

MEMORANDUM

March 19, 2010

TO: County Council
CHP
FROM: Charles H. Sherer, Legislative Analyst
SUBJECT: Resolution to amend previously adopted Resolution No.16-675, regarding the issuance and sale of revenue bonds

On July 27, 2008, the Council approved Resolution 16-175 which authorized the County to sell revenue bonds for the Housing Initiative Fund in an amount not to exceed \$50,000,000 to preserve or increase the inventory of affordable housing. The bonds have not yet been sold but Finance intends to sell \$30 million of bonds on April 6, 2010.

The Council approved the expenditure of the proceeds from these bonds in its FY09 and FY10 capital budget appropriations to the Affordable Housing Acquisition and Preservation project. The Department of Housing and Community Affairs has spent \$24 million (and committed \$20 million) of the appropriations. As needed the General Fund is forward funding these expenditures. The bond proceeds will repay the General Fund.

Finance staff explained to Council staff that the resolution should have stated that the bonds will be "taxable limited obligation certificates, subject to annual appropriation by the County Council". The revenue to pay the debt service would come from the General Fund. Finance staff noted that the debt service for the certificates is included in the FY11 Debt Service Fund and is shown as a \$2.5 million inter-fund transfer from the Montgomery Housing Initiative Fund to the Debt Service Fund.

The attached resolution will amend previously approved resolution 16-675 by adding the authority to sell "taxable limited obligation certificates, subject to annual appropriation by the County Council".

The CAO asked that the Council approve the attached resolution on March 23. The Council's Rules of Procedure permit the Council to approve an amendment to a previously approved resolution without having introduced the amendment at a prior Council meeting. Council staff recommends approval.

MEMORANDUM

March 18, 2010

TO: Nancy Floreen, President
Montgomery County Council

FROM: Timothy L. Firestine
Chief Administrative Officer

SUBJECT: Request To Amend Resolution No. 16-675 - Bond Authority Resolution
for the Issuance of Debt Associated with the Housing Initiative Fund

The purpose of this memorandum is to request that the County Council approve the attached amending resolution, which must be in place prior to the issuance of debt associated with the project referenced above.

In July 2008 I forwarded to the Council a resolution to authorize the issuance of revenue bonds to provide funding for the acquisition and/or renovation of properties for the purpose of preserving or increasing the inventory of affordable housing in the County. The Council adopted Resolution No. 16-675 authorizing the issuance and sale of revenue bonds under the Sections 20-47 to 20-54 of the Montgomery County Code in an amount not to exceed \$50 million.

The proposed bonds are limited obligations of the County and not backed by the County's full faith and credit. Bond counsel drafted the original Resolution to permit the issuance of revenue bonds. However, upon further review, and consistent with the final bond financing structure, amendments to the resolution are now required to allow the County to issue bonds as taxable limited obligation certificates, subject to annual appropriation by the County Council. The remaining provisions of the Resolution will not change.

I would appreciate it if you could arrange to have the resolutions placed on the Council Consent Calendar on March 23, 2010, and adopted the same day. If you have questions or need additional information, please contact Jennifer Barrett at 240-777-8860. Thank you.

TLF/gww

Attachments

Resolution No.: _____
Introduced: _____, 2010
Adopted: _____, 2010

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By County Council

SUBJECT: To amend Resolution No.16-675 of the County Council of Montgomery County, Maryland (the "County") adopted on July 29, 2008 regarding the issuance and sale of revenue bonds in an amount not to exceed \$50,000,000 at one time or from time to time, in one or more series, as limited obligations and not upon the faith and credit of the County, in order to provide funding for the acquisition and/or renovation of properties for the purpose of preserving or increasing the inventory of affordable housing in Montgomery County; to add authority of the County to issue such bonds as taxable limited obligations subject to annual appropriation of the County Council and not upon the faith and credit of the County; and to provide that the county Executive and other County officials must take all necessary, proper or convenient action to effect the issuance, sale and delivery of such bonds; generally provide for other matters related to the issuance, sale and delivery of such bonds.

Background

1. Resolution No. 16-675 adopted by the County Council on July 29, 2008 authorized the County to issue its bonds in an aggregate principal amount not to exceed Fifty Million Dollars (\$50,000,000) (the "Bonds"), at one time or from time to time, and in one or more series, under the authority of Section 5(P)(2) of Article 25A of the Annotated Code of Maryland (2005 Replacement Volume and 2007 Supplement) (the "State Revenue Bond Act") and the authority of Sections 20-47 to 20-54 of the Montgomery County Code, as amended, (the "County Revenue Bond Act") in order to provide funding for the acquisition and/or renovation of real property (the "Project") under 25B-1 *et seq.* and 53A-1 *et seq.* of the Montgomery County Code, as amended, for the purpose of increasing the inventory of affordable housing in the County, as more fully described in Resolution No. 16-675.

2. The County has determined that it is advisable to have the option to issue the Bonds as revenue bonds (as currently authorized) or as taxable limited obligation certificates (the "Certificates"), subject to annual appropriation by the County Council.

Action

NOW, THEREFORE, Be it resolved by the County Council for Montgomery County, Maryland, that

Section 1. Resolution No. 16-675 is hereby amended to add the following:

1. The County Council hereby authorizes the issuance, sale and delivery of taxable limited obligation certificates of the County in an aggregate principal amount not to exceed Fifty Million Dollars (\$50,000,000) (the "Certificates"), at one time or from time to time, and in one or more series, subject to annual appropriation by the County Council and not upon the faith and credit of the County, in order to provide funding for the acquisition and/or renovation of real property (the "Project") for the purpose of increasing the inventory of affordable housing properties in the County. The proceeds of the Certificates must be applied only to (i) pay the costs of the Project, (ii) deposit into any fund created for the payment of the Certificates, and (iii) pay the costs related to the issuance of the Certificates.
2. The County Executive of Montgomery County (the "County Executive") by executive order or otherwise must specify, prescribe, determine, provide for, or approve all matters, forms, documents, or procedures that the County Executive deems appropriate to effect the authorization, sale, security, issuance, delivery, and payment of or for the Certificate and is hereby authorized to determine all matters, including but not limited to, the dates of maturity, the rates of interest or method for determining the rates of interest, the denominations, the form of Certificates and the manner of sale of the Certificates. The maturity date of the Certificates shall in no event exceed fifty (50) years from the date of their issuance.
3. The members of the County Council, the County Executive, the Chief Administrative Officer of the County, the County Attorney, the Director of Finance of the County and the Clerk of the Council, for and on behalf of the County, are hereby authorized and empowered to do all things, execute all instruments, and otherwise take all such action as maybe necessary, proper or convenient to carry out the authority conferred by this Resolution, including (without limitation) the execution of Certificates of the County, elections, statements and reports, subject to the limitations set forth in this Resolution.

Section 2. This Resolution takes effect upon its adoption.

President, County Council for
Montgomery County, Maryland

Date

This is a correct copy of Council action:

Linda M. Lauer, Clerk of the County Council