article of the Annotated Code of Maryland.

The County acts as a landlord for the facility in the former Hillandale Elementary School in Silver Spring. CHI Centers, Inc. was granted \$1,670,915 in funds by the State through two grants in 2006 and 2004, and will receive those funds after the recording of the right of recovery.

Under Section 20-38A of the Montgomery County Code the Director of Finance may consent to the recording of the right of recovery subject to the approval of the County Council. The Director of Finance consents to the recording and requests the County Council to approve the recording of the right of recovery for the facility. The Director also advises that CHI Centers, Inc. has agreed to indemnify the County against any liability for repayment of the two grants, should the State seek to recover these grants, by obtaining a performance bond or letter of credit in favor of the County.

For more information on this issue, please call Mike Coveyou in the Department of Finance at 240-777-8878.

JEB:mjc

Office of the Director

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council at the Request of the County Executive

SUBJECT: Approval of a Right of Recovery on behalf of the State of Maryland for State Grant Funds to be expended at the CHI Centers, Inc. facility in the former Hillandale Elementary School

Background

1. The County Executive and the Council of Montgomery County, Maryland recognize that there is a need to support the private agencies the County contracts with to perform public services.
2. CHI Centers, Inc. is a private corporation, operating in a County-owned facility in the former Hillandale Elementary School, performing a public service for the citizens of Montgomery County through a contract with the County.
3. On October 18, 2006, the State Board of Public Works approved a grant of State funds totaling \$1,600,000 to assist CHI Centers, Inc. in the cost of renovating the above owned County facility. The Board had previously approved a grant of \$70,915 for this project on June 23, 2004, bringing the total State grant to \$1,670,915.
4. The State of Maryland will release the funds granted to CHI Centers, Inc. only after a Right of Recovery in favor of the State is recorded among the land records of Montgomery County pursuant to Subtitle 6 of Title 24 of the Health-General Article of the Annotated Code of Maryland.
5. In the event, within 30 years, the property is sold or transferred to any person, agency or organization that would not qualify as an applicant under said Subtitle, or that is not approved as a transferee by the Board of Public Works, or if, within the same period, the improvements cease to be a "facility" as defined in Subtitle 6 of Title 24 of the Health-General Article of the Annotated Code of Maryland the Right of Recovery would allow the State of Maryland to recover the grants to CHI Centers, Inc. from Montgomery County.

6. CHI Centers, Inc. has agreed to indemnify the County from payment of the right of recovery costs by procuring a performance bond or letter of credit guaranteeing payment by its bond company.
7. Section 20-38A of the Montgomery County Code states that the Director of Finance may consent to recording in the County land records of a notice of the State's right of recovery, subject to the approval of the County Council, when required as a condition of a capital grant by the State to the County, or to a lessee or sublessee of the County, to improve property owned by the County.
8. The Director of Finance recommends that the County Council approve the recording of a right of recovery in favor of the State for the two grants to be expended at the CHI Centers, Inc. facility in the former Hillandale Elementary School.

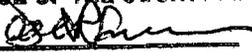
Action

The County Council for Montgomery County, Maryland, approves the following Resolution:

1. The County Council of Montgomery County approves the recording of a notice the State's right of recovery for the following grant funds approved by the State Board of Public Works for CHI Centers, Inc. projects at the former Hillandale Elementary School in Montgomery County, Maryland.
 - a. A grant of \$1,600,000 approved on October 18, 2006; and
 - b. A grant of \$70,915 approved on June 23, 2004.
2. The Director of Finance must record the notice of the State's right of recovery among the land records of Montgomery County, Maryland if: 1) the County Attorney determines that State law requires the County as landlord of Hillandale Elementary School to consent to a right of recovery; and 2) the County receives security satisfactory to the County Attorney indemnifying the County for payment of any right of recovery costs payable to the State.

This is a correct copy of Council actions:

Linda M. Lauer
Clerk of the Council

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY
BY: 
DATE: 2.27.09