

Resolution No: 15-1418  
Introduced: April 18, 2006  
Adopted: April 25, 2006

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** To authorize Montgomery County, Maryland, pursuant to and in accordance with (i) certain laws of Montgomery County, Maryland (the "County"), authorizing the County upon its full faith and credit, to borrow money and incur indebtedness to finance, in whole or in part, certain public facilities as described therein, and (ii) Section 12 of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2005 Supplement), as amended to issue and reissue, at one time or from time to time, its bond anticipation notes in the maximum aggregate principal amount of Two Hundred Fifteen Million Dollars (\$215,000,000), the proceeds of the initial sale thereof to be applied to the public purposes and uses set forth in such laws and to pay the costs of issuing and selling such bond anticipation notes; consolidating certain authority to borrow money and incur indebtedness provided in such laws as a single issue of bond anticipation notes to be designated "Montgomery County, Maryland Consolidated Bond Anticipation Notes, 2006 Series"; providing for the County Executive to specify, prescribe, determine, provide for, or approve all matters, details, forms, documents or procedures that the County Executive deems appropriate to effect the authorization, sale, security, issuance, delivery, and payment of and for such bond anticipation notes; and generally providing for and determining various matters in connection with such bond anticipation notes.

**Background**

1. Certain laws of Montgomery County, Maryland (collectively, the "Authorizing Legislation") allow the County to issue bonds (the "Bonds") to finance some or all of the cost of certain public facilities.
2. Section 12 of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2005 Supplement), as amended (the "Bond Anticipation Note Act"), allows the County to issue and sell its bond anticipation notes ("Notes") in an amount not greater than the authorized amount of the Bonds. The principal of and interest on the Notes must be paid from the first proceeds of sale of the Bonds, or from the tax or

other revenue which the County shall have previously determined to apply to the payment of the principal of and interest on the Bonds.

3. The Bond Anticipation Note Act further provides that (a) the Notes may be sold by private negotiated sale by the County to prospective purchasers, if deemed by the County to be in the best interest of the County, (b) the Notes may be issued in the nature of commercial paper, (c) the Notes may, in the discretion of the County, be secured by a letter of credit, line of credit or other credit arrangement from or with a bank or other lending institution, (d) any such letter of credit, line of credit or other credit arrangement from or with a bank or other lending institution may be made payable out of the first proceeds of sale of the Bonds or from the tax or other revenues which the County shall have previously determined to apply to the payment of the principal of and interest on the Bonds, (e) proceeds of the sale of the Notes shall be expended only for the purposes for which the Bonds are authorized, expenses of issuance of the Notes and up to 12 months' interest on the Notes; and (f) the principal of and interest on the Notes are to be made payable out of the first proceeds of sale of the Bonds or from the tax or other revenue which the County shall have previously determined to apply to the payment of the Bonds and the interest thereon.

4. The Bond Anticipation Note Act provides that the Notes must be authorized by resolution. The resolution must, among other things, cite the authority for the Notes and Bonds and the amount authorized, and determine the manner of fixing the terms of the Notes, the price or prices at which they will be sold, and the manner of their sale.

5. Section 2C of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2005 Supplement), states in part that the county council of any charter county, in authorizing or in providing for the sale of municipal bonds, may from time to time provide by resolution that loans authorized to be incurred and bonds authorized to be sold by separate acts of enabling legislation be consolidated for sale and issued, sold and delivered as a single issue of bonds.

6. The Director of Finance of the County (the "Director of Finance") believes that the initial issuance of Notes by the County in a variable interest rate mode will reduce the County's interest costs and improve the County's ability to meet the needs of the County for public borrowing.

7. The County has determined to authorize by adoption of this Resolution the issuance of the Notes, at one time or from time to time, in the maximum aggregate principal amount of Two Hundred Fifteen Million Dollars (\$215,000,000), in order to finance, in whole or in part, the cost of certain public facilities in the County. The Notes are to be issued in anticipation of the issuance of the Bonds. The County has further determined to issue the Notes as multi-modal notes that may bear interest at

fixed rates or variable rates, as determined from time to time by or on behalf of the County Executive in accordance with Section 10 of this Resolution. Bond anticipation notes may also be issued to repay advances under any letter of credit, line of credit or other credit arrangement securing the Notes. Accordingly, the term “Notes” when used in this Resolution includes both the bond anticipation notes originally issued and all bond anticipation notes issued to repay bond anticipation notes or to repay advances under any line of credit, letter of credit or other credit arrangement securing the Notes.

8. The Director of Finance believes that private (negotiated) sales of the bond anticipation notes are the most efficient means of marketing such obligations in existing markets, are in the best public interest of the County and will result in the lowest cost to the County.

9. The Director of Finance recommends that in the interest of economy the County Council resolve to consolidate certain authority to borrow money and incur indebtedness provided in the Authorizing Legislation.

**Action**

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

Section 1. The following words and terms used in this Resolution have the meanings set forth in this Section 1 unless the text specifically or by necessary implication requires otherwise:

(a) “Bond Anticipation Note Act” means Section 12 of Article 31 of the Annotated Code of Maryland (2004 Replacement Volume and 2005 Supplement), as amended.

(b) “Bonds” means the general obligation bonds that are authorized to be issued by the County pursuant to the Authorizing Legislation.

(c) “County” means Montgomery County, Maryland.

(d) “County Executive” means the County Executive of the County.

(e) “Credit Arrangement” means any line of credit, letter of credit or other credit arrangement with a bank or other lending institution which may secure the Notes from time to time, as deemed appropriate by the County Executive pursuant to Section 10 of this Resolution. The term “Credit Arrangement” shall include any documents executed by the County to evidence its repayment obligations under such Credit Arrangement.

(f) “Notes” means the Montgomery County, Maryland Consolidated Bond Anticipation Notes, 2006 Series, authorized to be issued and reissued by this Resolution.

Section 2. The County Council authorizes the County to issue, at one time or from time to time, pursuant to and in accordance with the Authorizing Legislation and the Bond Anticipation Note Act, bond anticipation notes of the County, each to be designated “Montgomery County, Maryland Consolidated Bond Anticipation Note, 2006 Series” and any further designation as the County Executive may determine, in the maximum aggregate principal amount of Two Hundred Fifteen Million Dollars (\$215,000,000). The Notes are to be issued for the public purposes and uses set forth in the Authorizing Legislation. The proceeds of the initial sale or sales of the Notes, after payment of the expenses of the issuance and sale of the Notes, must be applied only in accordance with Section 12(a) of the Bond Anticipation Note Act.

Section 3. The Notes are to be issued in anticipation of the issuance of the Bonds pursuant to the Authorizing Legislation, and it is the intention of the County to pay the principal of the Notes at maturity or by sinking fund redemption from the proceeds of the Bonds to be issued from time to time in one or more series or from the tax or other revenue which the County shall have previously determined to apply to the payment of the Bonds and the interest thereon.

Section 4. The Notes will be issued as multi-modal notes that will initially bear interest at variable rates and that may from time to time be converted to bear interest at variable rates or fixed rates as determined by the County Executive in accordance with Section 10 of this Resolution. The Notes will mature, will be subject to optional and mandatory redemption prior to maturity, and shall bear interest at such rates or determined in such fashion, all as determined by the County Executive in accordance with Section 10 of this Resolution. Notes may also be issued to repay advances under the Credit Arrangement. Accordingly, the term “Notes” when used in this Resolution includes both the Notes originally issued and all Notes issued to repay maturing Notes or to repay advances under the Credit Arrangement.

Section 5. The Notes and the Credit Arrangement are general obligations of the County and will constitute a pledge of the full faith and credit and taxing power of the County. In the event that the County is unable to issue the Bonds in sufficient time to provide for payment of the principal of and interest on the Notes when due and to provide for the payment of all amounts due under the Credit Arrangement when due (whether at maturity or otherwise), or is otherwise unable to pay the principal of and interest on the Notes when due and to provide for the payment of all amounts due under the Credit Agreement when due (whether at maturity or otherwise) from the tax or other revenue which the County shall have previously determined to apply to the payment of the Bonds and the interest thereon, then the County must levy ad valorem taxes on real and tangible personal property and intangible property subject to taxation by the County without limitation of rate or amount and, in addition, upon such other intangible property as may

be subject to taxation by the County within limitations prescribed by law, in an amount sufficient, together with funds available from other sources, to make such payments.

Section 6. Pursuant to the authority of the Authorizing Legislation and the Bond Anticipation Note Act, the County Council finds and determines that the best interests of the County will be served by selling the Notes at private (negotiated) sales to one or more dealers or by private (negotiated) sales arranged by such dealer(s), in accordance with terms and conditions as determined by the County Executive in accordance with Section 10 of this Resolution.

Section 7. In accordance with the Authorizing Legislation and the Bond Anticipation Note Act, the County hereby covenants that (a) it will pay the principal of and interest on the Notes, and all amounts due under the Credit Arrangement, to the extent not paid from the proceeds of the sale of the Notes or amounts realized under any Credit Arrangement, from the proceeds of the Bonds, and (b) it will issue the Bonds when, and as soon as, the reason for deferring their issuance no longer exists. Notwithstanding the foregoing, the County expressly reserves the right to issue other bonds or notes prior to or simultaneously with the issuance of all of the Bands, and to use the proceeds of such other bonds or notes to defray public facilities' costs not financed with the proceeds of the Notes.

Section 8. Under Section 2C of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2005 Cumulative Supplement), the County Council authorizes the County to consolidate for sale and issue, sell and deliver the Notes, at one time or from time to time, for the general purposes below:

(a) Public buildings, parks and recreation and consolidated fire tax district – Chapter 22, Laws of Montgomery County 2000, Chapter 17, Laws of Montgomery County 2001, Chapter 21, Laws of Montgomery County 2002, Chapter 17, Laws of Montgomery County 2003, Chapter 18, Laws of Montgomery County 2004 and Chapter 19, Laws of Montgomery County 2005.

(b) Public roads, streets, highways, sidewalks and storm drainage systems – Chapter 21, Laws of Montgomery County 2002, Chapter 17, Laws of Montgomery County 2003, Chapter 18, Laws of Montgomery County 2004 and Chapter 19, Laws of Montgomery County 2005.

(c) Public schools and community college – Chapter 21, Laws of Montgomery County 2002, Chapter 17, Laws of Montgomery County 2003, Chapter 18, Laws of Montgomery County 2004 and Chapter 19, Laws of Montgomery County 2005.

(d) Mass Transit – Chapter 17, Laws of Montgomery County 2001, Chapter 21, Laws of Montgomery County 2002, Chapter 17, Laws of Montgomery County 2003, Chapter 18, Laws of Montgomery County 2004 and Chapter 19, Laws of Montgomery County 2005.

(e) Public Housing – Chapter 17, Laws of Montgomery County 1981, Chapter 13, Laws of Montgomery County 1982, Chapter 8, Laws of Montgomery County 1983, Chapter 20, Laws of Montgomery County 1985 and Chapter 13, Laws of Montgomery County 1986.

(f) Parking Lot Districts (Silver Spring) - Chapter 9, Laws of Montgomery County 1983, and Chapter 6, Laws of Montgomery County 1984.

(g) Parking Lot Districts (Bethesda) - Chapter 19, Laws of Montgomery County 1981, Chapter 14, Laws of Montgomery County 1982 and Chapter 10, Laws of Montgomery County 1983.

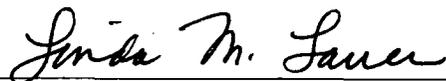
Section 9. The County hereby covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986 applicable to the Notes in order to preserve the status of the interest on the Notes 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 Notes in such manner as would cause the interest on the Notes 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.

Section 10. The County Executive is authorized to determine, by executive order or otherwise, all matters that the County Executive deems appropriate to effect the authorization, sale, security, issuance, delivery, and payment of or for the Notes, subject to the provisions of this Resolution.

Section 11. Notwithstanding any provision of this Resolution to the contrary, the County Executive is authorized to provide for the issuance of Notes without a Credit Arrangement if, in his judgment, such issuance is in the best interests of the County.

Section 12. This Resolution takes effect immediately upon adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council