

Resolution No.: 16-26
Introduced: January 16, 2007
Adopted: January 23, 2007

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: To authorize Montgomery County, Maryland, pursuant to and in accordance with Section 24 of Article 31 of the annotated Code of Maryland (2003 Replacement Volume and 2006 Supplement) to issue and sell its refunding bonds, at one time or from time to time, in one or more series, in order to refund all or part of the outstanding maturities of certain general obligation bonds of the County; to provide that the refunding bonds shall be sold on a competitive basis following the solicitation of bids; to make certain covenants with respect to the refunding bonds; to provide that the County Executive and other County officials must take all necessary, proper or expedient action to effect the issuance, sale and delivery of the refunding bonds; and generally to provide for and determine various matters in connection with the refunding bonds.

Background

1. Section 24 of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2006 Supplement) (the "State Refunding Act") provides in part that any county in the State of Maryland that has the power under any public general or public local law to borrow money and evidence the borrowing by the issuance of its general obligation bonds or revenue bonds may issue bonds for the purpose of refunding any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, purchase or maturity of the bonds. Refunding bonds issued under the authority of the State Refunding Act may be issued for public purposes which include realizing savings to the issuing county in the aggregate cost of debt service on either a direct comparison or present value basis.
2. The power to issue refunding bonds under the State Refunding Act is deemed additional and supplemental to the issuing county's existing borrowing power. Refunding bonds may be issued in one or more series, each series being in whatever principal amount the issuing county determines to be required to achieve the purpose for their issuance, which amount may be in excess of the principal amount of the bonds being refunded.
3. The State Refunding Act further provides that the procedures for the issuance of such refunding bonds must be the same as those applicable to the bonds being refunded, except that the refunding bonds may be sold on a negotiated basis without solicitation of bids if the issuing county determines in a public meeting that such procedure is in the public interest.

The Director of Finance of Montgomery County, Maryland (the "County") has recommended that all or a part of the outstanding maturities of certain general obligation bonds of the County hereinafter described be refunded under the authority of the State Refunding Act in order to realize savings to the County in the aggregate cost of debt service on either a direct comparison or present value basis.

4. The Director of Finance of the County has recommended that the refunding bonds be sold on a competitive basis following the solicitation of bids in order to achieve optimum savings to the County in the aggregate cost of debt service.

Action

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

Section 1. Montgomery County, Maryland (the "County") hereby authorizes the issuance, sale and delivery of bonds of the County, at one time or from time to time, and in one or more series, under the authority of Section 24 of Article 31 of the Annotated Code of Maryland (2003 Replacement Volume and 2006 Supplement) (the "State Refunding Act") in order to refund all or a part of the outstanding maturities of any one or more of the general obligation bond issues of the County listed on Exhibit A attached to this resolution and made a part of this resolution.

Section 2. It is hereby determined that it is in the public interest to sell the County's refunding bonds on a competitive basis following the solicitation of bids in order to effect the refunding of all or a portion of the outstanding maturities of the bonds described in Section 1 of this Resolution.

Section 3. Any bonds issued to refund the County's general obligation bonds described in Section 1 of this Resolution will constitute an irrevocable pledge of the full faith and credit and unlimited taxing power of the County. The County hereby covenants and agrees that in each and every fiscal year in which any of the refunding bonds are outstanding, it will levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for the payment, when due, of the interest and premium (if any) on and principal of all such refunding bonds maturing in each such fiscal year, and in the event the proceeds from the ad valorem taxes so levied in any such fiscal year prove inadequate for the above purposes, it will levy additional taxes in the succeeding fiscal year to make up for such deficiency, all in accordance with the provisions of Section 20-18 of the Montgomery County Code 2004, as amended.

Section 4. The refunding bonds must be sold on a competitive basis to such purchaser or purchasers upon such terms as the County Executive, in his sole and absolute discretion, by executive order or otherwise, deems to be in the best interest of the County. The refunding bonds must be designated, dated, bear interest at such 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 redemption prior to their maturity, and be executed and sealed in such manner as the County Executive, in his sole and absolute discretion, determines, by executive order or otherwise.

Section 5. The County Executive may, by executive order or otherwise, provide for the deposit of any proceeds from the refunding bonds in trust with a trust company or other banking institution to be applied and invested to effect a refunding of all or a part of the outstanding maturities of any one or more of the general obligation bond issues of the County described in Section 1 above, all in accordance with the provisions of the State Refunding Act.

Section 6. The County Executive may, by executive order or otherwise, approve the form and provisions of, execute and deliver the refunding bonds, and specify, prescribe, determine, provide for, approve, execute and deliver (where applicable) such other matters, details, forms, documents, or procedures, including (without limitation) notices of sale, forms of proposal, bond purchase agreements, escrow deposit agreements and continuing disclosure agreements as are necessary, proper or expedient to consummate the authorization, sale, security, issuance, delivery or payment of or for the refunding bonds.

Section 7. 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 refunding bonds in order to preserve the status of the interest on the refunding 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 refunding bonds in such manner as would cause the interest on the refunding bonds to be included in gross income for Federal income tax purposes, (b) make periodic determinations of the rebate amount (if any) 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 8. 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 may 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 application provisions of the Code and the Treasury Regulations prescribed thereunder, subject to the limitations set forth in the State Refunding Act and this Resolution.

Section 9. This Resolution shall take effect upon approval of the President for the County Council.

Marilyn J. Praisner 1/25/07
Marilyn J. Praisner, President, County Council Date

This is a correct copy of Council action.

Linda M. Lauer
Linda M. Lauer, Clerk of the Council

EXHIBIT A

Potential Refunded General Obligation Bonds

Consolidated Public Improvement Bonds of 2005, Series A
Consolidated Public Improvement Bonds of 2004, Series A
Consolidated Public Improvement Bonds of 2003, Series A
Consolidated Public Improvement Bonds of 2002, Series A
Consolidated Public Improvement Bonds of 2001, Series A
Consolidated Public Improvement Bonds of 2000, Series A
Consolidated Public Improvement Bonds of 1999, Series A
Consolidated Public Improvement Bonds of 1998, Series A
Consolidated Public Improvement Bonds of 1997, Series A
Consolidated Public Improvement Bonds of 1996, Series A