

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**1997 Legislative Session**Resolution No. CR-58-1997Proposed by The Chairman (by request - County Executive)Introduced by Council Members Bailey and Wilson

Co-Sponsors

Date of Introduction October 14, 1997**RESOLUTION**

A RESOLUTION concerning

Economic Development Revenue Bonds

FOR the purpose of authorizing and providing for the issuance, sale and delivery by Prince George's County, Maryland (the "County") of its revenue bonds pursuant to the provisions of the Maryland Economic Development Revenue Bond Act or such other statutory authority as may be effective when such refunding revenue bonds are issued, in order to refund the \$4,300,000 Prince George's County, Maryland Economic Development Revenue Bond (Mona Branch Avenue Limited Partnership Facility), 1985 Series (the "Refunded Bond"), the proceeds of which were originally made available to Mona Branch Avenue Limited Partnership, a Maryland limited partnership, for the purpose of financing the cost of acquisition of certain commercial, service and professional office building facilities located at the site known as Lot 7 of the Karlson Subdivision, commencing approximately 550 feet north of the intersection of Malcolm Road and Branch Avenue, and located at 7905 Malcolm Road, Clinton, Maryland in the County and currently leased to various commercial, service and professional businesses including Mona Electric, Inc., a Maryland corporation.

RECITALS

WHEREAS, the Maryland Economic Development Revenue Bond Act, §§14-101 et seq. of Article 41 of the Maryland Annotated Code (1997 Replacement Volume) (the "Act") provides that in order to accomplish the legislative purpose of the Act, the County may issue and sell its bonds, as its limited obligations and not upon its faith and credit or pledge of its taxing powers, for purposes that include refunding outstanding bonds, including the necessary

expenses of preparing, printing, selling and issuing those bonds, the funding of reserves, and the payment of interest with respect to financing such refunding in such amounts, or for such period, as the County deems reasonable; and

WHEREAS, Mona Branch Avenue Limited Partnership, a Maryland limited partnership (the "Borrower") is requesting the issuance of tax-exempt variable rate demand/fixed rate Prince George's County, Maryland Economic Development Revenue Refunding Bonds (Mona Branch Avenue Limited Partnership Facility), Series 1997 (the "Series 1997 Bonds") for the purpose of refunding and refinancing the Refunded Bond in a principal amount not to exceed \$3,850,000 for purposes that include debt service savings; and

WHEREAS, proceeds from the Series 1997 Bonds will be used to refund the Refunded Bond, originally issued to finance the acquisition and development of certain commercial, service and professional office building facilities located at the site known as Lot 7 of the Karlson Subdivision, commencing approximately 550 feet north of the intersection of Malcolm Road and Branch Avenue, and located at 7905 Malcolm Road, Clinton, Maryland in the County (the "Facilities") and currently leased to various commercial, service and professional businesses including Mona Electric, Inc., a Maryland corporation; and

WHEREAS, the Borrower recognizes that any bonds issued pursuant to this Resolution will be limited obligations of the County and will not be issued upon the County's faith and credit or taxing powers. The County has determined to authorize the issuance of the Series 1997 Bonds.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County Maryland, that, acting pursuant to the Act, it is hereby found and determined as follows:

(a) When used in this Resolution the following terms shall have the meanings given them by the Act: acquisition; bonds; facility or facilities; facility applicant; and facility user.

(b) When used in this Resolution the term "Authorized Officer" shall mean the County Executive or, to the extent heretofore or hereafter provided by order of the County Executive or otherwise, the Chief Administrative Officer or other duly authorized officer.

(c) The County intends to issue and sell the Series 1997 Bonds in an aggregate principal amount not to exceed \$3,850,000 for the purpose of refunding the Refunded Bond, which Refunded Bond was originally issued for the purpose of financing the Facilities.

(d) The Facilities constitute "facilities", the Borrower constitutes a "facility applicant" and a "facility user", and each lessee at the Facilities will constitute a "facility user", all as evidenced by the Letter of Intent.

(e) The issuance, sale and delivery of the Series 1997 Bonds and the transactions contemplated and authorized by this Resolution, including (without limitation) the refunding of the Refunded Bond, shall promote the declared legislative purposes of the Act by relieving conditions of unemployment in the County and State; encouraging the increase of industry and commerce and a balanced economy in the County and State; assisting in the retention of existing industry and commerce and in the attraction of new industry and commerce in the County and State; promoting economic development; and generally promoting the health, welfare and safety of the residents of the County and State.

(f) The principal of and premium, if any, and interest on the Series 1997 Bonds shall never constitute an indebtedness or a charge against the full faith and credit or taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation and shall never constitute or give rise to any pecuniary liability of the County. The Series 1997 Bonds shall be limited obligations of the County, the principal of and premium, if any, and interest on which shall be payable solely from the revenues received in connection with the refunding of the Refunded Bond and from any other moneys made available to the County for such purpose.

(g) Neither the proceeds of the Series 1997 Bonds nor the payments on account of the principal of and premium, if any, and interest on the Series 1997 Bonds will be commingled with the County's funds or will be subject to the absolute control of the County, but will be subject only to such limited supervision and checks as are deemed necessary or desirable to insure that the proceeds of the Series 1997 Bonds are used to accomplish the public purpose of the Act and this Resolution. The transactions contemplated by this Resolution do not

constitute the acquisition of any physical public betterment or improvement of property for public use.

(h) The Borrower recognizes that the tax exempt status of the Series 1997 Bonds, if issued, will be determined under federal and state laws which are not subject to the County's control and which may be changed without the County's knowledge or consent and that, consequently, the County can give no assurances and makes no representations that the interest on the Series 1997 Bonds, if issued, will be (or will remain) excludable from gross income for federal and state income tax purposes.

SECTION 2. BE IT FURTHER RESOLVED that the County Executive of the County is hereby authorized to accept, on behalf of the County, the Letter of Intent to evidence the County's intent to issue the Series 1997 Bonds as provided in this Resolution.

SECTION 3. BE IT FURTHER RESOLVED that the County is hereby authorized to issue, sell and deliver the Series 1997 Bonds at any time and from time to time in one or more series, in the maximum aggregate principal amount of Three Million Eight Hundred Fifty Thousand Dollars (\$3,850,000), in order to refund the Refunded Bond. The principal of and premium, if any, and interest on the Series 1997 Bonds shall be payable solely from the revenues to be received in connection with the refunding of the Refunded Bond and from any other moneys made available to the County for such purpose--all as more particularly specified, prescribed and determined by the Authorized Officer in accordance with the provisions of this Resolution.

SECTION 4. BE IT FURTHER RESOLVED that the Authorized Officer is hereby authorized to specify, prescribe, determine, provide for and approve--all within the limitations of this Resolution and the Act--all matters, details, forms, documents and procedures pertaining to the sale, security, issuance, delivery and payment of or for the Bonds, including (without limitation):

(a) the principal amount of the Series 1997 Bonds to be issued at any one time and from time to time; the rate or rates of interest thereon; the date or dates of maturity thereof; provisions for a sinking fund; the designation or designations of the Series 1997 Bonds and of

any series (including the redesignation of the Series 1997 Bonds as Series 1998 Bonds, if the closing occurs in 1998); and the dates or dates of issuance thereof;

(b) the form, tenor, terms and conditions of the Series 1997 Bonds and provisions for the registration and transfer of the Series 1997 Bonds;

(c) the form and contents of, and provisions for the execution and delivery of, such financing documents as the Authorized Officer shall deem necessary or desirable to evidence, secure or effectuate the issuance, sale and delivery of the Series 1997 Bonds, including (without limitation) any loan agreements, trust agreements or indentures, notes, mortgages, security agreements, assignments, guarantees, financing agreements or escrow agreements;

(d) provision for the payment directly by the Borrower, whether or not the proposed financing is consummated, of all expenses of preparing, printing and selling the Series 1997 Bonds (including, without limitation, and all costs, fees and expenses incurred by or on behalf of the County in connection with the authorization, issuance, sale and delivery of the Series 1997 Bonds) and all costs incurred in connection with the development of the appropriate legal documents (including the fees of counsel to the County, bond counsel, and special tax counsel and compensation to any persons, other than full-time employees of the County, or entities performing services for or on behalf of the County in connection therewith and in connection with all other transactions contemplated by this Resolution);

(e) the creation of security for the Series 1997 Bonds and provision for the administration of the Series 1997 Bonds, including (without limitation) the appointment of such trustees, escrow agents, paying agents, registrars or other agents as the Authorized Officer shall deem necessary or desirable to effectuate the transactions authorized hereby;

(f) the preparation and distribution, in conjunction with representatives of the Borrower and the prospective purchasers of, underwriters or placement agents for the Series 1997 Bonds of any series, of both preliminary and final official statements, placement memoranda or offering circulars in connection with the sale of the Series 1997 Bonds of any series, if such preliminary and official statements, placement memoranda or offering circulars are determined to be necessary or desirable for the sale of the Series 1997 Bonds of such series;

(g) the form and contents of, and provisions for the execution and delivery of, a contract or contracts for the purchase or placement and sale of the Series 1997 Bonds of any series (or any portion thereof); and

(h) such other matters in connection with the authorization, issuance, execution, sale, delivery and payment of the Series 1997 Bonds, the security for the Series 1997 Bonds, and the consummation of the transactions contemplated by this Resolution as may be deemed appropriate and approved by the Authorized Officer, including (without limitation) establishing procedures for the execution, acknowledgement, sealing and delivery of such other and further agreements, documents and instruments, and the authorization of the officials of the County to take any and all actions, as may be necessary or appropriate to consummate the transactions contemplated by this Resolution in accordance with the Act and this Resolution.

The Authorized Officer is hereby authorized to prescribe procedures to facilitate the prompt determination and approval of one or more of the matters set forth above. Such procedures may include telephonic approval and subsequent telegraphic or written confirmation of one or more of such matters by a designated officer of the County within guidelines or parameters prescribed by the Authorized Officer. The Authorized Officer is further authorized (1) to establish procedures for the utilization of variable or floating rates of interest, (2) to enter into arrangements with a bank or other appropriate institution to facilitate the purchase, repurchase, sale, transfer or payment of Series 1997 Bonds, including (without limitation) the use of general or standby letters of credit, revolving credit facilities, repurchase agreements or other similar arrangements and (3) to take such actions as may be necessary to implement a program for the issuance of Series 1997 Bonds in the nature of commercial paper, demand notes or floating rate obligations.

Orders issued pursuant to this Resolution shall be deemed to be of an administrative nature and shall be effective upon the effective date specified therein.

SECTION 5. BE IT FURTHER RESOLVED that, as permitted by the Act, the Series 1997 Bonds of each series shall be sold at private (negotiated) sale and at par, unless the

Authorized Officer deems it to be in the best interests of the County to sell the Series 1997 Bonds of any series at public sale or at above or below par, in which event the Series 1997 Bonds of such series shall be sold in such manner, at such price or prices and upon such terms as the Authorized Officer deems, to be in the best interests of the County. The Series 1997 Bonds shall be sold at such times, on such dates and to such persons, firms or corporations (including, without limitation, banks or other financial institutions) as shall be determined by the Authorized Officer.

SECTION 6. BE IT FURTHER RESOLVED that the Series 1997 Bonds shall be executed in the name of the County and on its behalf by the manual or facsimile signature of the Authorized Officer and the manual or facsimile and signature of the Clerk of the County Council or the acting Clerk of the County Council, and the seal of the County or facsimile thereof shall be affixed or otherwise reproduced thereon.

The County Executive, the Chief Administrative Officer, the Clerk of the County Council and other officials of the County are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver such documents and certificates as the Authorized Officer may determine to be necessary to consummate the transactions contemplated by this Resolution, subject to the limitations set forth in the Act and the provisions of this Resolution.

SECTION 7. BE IT FURTHER RESOLVED that the Series 1997 Bonds shall never constitute or give rise to any pecuniary liability of the County and, notwithstanding any provision of any agreement or document to which the County may become a party or may become subject in connection with the transactions contemplated by the Resolution, neither the Borrower nor the bondholders nor any other person shall have any claim against the County or any of its officers, officials, agents or employees for damages suffered as a result of the County's failure to perform in any respect any covenant, undertaking or obligation under the Series 1997 Bonds or under any agreement, document, instrument or certificate executed, delivered or approved in connection with the issuance, sale and delivery of the Series 1997 Bonds (collectively, the "Bond Documents") nor as a result of the incorrectness of any

representation in or any omission from any of the Bond Documents. Nothing contained in any of the Bond Documents shall be construed to preclude any action or proceeding (other than that element in any action or proceeding involving a claim for monetary damages) in any court or before any governmental body, agency or instrumentality against the County or any of its officers, officials, agents or employees to enforce the provisions of any of the Bond Documents.

SECTION 8. BE IT FURTHER RESOLVED that the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part thereof shall be held to be illegal, invalid or unconstitutional or inapplicable to any person, entity or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other persons, entities or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein and if the person, entity or circumstances to which this Resolution or any part hereof is inapplicable had been specifically exempted herefrom; provided, however, that neither the principal of nor the premium, if any, or interest on the bonds shall ever constitute an indebtedness of the County or a charge against the general credit or taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation or shall ever constitute or give rise to any pecuniary liability of the County.

SECTION 9. BE IT FURTHER RESOLVED that in the event that the financing transactions contemplated by this Resolution shall not have occurred on or before March 31, 1998, the County's authorization under this Resolution shall terminate unless otherwise extended by Resolution of the County Council, approved by the County Executive.

SECTION 10. BE IT FURTHER RESOLVED that pursuant to Section 14-104(f) of the Act, this resolution is administrative in nature, is not subject to procedures required for legislative acts and is not subject to referendum.

SECTION 11. BE IT FURTHER RESOLVED that this Resolution shall take effect upon its approval by the County Executive.

Adopted this 21st day of October, 1997.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive