

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXECUTIVE ACTION _____
EFFECTIVE DATE _____

**County Council Of
Howard County, Maryland**

2012 Legislative Session

Legislative Day No. 4

Bill No. 11 -2012

Introduced by: The Chairperson at the request of the County Executive

AN ORDINANCE authorizing and empowering Howard County, Maryland to issue and sell its refunding revenue bonds, as limited obligations and not upon its full faith and credit in the aggregate principal amount of up to \$6,200,000 in order to refund all of the County's Golf Course Refunding Revenue Bonds, 2003 Series A, which financed or refinanced the costs of the Timbers at Troy golf course; providing that such refunding bonds or other obligations be payable from funds and revenues received from or in connection with such golf course and other funds that may be made available under a financing agreement; providing for the private (negotiated) sale of the bonds; authorizing the execution of a financing agreement; approving the form, manner and tenor of the bonds; authorizing the County Executive to specify, prescribe, determine, provide for or approve certain matters, details, documents or procedures; authorizing the establishment of a debt service reserve fund with respect to the bonds; and providing for and determining various matters in connection therewith.

Introduced and read first time _____, 2012. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2012 and concluded on _____, 2012.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2012 and Passed, Passed with amendments, _____ Failed _____.

By order _____
Stephen LeGendre, Administrator

Approved by the County Executive _____, 2012

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Recitals**

2 On June 1, 2003, pursuant to Section 5(P)(2) of Article 25A of the Annotated
3 Code of Maryland (2011 Replacement Volume) (the “Revenue Bond Act”), Section 24 of
4 Article 31 of the Annotated Code of Maryland (2010 Replacement Volume and 2011
5 Supplement) (the “State Refunding Act”), the Howard County Charter (the “Charter”),
6 Council Bill No. 5-2003, passed by the County Council (the “County Council”) of
7 Howard County, Maryland (the “County”) on March 3, 2003 and executed by the
8 County Executive of the County (the “County Executive”) on March 4, 2003 and
9 effective on May 5, 2003, as supplemented by Council Bill No. 26-2003, passed by the
10 County Council on June 2, 2003 and executed by the County Executive and effective on
11 June 6, 2003, the County issued its \$9,880,000 Golf Course Refunding Revenue Bonds,
12 2003 Series A (the “Prior Bonds”), which such Prior Bonds were issued to refund all of
13 the County’s outstanding Special Facility Revenue Bonds, 1995 Series A, which bonds
14 were issued to finance the costs of the planning, design, acquisition, construction and
15 equipping of a 18-hole public golf course known as “The Timbers at Troy” and related
16 facilities (the “Project”), including, without limitation, funding a debt service reserve
17 fund for the Prior Bonds under the Trust Indenture dated as of June 1, 2003 between the
18 County and Manufacturers and Traders Trust Company, as trustee (the “Prior
19 Indenture”).

20 Pursuant to the State Refunding Act, the County is authorized to issue bonds for
21 the purpose of refunding any of its bonds then outstanding, including the payment of any
22 redemption premium and any interest accrued or to accrue to the date of redemption,
23 purchase or maturity of such bonds. Refunding bonds issued under the authority of the
24 State Refunding Act may be issued for public purposes which include (i) realizing

1 savings to the County in the aggregate cost of debt service on either a direct comparison
2 or present value basis, or (ii) debt restructuring that: (1) in the aggregate effects such a
3 reduction in the cost of debt service or (2) is determined by the governing body to be in
4 the best interests of the County, to be consistent with the County's long-term financial
5 plan, and to realize a financial objective of the County including, improving the
6 relationship of debt service to a source of payment such as taxes, assessments, or other
7 charges.

8 The State Refunding Act further provides that (a) the power to issue refunding
9 bonds under such section shall be deemed additional and supplemental to the issuer's
10 existing borrowing power, and (b) the procedures for the issuance of refunding bonds
11 shall be the same as those applicable to the bonds or other obligations being refunded,
12 except that refunding bonds may be sold on a negotiated basis without solicitation of bids
13 if the issuer determines in a public meeting that such procedure is in the public interest.
14 The State Refunding Act further provides in subsection (d) that, for the purpose of
15 determining whether refunding bonds issued thereunder are within any debt limitation
16 applicable to an issuer, the amount of bonds or other obligations to be refunded shall be
17 subtracted from, and the amount of refunding bonds to be issued shall be added to, the
18 aggregate of such issuer's outstanding bonds.

19 In addition, Section 616(b) of the Charter provides that:

20 "All bonds and other evidences of indebtedness shall be sold at public sale;
21 provided, however, that bonds or other evidences of indebtedness may be sold by private
22 (negotiated) sale if the County Council shall find and determine in the bond issue
23 authorization ordinance providing for the sale of the bonds or other evidences of
24 indebtedness that, for reasons specified in the bond issue authorization ordinance, either:

1 (1) It is not practical to sell such bonds or other evidences of
2 indebtedness at public sale; or

3 (2) A private (negotiated) sale will provide significant benefits to the
4 county which would not be achieved if the bonds or other evidences of indebtedness were
5 sold at public sale."

6 Current market conditions are volatile and an inflexible approach to borrowing by
7 the County threatens its ability to take advantage of substantially low interest rates
8 through a negotiated sale and will diminish the resources available to provide for the
9 needs of the citizens of the County in the future, and the interests of the County are best
10 served by providing the County with reasonable flexibility in accessing the capital
11 markets. Accordingly, any sale of bonds pursuant to this Ordinance by private
12 negotiation will provide significant benefits to the County which would not be achieved
13 if such bonds were sold at public sale and will provide significant benefits to the County
14 by reducing debt service payments.

15 The County's financial advisor, has advised that the County will be able to
16 achieve significant savings in the cost of debt service by selling its refunding revenue
17 bonds to refund the Prior Bonds pursuant to a private (negotiated) sale through the
18 solicitation of proposals from banking or financial institutions. The County anticipates
19 that revenues received from the Project over its remaining useful life will exceed the
20 amounts necessary to pay the principal of and interest on the revenue refunding bonds
21 issued to refund the Prior Bonds.

22 **Now, therefore, be it enacted by the County Council of Howard County,**
23 **Maryland:**

1 **Section 1.** All terms used herein which are defined in the Recitals hereof shall
2 have the meanings given such terms therein.

3 **Section 2.** It is hereby found, determined and declared as follows:

4 (1) It is in the public interests of the County and the County will obtain
5 significant benefits by issuing its revenue refunding bonds pursuant to and in accordance
6 with the Revenue Bond Act, the State Refunding Act, and the Charter for the purpose of
7 refunding the Prior Bonds and paying costs of issuance of such bonds.

8 (2) It is not practical to sell the Bonds at public sale, and the private
9 (negotiated) sale of the Bonds with a financial institution is in the public interests and
10 will result in significant benefits to the County.

11 (3) The useful life of the Project is more than 30 years, and all of the Bonds
12 will be payable within such probable useful life.

13 **Section 3.** Pursuant to the Revenue Bond Act, the State Refunding Act, and
14 the Charter, the County is hereby authorized and empowered to borrow money and incur
15 indebtedness and issue its refunding revenue bonds (the “Bonds”) in the aggregate
16 principal amount of \$6,200,000, or such lesser aggregate principal amount as may be
17 specified by the County Executive in an Executive Order (an “Executive Order”), as the
18 limited obligation of the County and not upon its full faith and credit, the proceeds of
19 which will be used to refund the Prior Bonds, to fund a debt service reserve fund, and pay
20 the cost of issuance of the Bonds.

21 **Section 4.** The Bonds hereby authorized may be sold through a private
22 (negotiated) sale, through solicitation of proposals from banking or other financial
23 institutions, on such date and terms as determined by the County Executive within the
24 provisions of this Ordinance. The County Executive is authorized and directed to enter

1 into such agreements and take all action as he shall deem to be in the best interests of the
2 County in order to accomplish the purposes of this Ordinance.
3

4 **Section 5.** (a) The Bonds shall be issued in accordance with the
5 provisions of a financing agreement (the “Financing Agreement”) between the County
6 and a banking or other financial institution, as shall be designated by the County
7 Executive in an Executive Order. The Financing Agreement shall be substantially in the
8 form as approved by the County Executive pursuant to an Executive Order, subject to the
9 limitations herein, the execution of the Financing Agreement shall constitute conclusive
10 evidence of such approval.

11 (b) The Bonds shall be payable solely from the gross revenues to be received
12 from or in connection with the Project and from other moneys pledged to the repayment
13 of the Bonds pursuant to a Financing Agreement. The Bonds are limited obligations of
14 the County and shall not be deemed to be general obligations of the county or a pledge of
15 the faith and credit or taxing powers of the County within the meaning of any constitution
16 or charter provisions or statutory limitation.

17 (c) The Bonds shall be substantially in the form attached hereto as Exhibit A,
18 with such changes and modifications as may be required or deemed appropriate by the
19 County Executive in order to accomplish the purpose of the transaction authorized
20 by this Ordinance, as and for the form and tenor of the obligation to be incurred, and such
21 covenants and conditions are hereby made binding upon the County.

22 (d) The Bonds shall be dated the date of delivery and shall be issued in the
23 form of one fully registered installment bond, without coupons attached, numbered R-1.
24 The Bonds shall bear interest at a rate not to exceed 4.50%. The first payment of

1 principal on the Bonds shall be paid on August 15, 2012, and subsequent installments of
2 principal shall be payable annually each August 15 until the principal on the Bonds is
3 fully paid, except that the final installment of the entire indebtedness evidenced by the
4 Bonds, if not sooner paid, shall be due and payable on August 15, 2022, and except that
5 prepayments may be made as provided in the Financing Agreement. Interest on the
6 Bonds shall accrue on the basis of a 30-day month, 360-day year from the date of the
7 advance of such principal amount, and shall be paid on August 15, 2012 and
8 semiannually thereafter on the 15th day of February and August in each year until the
9 principal amount has been paid.

10 **Section 6.** Except as otherwise provided in an Executive Order, the Bonds
11 shall be signed by the County Executive and by the Director of Finance of the County by
12 manual or facsimile signature, and the Bonds shall bear the corporate seal of the County,
13 or a facsimile thereof, attested by the manual or facsimile signature of the Chief
14 Administrative Officer of the County (the “Chief Administrative Officer”). In the event
15 that any officer whose signature shall appear on the Bonds shall cease to be such officer
16 before the delivery of the Bonds, such signature shall nevertheless be valid and sufficient
17 for all purposes, the same as if such officer had remained in office until delivery.

18 **Section 7.** Subject to and in accordance with the provisions of this Ordinance,
19 the County Executive shall determine by Executive Order, in accordance with this
20 Ordinance, all matters relating to the sale, issuance, delivery and payment of the Bonds,
21 including (without limitation) the purposes for which such Bonds are issued, the date or
22 dates of sale of the Bonds, the designation of the Bonds, the date of delivery of the
23 Bonds, the date from which interest on the Bonds shall accrue, the rate or rates of interest
24 borne by the Bonds or the method of determining the same, the interest payment and

1 maturity dates of the Bonds, and the form of the Bonds. The execution and delivery of
2 Bonds as herein provided shall be conclusive evidence of the approval of all terms and
3 provisions of such Bond on behalf of the County.

4 **Section 8.** In connection with the issuance of the Bonds pursuant to this
5 Ordinance, the County is hereby authorized to enter into one or more agreements as the
6 County Executive shall deem necessary or appropriate for the issuance, sale, delivery or
7 security of such Bond, which may include (without limitation) (i) purchase agreements in
8 accordance with the provisions of this Ordinance; (ii) loan agreements, or financing
9 agreements with commercial banks or trust companies providing for the issuance and
10 purchase of such Bonds; and (iii) agreements with commercial banks or trust companies
11 providing for the deposit of proceeds of the Bonds, including but not limited to deposits
12 into a debt service reserve fund for the Bonds. Each such agreement shall be in such
13 form as shall be determined by the County Executive by Executive Order. The execution
14 and delivery of each such agreement by the County Executive shall be conclusive
15 evidence of the approval of the form of such agreement on behalf of the County.

16 **Section 9.** The appropriate officials of the County are hereby authorized to
17 take any and all action necessary or appropriate to effect the issuance, sale and delivery of
18 the Bonds including, without limitation, preparing or causing to be prepared, negotiating,
19 approving, executing and delivering customary closing documents and certificates.

20 **Section 10.** This Ordinance shall take effect on the date of its enactment.

21 [Remainder of page left blank intentionally]

by the County Executive of the Issuer (the "County Executive") and effective _____, and (v) Executive Order No. _____ issued by the County Executive on _____, 2012 (collectively, the Authorizing Legislation").

THIS BOND, TOGETHER WITH INTEREST AND PREMIUM, IF ANY, THEREON IS NOT A GENERAL OBLIGATION OF THE ISSUER, BUT IS A LIMITED OBLIGATION PAYABLE SOLELY FROM THE SECURITY AND SHALL BE A VALID CLAIM OF THE HOLDER HEREOF ONLY AGAINST THE SECURITY. THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF OR, INTEREST OR PREMIUM, IF ANY, ON THIS BOND, OR OTHER COSTS INCIDENT THERETO, EXCEPT AS HEREIN PROVIDED.

NEITHER THE FAITH AND CREDIT OF THE STATE, THE ISSUER, OR ANY AGENCY OR INSTRUMENTALITY OF THE STATE, THE ISSUER OR ANY POLITICAL, SUBDIVISION OF THE STATE, NOR THE TAXING POWER OF THE STATE, THE ISSUER, OR ANY POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO PAYMENT OF THE PRINCIPAL OF, OR INTEREST OR PREMIUM, IF ANY, ON THIS BOND, OR OTHER COSTS INCIDENT THERETO. THIS BOND AND ANY INTEREST OR PREMIUM, IF ANY, THEREON SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE, OR ANY AGENCY, INSTRUMENTALITY OR POLITICAL SUBDIVISION OF THE STATE INCLUDING THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER.

1. Financing Agreement. This bond is a duly authorized bond of the Issuer designated as the "HOWARD COUNTY TAXABLE GOLF COURSE REFUNDING REVENUE BOND (TIMBERS AT TROY), SERIES 2012" (the "Bond"), and is duly issued by the Issuer under and pursuant to the Authorizing Legislation and a Financing Agreement dated as of the Dated Date (the "Financing Agreement") by and among the Issuer, _____, as trustee (the "Trustee"), and _____ (the "Bank"). The terms of the Bond include those stated in the Financing Agreement, and the Bond is subject to all such terms. Reference is made hereby to the Financing Agreement for a description of the funds, revenues and charges pledged thereunder, the nature and extent of the security created or to be created, and the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Trustee and the holder of this Bond. The registered owner of this Bond is referred to the Financing Agreement (certified copies of which are on file at the designated corporate trust office of the Trustee and at the office of the Issuer) for a complete statement of such terms, to which the owner hereof, by acceptance of this Bond, assents. By acceptance of this Bond, the owner hereof acknowledges and consents to the fact that _____ is acting as Trustee, Bond Registrar and Paying Agent with respect to this Bond.

2. Security. As defined in the Financing Agreement, "Security" includes all rights of the Trustee in and to (i) Revenues (as defined in the Financing Agreement), and (ii) moneys on deposit in the funds created under the Financing Agreement. The Security is pledged under the Financing Agreement for the benefit of the holder from time to time of this Bond.

3. Redemption. This Bond is subject to redemption prior to maturity as provided in the Financing Agreement.

4. Acceleration; Defeasance. In certain events, on the conditions, in the manner and with the effect set forth in the Financing Agreement, the principal of this Bond may become or may be declared due and payable before the stated maturity thereof, together with the interest accrued thereon.

The Financing Agreement prescribes the manner in which it may be discharged and provides that this Bond shall be deemed to be paid if provision shall have been made by the Issuer by deposit of moneys or Government Obligations (as defined in the Financing Agreement) with the Trustee, or other method satisfactory to the Trustee, sufficient to pay the principal or redemption price of and interest on this Bond to the date of maturity or redemption thereof.

5. Persons Deemed Owners; Restrictions upon Actions by Individual Holders. The Issuer and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute owner hereof (whether or not this Bond shall be overdue and notwithstanding any notation of ownership or other writing hereon made by anyone other than the Issuer or the Trustee) for the purpose of receiving payment of or on account of the principal or redemption price of this Bond, and for all other purposes and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments so made to any such registered owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable under this Bond.

6. Modifications. Modifications or alterations of the Financing Agreement may be made to the extent and in the circumstances permitted by the Financing Agreement.

7. Governing Law. This Bond shall be governed by and construed in accordance with the laws of the State of Maryland.

All acts, conditions and things required by the Constitution and laws of the State of Maryland and by the Issuer to happen, exist and be performed precedent to and in the issuance of this Bond and the execution and delivery of the Financing Agreement by the Issuer have happened, exist and have been performed as so required.

No recourse shall be had for the payment of the principal or redemption price of and interest on this Bond or for any claims based thereon or on the Financing Agreement against any member of the Issuer or other officer of the Issuer or any person executing this Bond, all such liability, if any, being expressly waived and released by the registered owner of this Bond by the acceptance of this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Financing Agreement until it shall have been

authenticated by the execution by the Trustee of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, HOWARD COUNTY, MARYLAND, has caused this bond to be signed by its County Executive by his facsimile signature and has also caused its corporate seal to be hereunto affixed and attested by the facsimile signature of its Chief Administrative Officer, all as of the ___ day of _____ 2012.

[SEAL]

HOWARD COUNTY, MARYLAND

ATTEST:

Ken Ulman
County Executive

Lonnie R. Robbins
Chief Administrative Officer

Stanley Milesky
Director of Finance

CERTIFICATE OF AUTHENTICATION

This bond is the bond referred to in the within-mentioned Financing Agreement.

Date of Authentication: _____, 2012

_____,
as Trustee

By: _____
Authorized Signatory

PAYMENT GRID

Date of Payment	Principal Amount Paid	Principal Amount Outstanding	Holder's Signature