



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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| Subject Authorizing the issuance of Refunding Revenue Bonds (Department of Liquor Control) 2019 Series A | Executive Order No. 031-19 | Subject Suffix |
| Department Department of Finance | Department No. B373-19 | Effective Date 3/11/19 |

ORDER PROVIDING FOR THE AUTHORIZATION, ISSUANCE AND SALE OF REFUNDING REVENUE BONDS (DEPARTMENT OF LIQUOR CONTROL) 2019 SERIES A OF MONTGOMERY COUNTY, MARYLAND IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$30,900,000, SUBJECT TO ADJUSTMENT AS PROVIDED HEREIN; PRESCRIBING THE FORM AND TENOR OF SUCH BONDS, THE MANNER, TERMS AND CONDITIONS OF SALE AND ISSUANCE THEREOF; PRESCRIBING THE TERMS OF SUCH BONDS AND ALL OTHER DETAILS INCIDENT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF ALL DOCUMENTS IN CONNECTION WITH THE ISSUANCE THEREOF; PROVIDING FOR THE PAYMENT WHEN DUE, OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE BONDS; AND AMOUNTS SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AND TO PROVIDE GENERALLY FOR THE SALE, ISSUANCE, AND DELIVERY OF SUCH BONDS.

RECITALS

A. The County has determined pursuant to (i) Section 10-203 of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2018 Supplement) ("Article 10-203"); (ii) the Montgomery County Revenue Bond Act, Article IX of the Montgomery County Code (2004 Edition, as amended) (collectively, the "Revenue Bond Act") and (iii) Resolution No. 19-40 of the County Council of the County (the "County Council") adopted on February 12, 2019 (the "Resolution" and together with Section 10-203 and the Revenue Bond Act, the "Authorizing Legislation") to issue and sell its refunding revenue bonds in the aggregate principal amount not to exceed \$30,900,000; and

B. The Authorizing Legislation provides that the County Executive, by executive order, shall prescribe and determine various matters in connection with the issuance, sale and delivery of the Bonds (as defined below), as described below.

BE IT ORDERED by the County Executive of Montgomery County, Maryland, that:

Section 1. Pursuant to the authority of the Authorizing Legislation, Montgomery County, Maryland (the "County") is hereby authorized to issue a series of bonds designated "Montgomery County, Maryland Refunding Revenue Bonds (Department of Liquor Control) 2019 Series A" (the "Bonds") in the aggregate principal amount not to exceed \$30,900,000. The final aggregate principal amount of the Bonds shall be determined in an order of the County Executive of the County (the "County Executive") (or the Chief Administrative Officer of the County) (the "Chief Administrative Officer"), acting in the capacity of the County Executive as provided herein.

Section 2. The Bonds shall be issued under and secured by the Third Supplemental Trust Agreement (the "Third Supplemental Trust Agreement") to be executed by the County and U.S. Bank National Association (the "Trustee"), substantially in the form attached hereto as Exhibit A, with such further amendments, omissions, insertions, or variations deemed necessary or appropriate by the Chief Administrative Officer of the County (the "Chief Administrative Officer") and/or the Director of Finance of the County (the "Director of Finance"). The Third Supplemental Trust Agreement will amend and supplement the Trust Agreement dated as of May 1, 2009 by and between the County and Trustee, as previously amended and supplemented by a First Supplemental Trust Agreement dated April 11, 2011 and the Second Supplemental Trust Agreement dated as of August 1, 2013, each by and between the County and the Trustee (as so amended and supplemented, the "Trust Agreement"). The Director of Finance is hereby authorized to execute the Third Supplemental Trust Agreement in accordance with the terms of this Order.

Section 3. The proceeds of the Bonds will be used to (i) refund the County's Revenue Bonds (Department of Liquor Control) 2009, Series A (the "Refunded Bonds") outstanding as of April 1, 2019 and (ii) pay the costs of issuing the Bonds.

Section 4. The Bonds shall be dated such date, shall bear interest, shall mature, shall have such redemption provisions (including, without limitation, mandatory sinking fund redemption, extraordinary optional redemption and special mandatory redemption provisions) and shall have such other terms and provisions as are set forth in the Third Supplemental Trust Agreement. Bonds shall be dated the date of their initial delivery and shall be issuable in registered form in the denomination of Five Thousand Dollars (\$5,000) each or any integral multiple thereof. The Bonds will initially be issued in book-entry form



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without physical distribution of certificates to the public. The Depository Trust Company, New York, New York (“DTC”) will act as the securities depository for the Bonds and the Bonds will be registered in the name of Cede & Co. as nominee for DTC. The Bonds, when first issued, may be numbered from No. R-1 upward in the order of their maturities or in some other manner which conforms to standard bond registration practices and is acceptable to DTC and the Director of Finance. Registration books (the “Bond Register”) for the Bonds shall be maintained by the Trustee, which shall also act as paying agent for the Bonds (the “Bond Registrar and Paying Agent”). The Director of Finance from time to time may designate a bank or other financial institution to serve as Bond Registrar and Paying Agent upon 30 days’ prior written notice to the registered owners of the Bonds.

So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, the County and the Bond Registrar and Paying Agent will send all payments of principal of and premium, if any, and interest on the Bonds and notices to Cede & Co., and consider Cede & Co. as registered owner for all other purposes. Principal payments shall be made to Cede & Co. by check, draft or wire transfer at its address as it appears on the Bond Registrar on the respective payment or redemption dates. Interest shall be paid to Cede & Co. by check, draft or wire transfer at its address as it appears on the Bond Register, such interest being payable semi-annually on April 1 and October 1 in each year (commencing October 1, 2019), accounting from the most recent date to which interest has been paid or, if no interest has been paid, from the date of initial delivery of the Bonds.

The Bonds shall contain similar provisions to and be in substantially the form set forth in Exhibit B attached hereto, with such variations as are necessary or appropriate in compliance with this Order. So long as the Bonds are in book-entry form, the manual or facsimile signature of the Director of Finance shall be sufficient to authenticate the Bonds. Bonds issued substantially in accordance with such form, with appropriate insertions as indicated, when properly executed and authenticated as required by this Section, shall be deemed to constitute limited obligations of the County payable solely from the Trust Estate (as defined in the Trust Agreement).

Section 5. The Bonds shall be executed in the name of the County and on its behalf by the County Executive, whose signature may be by facsimile, an original or facsimile of the official seal of the County shall be imprinted or otherwise reproduced thereon, attested by the manual or facsimile signature of the Director of Finance, and authenticated by the manual or facsimile signature of the Bond Registrar and Paying Agent.

Section 6. The Bonds shall mature on April 1, in serial installments commencing on April 1, [2020] and shall bear interest at the rates set forth in the bids selected by the Director of Finance and approved pursuant to a subsequent order. The final maturity of the Bonds shall not be later than April 1, 20[29]. The provisions provided in this section may be modified by a subsequent order or orders of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive).

Section 7. The Bonds and the interest and premium (if any) thereon will be special obligations of the County, the principal of and interest and premium (if any) on which will be payable solely from the Trust Estate or from any other moneys made available to the Trustee for such purpose. Neither the Series Bonds nor the interest or premium (if any) shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the State of Maryland, the County or any other public body within the meaning of any constitutional or charter provision or statutory limitation. The Bonds do not constitute an indebtedness to which the faith or credit of the State of Maryland, the County or any other public body is pledged.

Section 8. Bonds which mature on or before April 1, 20[27], are not subject to redemption prior to their respective maturities. Bonds which mature on or after April 1, 20[28] are subject to redemption beginning April 1, 20[27] as a whole or in part at any time thereafter, in any order of their maturities, at the option of the County, at a redemption price for each bond equal to the principal amount of the Bond to be redeemed, together with interest accrued to the date fixed for redemption, without premium. The redemption provisions provided in this section may be modified by subsequent order or orders of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive).

Section 9. (a) The Bonds shall be issued, delivered and sold at public sale upon electronic proposals via the BiDCOMP/Parity Competitive Bidding System (“PARITY”) or via such other electronic bidding system as may be determined by subsequent order or orders of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive), in such manner and for such price or prices, not less than the principal amount thereof and accrued interest thereon,



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as may be determined by the Director of Finance. The Bonds shall be sold in accordance with the Official Notice of Sale (as defined below).

(b) The Official Notice of Sale (the "Notice of Sale") pertaining to the Bonds shall be substantially in the form set forth in Appendix F to the Preliminary Official Statement relating to the Bonds (the "Preliminary Official Statement"), a copy of which is attached hereto as Exhibit C, subject to such additions, deletions and amendments as shall be approved by the Director of Finance and the County Executive, publication of such Preliminary Official Statement to constitute conclusive evidence of approval by the County Executive and the Director of Finance and the terms, provisions and conditions set forth in such form of Notice of Sale is hereby adopted and approved as the terms, provisions and conditions under which and in the manner in which the Bonds shall be sold, issued and delivered.

(c) The Director of Finance is hereby authorized to cause to be prepared an Official Statement, and any necessary supplements or addenda thereto. The Preliminary Official Statement and the Official Statement shall contain such financial and other data as are customarily found in such publications and as may be deemed appropriate by the Director of Finance. The Director of Finance is further authorized to take such actions on behalf of the County as they deem appropriate or necessary to comply with Rule 15c2-12 (hereinafter defined) in connection with the offering and sale of the Bonds.

(d) The Director of Finance is hereby authorized and directed to publish a summary of the Notice of Sale for the Bonds at least twice in one or more daily or weekly newspapers having a general circulation in Montgomery County, Maryland, the first such publication to be at least ten (10) days prior to the date of sale. The summary of the Notice of Sale shall be published in substantially the form as approved by the Director of Finance, the publication of such notice to constitute conclusive evidence of the approval of the Director of Finance.

Section 10. Immediately after the sale of the Bonds, the aggregate principal amount of the Bonds to be issued, the interest rate or rates payable on the Bonds, the maturity schedule for the Bonds, the dated date of the Bonds, interest payment dates for the Bonds, and the redemption provisions relating to the Bonds, shall be fixed by an executive order of the County Executive (or the Chief Administrative Officer, acting in the capacity of the County Executive and in accordance with the terms of this Order), subject to the provisions hereof and in accordance with the terms and conditions of the sale of the Bonds.

Section 11. The proceeds from the sale of the Bonds, including any premium and accrued interest therefor, shall be paid directly to the Director of Finance who shall deposit the same in the proper accounts of the County to refund the Refunded Bonds and pay the costs of issuing the Bonds.

Section 12. It is hereby determined that it is necessary and appropriate for the County to execute and deliver a Continuing Disclosure Agreement ("Continuing Disclosure Agreement") in accordance with the provisions of Rule 15c2-12 of the Securities and Exchange Act of 1934 ("Rule 15c2-12"), for the benefit of the registered owners from time to time of the Bonds, in order to enable the successful bidder for the Bonds (including any of such bidder's associates constituting "principal underwriters" within the meaning of Rule 15c2-12) to comply with the requirements of Rule 15c2-12. The Director of Finance shall execute and deliver the Continuing Disclosure Agreement substantially in the form attached as Appendix E to the Preliminary Official Statement, with such changes therein as bond counsel to the County may advise.

Section 13. There may be deducted from the gross proceeds received from the sale of the Bonds the cost of advertising, underwriting fees, printing and legal fees and fees of other professionals, and expenses relating to such sale as may be determined by the Director of Finance.

Section 14. 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 covenant set forth in the preceding sentence, (a) the County will not use or permit the use of any of the proceeds of the Bonds or any of the funds of the County in such manner as would cause the interest on the Bonds to be included in gross income for federal income tax purposes, (b) the County will regulate the investment of the proceeds of the Bonds so as not to cause any of the Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Income Tax Regulations thereunder, (c) the County will, if and to the extent necessary make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the



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United States of America, (d) the County will prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, and (e) the Director of Finance is hereby authorized and directed to prepare or cause to be prepared and to execute and certificate or other document which may be required in order to assure compliance with the applicable provisions of Section 103 and Sections 141 through 150, inclusive, of the Code, and the Income Tax Regulations thereunder.

Section 15. The County Executive or Chief Administrative Officer shall by subsequent order, award the Bonds to the winning bidder for the Bonds in accordance with the Notices of Sale and this Order, and take such other action as deemed necessary in connection with the issuance and sale of the Bonds.

Section 16. The Chief Administrative Officer and Director of Finance, and such other officers, employees, and agents of the County are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the County's compliance with the covenants set forth in this Order.

Section 17. This Order shall take effect immediately.

Dated as of this ____ day of March, 2019.

Marc Elrich
County Executive
Montgomery County, Maryland

List of Exhibits

- Exhibit A – Third Supplemental Trust Agreement
- Exhibit B – Form of Bond
- Exhibit C – Preliminary Official Statement



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EXHIBIT A

THIRD SUPPLEMENTAL TRUST AGREEMENT

[SEE ATTACHED]



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EXHIBIT B

FORM OF BOND
[SEE ATTACHED]



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EXHIBIT C

PRELIMINARY OFFICIAL STATEMENT

[SEE ATTACHED]

