

Resolution No.: 17-228  
Introduced: July 19, 2011  
Adopted: July 26, 2011

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Authority:

- (1) to issue parking revenue bonds in order to finance or refinance the costs of a public parking garage to be located adjacent to the Glenmont Metrorail Station in the County;
- (2) to make certain findings with respect to the issuance of such bonds and the construction of the parking garage;
- (3) to provide that the bonds will be sold on a competitive basis;
- (4) to provide that the County Executive and other County officials will take all necessary, proper or expedient action to effect the issuance, sale and delivery of the bonds; and
- (5) generally to provide for and determine various matters in connection with the bonds.

**Background**

1. Montgomery County, Maryland (the "County") and the Washington Metropolitan Area Transit Authority ("WMATA") have entered into an Amended and Restated Surcharge Implementation Agreement, dated December 16, 1999 (the "Surcharge Implementation Agreement"), to establish and maintain a Surcharge Reserve Account (as defined in the Surcharge Implementation Agreement) to be used to fund the planning, design, construction and certain operations of parking facilities located at WMATA'S Metrorail Stations in Montgomery County and govern the imposition, collection and expenditure of parking surcharges at such stations;
2. The County and WMATA have entered into the Glenmont II Project Agreement, dated March 26, 2009, and the Glenmont II Ground Lease, dated March 26, 2009 (collectively, the "Project Documents"), pursuant to which the WMATA will construct a parking structure and related facilities and improvements on an existing WMATA-owned lot located adjacent to the Glenmont Station and an existing parking structure, which will provide up to 1,200 additional parking spaces at the Glenmont Station (the "Glenmont II Metro Garage");

3. The County and WMATA will enter into the Glenmont II Facility Lease Agreement (the "Facility Lease") whereby the County will lease the Glenmont II Metro Garage to WMATA and WMATA will pay lease payments to the County from funds on deposit in the Surcharge Reserve Account established under the Surcharge Implementation Agreement;
4. Sections 5(P)(2) and 5(P)(3) of Article 25A of the Annotated Code of Maryland (2005 Replacement Volume and 2009 Cumulative Supplement) and Sections 20-47 through 20-54 of Chapter 20 of the Montgomery County Code, as amended (collectively, the "Revenue Bond Act") authorize the issuance from time to time of revenue bonds or other obligations of the County, payable as to principal, interest, and premium, if any, only from the funds or revenues received from or in connection with any project, all or part of which is financed from the proceeds of revenue bonds or other obligations;
5. The County has determined that it is advisable and in the public interest to construct the Glenmont II Metro Garage;
6. The County has determined that it is advisable and in the public interest to issue and sell its parking revenue bonds (the "Bonds") as "revenue bonds" (as defined in the Revenue Bond Act) to finance or refinance the "costs of the project" (as defined in the Revenue Bond Act) of the Glenmont II Metro Garage, a "project" within the meaning of the Revenue Bond Act; and
7. The Director of Finance of the County has recommended that the Bonds be sold on a competitive basis to the bidder offering the lowest true interest cost to the County; provided, however, that if market conditions are such that it is in the interest of the County to sell those Bonds on a negotiated basis, the Director of Finance has requested the authority to proceed with a negotiated sale.

### Action

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

Section 1. The County hereby finds and determines that:

- a. The Glenmont II Metro Garage is a "project" within the meaning of the Revenue Bond Act.
- b. It is advisable and in the public interest to construct the Glenmont II Metro Garage as a new public parking garage containing approximately 1,200 parking spaces adjacent to the Glenmont Metrorail Station.
- c. It is advisable and in the public interest to finance or refinance the costs of the Glenmont II Metro Garage project (within the meaning of the Revenue Bond Act) through the issuance, sale and delivery of the Bonds.

The Glenmont II Metro Garage is more fully described on Exhibit A attached hereto and made a part hereof.

Section 2. The County hereby authorizes the issuance, sale and delivery of the Bonds in a principal amount not to exceed Eight Million Seven Hundred Thousand Dollars (\$8,700,000). The Bonds will be issued and sold in accordance with the provisions of the Revenue Bond Act, the Surcharge Implementation Agreement and the Project Documents.

Section 3. The Bonds do not constitute a pledge of the full faith and credit and unlimited taxing power of the County.

Section 4. The County hereby covenants that the timely payment of the principal of and interest on the Bonds will be secured by lease payments made by WMATA under the Facility Lease and such lease payments under the Facility Lease are hereby irrevocably pledged to the timely payment of the principal of, premium (if any) and interest on the Bonds.

Section 5. It is hereby determined that, based on current market conditions, it is advisable and in the public interest to sell the Bonds on a competitive basis to the bidder offering the lowest true interest cost to the County. It is also determined that given the changes that are occurring in the market, conditions might exist at the time of the sale such that it is advisable to proceed to sell the Bonds on a negotiated basis. The County Executive is hereby authorized to solicit bids for the Bonds or to negotiate the sale of the Bonds in such manner as he, in his sole and absolute discretion, by Executive Order or otherwise, deems to be in the best interest of the County. The County Executive is hereby authorized to cause to be prepared and distributed a preliminary official statement and a final official statement respecting the Bonds. The Bonds will be designated, dated, bear interest at such rate or rates, be in such denominations, be payable at such times and at such places, mature in such amounts and on such dates, be subject to prepayment prior to their maturity, and be executed and sealed in such manner as the County Executive determines, in his sole and absolute discretion, by Executive Order or otherwise. The County Executive may determine, by Executive Order or otherwise, in his sole and absolute discretion, to issue the Bonds in one or more series from time to time in an aggregate principal amount not to exceed the amount authorized by this Resolution.

Section 6. The County Executive may, by Executive Order or otherwise, approve the form and provisions of, execute and deliver the Bonds, and specify, prescribe, determine, provide for, approve, execute and deliver (where applicable) such other matters, details, forms, documents, or procedures, including (without limitation), bond purchase agreements, bond insurance agreements and trust agreements, as are necessary, proper or expedient to consummate the authorization, sale, security, issuance, delivery or payment of or for the Bonds.

Section 7. The County Executive may, in his sole and absolute discretion, select through a competitive process an underwriter or underwriters to negotiate the sale of the Bonds.

Section 8. The County Executive may, in his sole and absolute discretion, (a) select a bank, trust company or other financial institution having trust powers to serve as trustee with respect to

the Bonds, and (b) enter into a trust agreement with such trustee in order to secure the Bonds and provide for the administration of the Bonds.

Section 9. The County hereby covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986 as amended (the "Code"), applicable to the Bonds in order to preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the preceding sentence, the County will (a) not use or permit the use of any of the proceeds of the Bonds in such manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes, (b) make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America, and (c) prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, or any successor or additional form required by the Internal Revenue Service.

Section 10. The County Executive, the Chief Administrative Officer of the County, the Director of Finance of the County, the County Attorney, and the Clerk of the County 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 the County Executive may determine, by Executive Order or otherwise, to be necessary, proper or expedient to carry out the authority conferred by this Resolution, including (without limitation) the execution of certificates of the County, elections, statements and reports pursuant to applicable provisions of the Code and the U.S. Treasury Regulations prescribed thereunder, subject to the limitations set forth in the Revenue Bond Act, the Surcharge Implementation Agreement, the Project Documents and this Resolution.

Section 11. The provisions of this Resolution constitute a contract between the County and the holder or holders of the Bonds, and after the issuance of the Bonds no change, variation or alteration of any kind in the provisions of this Resolution may be made in any manner, except as the County Executive provides, by Executive Order or otherwise, until such time as the Bonds, and interest due thereon, have been satisfied and discharged as provided by the County Executive, by Executive Order or otherwise, prior to such issuance.

Section 12. This Resolution takes effect upon its adoption.

  
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Valerie Ervin, President, County Council

7/26/11  
\_\_\_\_\_  
Date

This is a correct copy of Council action.

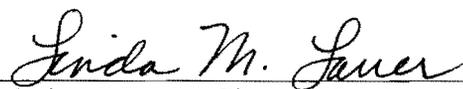
  
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Linda M. Lauer, Clerk of the Council

EXHIBIT A

Glenmont Metro Parking Expansion -- No. 500552

Category WMATA  
 Subcategory Mass Transit  
 Administering Agency W.M.A.T.A.  
 Planning Area Kensington-Wheaton

Date Last Modified  
 Required Adequate Public Facility  
 Relocation Impact  
 Status

October 25, 2010  
 No  
 None.  
 Final Design Stage

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY10	Rem. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	25	2	23	0	0	0	0	0	0	0	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	24,704	1,701	23,003	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>24,729</b>	<b>1,703</b>	<b>23,026</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING SCHEDULE (\$000)

Current Revenue: WMATA Surcharge	4,885	0	4,885	0	0	0	0	0	0	0	0
G.O. Bonds	2,498	0	2,498	0	0	0	0	0	0	0	0
PAYGO	2	2	0	0	0	0	0	0	0	0	0
Revenue Bonds	7,375	1,700	5,675	0	0	0	0	0	0	0	0
Revenue Bonds: Liquor Fund	9,969	1	8,968	0	0	0	0	0	0	0	0
<b>Total</b>	<b>24,729</b>	<b>1,703</b>	<b>23,026</b>	<b>0</b>							

DESCRIPTION

This project provides for the design and construction of 1,200 additional garaged parking spaces at the Glenmont Metrorail Station on the west side of Georgia Avenue.

COST CHANGE

Increase due to actual construction bid greater than budgeted and addition of funds for County staff review and oversight.

JUSTIFICATION

The County's 10-Year Transportation Plan calls for the expansion of the existing Glenmont Metro Garage. The existing garage is regularly over capacity early on weekday mornings. By expanding parking at the station, more potential transit riders will be drawn to use Metrorail rather than driving to Washington, D.C. and to Silver Spring.

WMATA has prepared traffic and environmental studies for the parking expansion as well as General Plans. The WMATA Compact Public Hearing was held on April 26, 2006. Plans incorporate the Georgia Avenue Greenway, ADA requirements, and pedestrian safety.

OTHER

The full cost of this project is \$26,329,000. The Maryland Department of Transportation has contributed \$1,600,000 for the design of this garage, which is not reflected in the expenditure and funding schedules since these funds went directly to WMATA. The project will be designed and constructed by WMATA.

OTHER DISCLOSURES

- A pedestrian impact analysis has been completed for this project.

APPROPRIATION AND EXPENDITURE DATA		
Date First Appropriation	FY05	(\$000)
First Cost Estimate		
Current Scope	FY08	24,729
Last FY's Cost Estimate		24,729
Appropriation Request	FY12	0
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		24,729
Expenditures / Encumbrances		1,702
Unencumbered Balance		23,027
Partial Closeout Thru	FY09	0
New Partial Closeout	FY10	0
Total Partial Closeout		0

COORDINATION  
 Maryland-National Capital Park and Planning Commission  
 Washington Metropolitan Area Transit Authority  
 Maryland Department of Transportation  
 Department of Transportation  
 Department of General Services

