



# MONTGOMERY COUNTY EXECUTIVE ORDER

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

<b>Subject</b> Authorizing the issuance of Certificates of Participation, Series 2016A and Taxable Certificates of Participation, Series 2016B	<b>Executive Order No.</b> 110-16	<b>Subject Suffix</b>
<b>Department</b> Department of Finance	<b>Department No.</b> B351-16	<b>Effective Date</b> July 7, 2016

ORDER PROVIDING FOR THE AUTHORIZATION, SALE, ISSUANCE AND DELIVERY OF CERTIFICATES OF PARTICIPATION OF MONTGOMERY COUNTY, MARYLAND IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$29,000,000, SUBJECT TO ADJUSTMENT AS PROVIDED HEREIN; PRESCRIBING THE FORM AND TENOR OF SUCH CERTIFICATES OF PARTICIPATION, AND THE MANNER, TERMS AND CONDITIONS OF THE SALE AND ISSUANCE THEREOF; PRESCRIBING THE TERMS OF SUCH CERTIFICATES OF PARTICIPATION AND ALL OTHER DETAILS INCIDENT THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT AND ALL OTHER DOCUMENTS IN CONNECTION WITH THE ISSUANCE THEREOF; PROVIDING FOR THE PAYMENT WHEN DUE, OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE CERTIFICATES OF PARTICIPATION FROM ANNUALLY APPROPRIATED FUNDS; AND TO PROVIDE GENERALLY FOR THE SALE, ISSUANCE, AND DELIVERY OF SUCH CERTIFICATES OF PARTICIPATION.

## RECITALS

A. The County has determined pursuant to (i) Section 16-304 of the Education Article of the Annotated Code of Maryland (2014 Replacement Volume and 2015 Supplement) ("Section 16-304"); (ii) Council Resolution No. 18-537 adopted by the County Council of the County (the "County Council") on June 28, 2016, approved by the President of the County Council on June 29, 2016 and effective on June 29, 2016 (the "Resolution"); (iii) the Charter of the County (the "Charter"); and (iv) Chapter 19 of the Montgomery County Code, as amended ("Chapter 19" and together with Section 16-304, the Resolution, and the Charter, the "Authorizing Legislation") to provide for the issuance and sale of its special limited obligation certificates of participation in the aggregate principal amount not to exceed \$29,000,000; and

B. The Resolution provides that the County Executive, by executive order shall prescribe and determine various matters in connection with the issuance, sale and delivery of the Certificates, as defined below.

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

Section 1. Pursuant to the authority of the Authorizing Legislation, there is hereby authorized and directed the execution, sale, issuance and delivery of a series of certificates designated "Montgomery County, Maryland Certificates of Participation (Montgomery College Improvements), Series 2016A" (the "Series 2016A Certificates") and "Montgomery County, Maryland Taxable Certificates of Participation (Montgomery College Improvements), Series 2016B" (the "Series 2016B Certificates" and together with the Series 2016A Certificates, the "Certificates") in the aggregate principal amount not to exceed \$29,000,000.

Section 2. The Certificates shall be issued under and secured by a Trust Agreement between the County and U.S. Bank National Association, as trustee (the "Trustee"), dated as of July 1, 2016, as may be amended and supplemented from time to time (the "Trust Agreement"), substantially in the form attached



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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 Certificates shall also be issued pursuant to a Funding Agreement between the County and U.S. Bank National Association, as the bank, dated as of July 1, 2016, as may be amended and supplemented from time to time (the "Funding Agreement"), substantially in the form attached hereto as Exhibit B, with such further amendments, omissions, insertions, or variations deemed necessary or appropriate by the Chief Administrative Officer and/or Director of Finance. Payments due from the County under the Funding Agreement and debt service payments due for the Certificates shall be subject to annual appropriation by the County Council of the County.

Section 3. The Certificates 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 Trust Agreement. Certificates 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 Certificates will initially be issued in book-entry form 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 Certificates and the Certificates will be registered in the name of Cede & Co. as nominee for DTC. The Certificates of each issue, 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 for the Certificates shall be maintained by U.S. Bank National Association (the "Certificate Registrar and Paying Agent"), which shall also act as paying agent for the Certificates. The Director of Finance from time to time may designate a bank or other financial institution to serve as Certificate Registrar and Paying Agent upon 30 days' prior written notice to the registered owners of the Certificates.

So long as Cede & Co. is the registered owner of the Certificates, as nominee of DTC, the County and the Certificate Registrar and Paying Agent will send all payments of principal of and premium, if any, and interest on the Certificates 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 Certificate Register 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 Certificate Register, such interest being payable semi-annually on May 1 and November 1 in each year (commencing November 1, 2016), 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 Certificates.

The Certificates shall contain similar provisions to, and be in substantially the form set forth in, Appendix A to the Trust Agreement attached hereto as Exhibit A, with such variations as are necessary or appropriate to reflect the provisions with respect to book-entry bonds and/or certificates set forth herein as long as the Certificates are in book-entry form. Certificates issued substantially in accordance with such form, with appropriate insertions as indicated, when properly executed and authenticated as required by



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this Section, shall be deemed to constitute the special limited obligation Certificates of the County, subject each year to appropriation by the County Council.

Section 4. The Certificates shall be authenticated by the manual or facsimile signature of the Certificate Registrar and Paying Agent.

Section 5. The proceeds of the Series 2016A Certificates shall be used to (i) finance a portion of the costs of the acquisition, design, construction and equipping of certain facilities to be used as the central administration facility (the "Improvements") for The Board of Community College Trustees for Montgomery County, Maryland (the "College") located in the County at 9221 Corporate Boulevard, Rockville, Maryland, which facilities will be owned by Montgomery College Foundation, Inc. (the "Foundation") and leased to the College to be used by the College for central and administrative services offices, (ii) fund capitalized interest on the Series 2016A Certificates and (iii) pay the costs of issuing the Series 2016A Certificates. The proceeds of the Series 2016B Certificates shall be used to (i) finance the costs incurred by the College in connection with its terminating certain lease agreements for space that will be replaced with the facilities that comprise the Improvements and (ii) pay the costs of issuing the Series 2016B Certificates. The proceeds of the Certificates will be made available to the Foundation under the terms of a Loan Agreement between the County and the Foundation, substantially in the form attached hereto as Exhibit C, with such further amendments, omissions, insertions, or variations deemed necessary or appropriate by the Chief Administrative Officer and/or Director of Finance.

Section 6. The Chief Administrative Officer may determine that the Certificates can be successfully marketed without a debt service reserve fund.

Section 7. The Certificates shall mature on November 1, in serial installments commencing on November 1, 2017 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 Certificates shall not be later than November 1, 2036. The provisions provided in this section may be modified by a subsequent order or orders of the County Executive (or the Chief Administration Officer, acting in the capacity of the County Executive).

Section 8. Series 2016A Certificates which mature on or before November 1, 2024, are not subject to redemption prior to their respective maturities. Series 2016A Certificates which mature on or after November 1, 2025, are subject to redemption beginning November 1, 2024 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 certificate equal to the principal amount of the Series 2016A Certificates 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 Administration Officer, acting in the capacity of the County Executive). The Series 2016B Certificates are not subject to optional redemption prior to maturity.

Section 9. (a) The Certificates 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



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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, as may be determined by the Director of Finance. The Certificates 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 Certificates shall be substantially in the form set forth in Appendix D to the Preliminary Official Statement relating to the Certificates (the "Preliminary Official Statement"), a copy of which is attached hereto as Exhibit D, subject to such additions, deletions and amendments as shall be approved by the Director of Finance, publication of such Preliminary Official Statement to constitute conclusive evidence of approval by the Director of Finance and the terms, provisions and conditions set forth in such form of Notice of Sale are hereby adopted and approved as the terms, provisions and conditions under which and in the manner in which the Certificates shall be sold, issued and delivered at public sale.

(c) The Director of Finance is hereby authorized to cause to be prepared an Official Statement, and any necessary supplements or addenda thereto (the "Official Statement"). 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 Certificates.

(d) The Director of Finance is hereby authorized and directed to publish a summary of the Notice of Sale for the Certificates 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 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 Certificates, the aggregate principal amount of the Certificates to be issued, the interest rate or rates payable on the Certificates, the maturity schedule for the Certificates, the dated date and interest payment dates for the Certificates and the redemption provisions relating to the Certificates, 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 Certificates.

Section 11. It is hereby determined that it is necessary and appropriate for the County to execute and deliver a Continuing Disclosure Agreement (the "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 Certificates, in order to enable the successful bidder for the Certificates (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



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as Appendix B to the Preliminary Official Statement, with such changes therein as bond counsel to the County may advise.

Section 12. There may be deducted from the gross proceeds received from the sale of the Certificates 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. There may also be deducted from the gross proceeds of the sale of the Certificates any other incidental expenses relating thereto and the reimbursement of the general tax receipts of the County for any monies previously expended therefrom for the projects more specifically described in this Order.

Section 13. The Chief Administrative Officer is hereby authorized by subsequent order, to award the Certificates to the winning bidder for the Certificates in accordance with the Notice of Sale and this Order, and take such other action as deemed necessary in connection with the issuance and sale of the Certificates.

Section 14. The Chief Administrative Officer and Director of Finance, and such other officers, employees, and agents of the County are hereby authorized and empowered to approve, execute, and deliver the Trust Agreement, the Funding Agreement, a Loan Agreement between the County and Foundation, an Assignment of Rents and Leases Agreement, and all instruments, certificates and documents in any manner deemed appropriate by the County Executive and/or Chief Administrative Officer and otherwise take any and all such action as may be necessary, proper or required to carry out the authority conferred by this Resolution, and to effectuate the issuance, sale and delivery of the Certificates.

Section 15. 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 Certificates, 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 16. This Order shall take effect immediately.

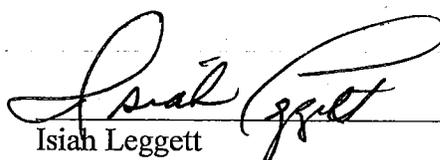


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Dated as of this 7 day of July, 2016.

  
Isiah Leggett  
County Executive  
Montgomery County, Maryland

List of Exhibits

- Exhibit A – Trust Agreement
- Exhibit B – Funding Agreement
- Exhibit C – Loan Agreement
- Exhibit D – Preliminary Official Statement



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**Subject**

Authorizing the issuance of Certificates of Participation, Series 2016A and Taxable Certificates of Participation, Series 2016B

**Executive Order No.**

110-16

**Subject Suffix**

**Department**

Department of Finance

**Department No.**

B351-16

**Effective Date**

July 7, 2016

**EXHIBIT A**

Trust Agreement

[See Attached]



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## EXHIBIT B

Funding Agreement

[See Attached]



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## EXHIBIT C

Loan Agreement

[See Attached]



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## EXHIBIT D

Preliminary Official Statement

[See Attached]