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COUNTY COUNCIL OF
DORCHESTER COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 11

Bill No. 2020-7

Introduced By: Council President Jay L. Newcomb

Introduced, read first time, and ordered posted on official bulletin board September 1, 2020

Published once a week for two successive weeks, and public hearing scheduled for Tuesday, October 20, 2020, in Room 110, County Office Building, 501 Court Lane, Cambridge, Maryland, at 7:50 p.m.

By Order: Jay L. Newcomb, Council President

AN ACT amending and supplementing Bill No. 2017-6, passed by the County Council of Dorchester County, Maryland (the "County Council") on July 18, 2017 and effective on September 18, 2017 (the "2017 Bill"), in order to authorize and empower Dorchester County, Maryland (the "County") to use and apply a portion of the proceeds of the general obligation bonds designated as the Dorchester County, Maryland Public Facilities Bonds of 2018 and issued in the original aggregate principal amount of \$28,525,000 (the "2018 Bonds"), including certain sale proceeds of the 2018 Bonds in addition to the par amount of the 2018 Bonds, to the costs of certain additional projects identified herein as 911 Center Repairs, Repairs to Hoopers Island Causeway, Repairs to Ragged Point Road Bulkhead, Repairs to Bestpitch Ferry Bridge and 2021 Infrastructure Initiative, in addition to the projects identified in the 2017 Bill; providing that the provisions of this Act shall supersede and control over the provisions of the 2017 Bill with respect to the application of proceeds of the 2018 Bonds to costs of the projects identified herein; providing that the provisions of Resolution No. 617, adopted by the County Council on September 18, 2018 and effective on September 18, 2018 (the "2018 Resolution"), are amended, supplemented, superseded and controlled by the provisions of this Act to the extent contrary to or inconsistent with the provisions of this Act; authorizing certain County officials to take certain actions in connection with the reallocation of the proceeds of the 2018 Bonds provided for herein; providing that this title is a fair summary of this Bill for all purposes; providing that the provisions of this Act shall be liberally construed in order to effectuate its purposes; and relating generally to the use and application of the proceeds of the 2018 Bonds.

RECITALS

WHEREAS, pursuant to the authority of Sections 10-203 and 19-401 of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 5(P) of Article 25A of the Annotated Code of Maryland), as replaced, supplemented or amended (collectively, the "Enabling Act"), Section 509 of the Charter of Dorchester County, Maryland (the "Charter"), and Bill No. 2017-6, passed by the County Council of Dorchester County, Maryland (the "County Council") on July 18, 2017 and effective on

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48 September 18, 2017 (the “2017 Bill”), Dorchester County, Maryland (the “County”)
 49 authorized the issuance and sale from time to time of its general obligation bonds in one or
 50 more series in an aggregate principal amount not exceeding \$31,000,000 in order to finance,
 51 reimburse or refinance the costs of certain projects identified in the 2017 Bill; and
 52

53 **WHEREAS**, Section 1 of the 2017 Bill provides that the proceeds of the authorized
 54 general obligation bonds could be used for the public purpose of financing, reimbursing or
 55 refinancing costs of the projects identified below in the maximum principal amounts
 56 specified, including, without limitation, costs of the following activities, to the extent
 57 applicable: planning, design, architectural, engineering, surveying, studies, bidding,
 58 acquisition of land or other property rights, site development, utilities, landscaping,
 59 acquisition, demolition and removal, construction, reconstruction, renovation,
 60 rehabilitation, expansion, enlargement, construction management, improvement,
 61 installation, equipping, and furnishing, together with the costs of related items,
 62 appurtenances and incidental activities or expenses, capitalized interest during construction
 63 and for a reasonable period thereafter, whether or not specifically stated, legal, financial
 64 and administrative expenses, and costs of issuance of any borrowing therefor, and which
 65 may represent the County’s share or contribution to the financing or refinancing of such
 66 projects (collectively, “Costs of the Projects”):
 67

Department/Agency	Description	Maximum Principal Amount
Board of Education	Replace NDHS	\$20,300,000
Finance	Replace Finance Hardware/ software	\$700,000
Public Safety – Emerg. Comm.	Replace Radio System	\$10,000,000

68 ; and

69
 70 **WHEREAS**, Section 1 of the 2017 Bill further provides that notwithstanding such
 71 allocation of the maximum principal (par) amount of the bonds (and, correspondingly, of any
 72 bond anticipation notes provided for in Section 3 of the 2017 Bill) to such projects (defined
 73 in the 2017 Bill as the “Projects”) as described in the preceding WHEREAS clause, the
 74 County, without notice to or the consent of the registered owners of such bonds or bond
 75 anticipation notes may reallocate the maximum principal amount of such bonds or bond
 76 anticipation notes to be spent among the Projects referenced in the preceding WHEREAS
 77 clause in accordance with applicable County budgetary procedures or applicable law; and
 78

79 **WHEREAS**, pursuant to the authority of the Enabling Act, the Charter, the 2017 Bill
 80 and Resolution No. 617, adopted by the County Council on September 18, 2018 and
 81 effective on September 18, 2018 (the “2018 Resolution”), the County on October 30, 2018
 82 issued its Dorchester County, Maryland Public Facilities Bonds of 2018 in the original

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83 aggregate principal amount of \$28,525,000 (the “2018 Bonds”), which are referred to as the
 84 “Bonds” in the 2018 Resolution; and
 85

86 **WHEREAS**, the 2018 Resolution provides for the 2018 Bonds to be issued in a
 87 maximum aggregate principal (par) amount of \$30,650,000, and Section 2 of the 2018
 88 Resolution provides that the total par amount of the 2018 Bonds is allocated to finance,
 89 reimburse or refinance Costs of the Projects (including by prepaying or paying at maturity
 90 the 2017 Note identified in the 2018 Resolution) for the projects identified below
 91 (collectively, the “Original Projects”), and that the maximum par amount of the 2018
 92 Bonds was allocated among the Original Projects in the amounts set forth below (exclusive
 93 of any reoffering premium available for such purpose), subject to such variations or
 94 modifications as may be provided in the 2017 Bill and the 2018 Resolution:
 95

Department/Agency	Description	Maximum Principal Amount
Board of Education	Replace NDHS	\$20,300,000
Finance	Replace Finance Hardware/ software	\$700,000
Public Safety – Emerg. Comm.	Replace Radio System	\$9,500,000
N/A	Costs of Issuance	\$150,000
TOTAL		\$30,650,000

96 ; and

97
 98 **WHEREAS**, the Original Projects are referred to as the “Projects” in the 2018
 99 Resolution; and

100
 101 **WHEREAS**, Section 2(a) of the 2018 Resolution further provides that
 102 notwithstanding the allocation of the maximum principal amount of the 2018 Bonds to the
 103 Original Projects as provided therein, the County, without notice to or the consent of the
 104 registered owners of the 2018 Bonds, may reallocate the maximum principal amount of the
 105 2018 Bonds to be spent among the Original Projects in accordance with applicable County
 106 budgetary procedures or applicable law; and
 107

108 **WHEREAS**, Section 2(a) of the 2018 Resolution further authorized the County
 109 Manager of the County (the “County Manager”), with the advice of the Director of Finance
 110 of the County (the “Director of Finance”) and bond counsel to the County, to adjust the
 111 maximum par amount of the 2018 Bonds to be appropriated and applied to Costs of the
 112 Projects for various reasons, including to account for anticipated or actual reoffering
 113 premium in order to avoid an over-issuance problem, both before and after the sale of the
 114 2018 Bonds, and provided that any such adjustments shall be reflected in the Section 148
 115 Certificate provided for in Section 17 of the 2018 Resolution; and
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117 **WHEREAS**, the original aggregate principal amount of the issued 2018 Bonds was
 118 \$28,525,0000, which amount is (i) \$2,475,000 less than the \$31,000,000 maximum
 119 principal amount of the bonds authorized by the 2017 Bill and (ii) \$2,125,000 less than the
 120 \$30,650,000 maximum aggregate principal amount of the 2018 Bonds authorized to be
 121 issued pursuant to the 2018 Resolution, and the 2018 Bonds were issued in such lesser
 122 original aggregate principal amount in order to account for the availability of net original
 123 issue premium realized in connection with the sale of the 2018 Bonds to be applied to Costs
 124 of the Projects; and

125
 126 **WHEREAS**, the Tax and Section 148 Certificate of the County dated October 30,
 127 2018 (the “2018 Tax Certificate”), which constitutes the Section 148 Certificate referenced
 128 in the 2018 Resolution, provides that the Sale Proceeds of the 2018 Bonds (which totals
 129 \$30,728,800.65 and is comprised of the \$28,525,000.00 par amount of the 2018 Bonds and
 130 \$2,203,800.65 of net original issue premium received in connection with the sale of the
 131 2018 Bonds) shall be applied as follows: (i) \$30,500,000 to Costs of the Projects as
 132 described in the succeeding WHEREAS clause, exclusive of costs of issuance, and (ii)
 133 \$228,800.65 to costs of issuance of the 2018 Bonds (\$87,287.93 of which was allocated to
 134 underwriter’s discount), subject to the further provisions thereof; and

135
 136 **WHEREAS**, the \$30,500,000 of Sale Proceeds of the 2018 Bonds allocated to Costs
 137 of the Projects pursuant to the 2018 Resolution and the 2018 Tax Certificate is comprised
 138 of the 28,525,000 par amount of the 2018 Bonds plus \$1,975,000 of the net original issue
 139 premium received in connection with sale of the 2018 Bonds, and is allocated among the
 140 Original Projects pursuant to the 2018 Tax Certificate as follows:

Department/Agency	Description	Maximum Principal Amount
Board of Education	Replace NDHS	\$20,300,000
Finance	Replace Finance Hardware/ software	\$700,000
Public Safety – Emerg. Comm.	Replace Radio System	\$9,500,000

142 ; and

143
 144 **WHEREAS**, the County has achieved cost savings or determined not to pursue the
 145 full scope of certain of the Original Projects, and wishes to reallocate proceeds of the 2018
 146 Bonds originally allocated to costs of the Original Projects to certain additional projects
 147 that were not authorized by the 2017 Bill; and

148
 149 **WHEREAS**, in order to provide for such desired reallocation, the County must
 150 amend and supplement the 2017 Bill to authorize the use of proceeds of the bonds
 151 authorized thereby (which constitute the 2018 Bonds) for such additional projects.

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152 NOW THEREFORE, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 5
153 OF THE CHARTER OF DORCHESTER COUNTY:

154
155 **SECTION 1.** BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF
156 DORCHESTER COUNTY, MARYLAND that:

157
158 (a) The Recitals to this Act are incorporated by reference herein and deemed a
159 substantive part of this Act. Capitalized terms used in the Sections of this Act that are not
160 defined herein shall have the meanings given to such terms in the Recitals.

161
162 (b) References in this Act to any official by title shall be deemed to refer (i) to any
163 official authorized under the Charter, the code of public local laws of the County (the “County
164 Code”) or other applicable law or authority to act in such titled official’s stead during the
165 absence or disability of such titled official, (ii) to any person who has been elected, appointed
166 or designated to fill such position in an acting or interim capacity under the Charter, the
167 County Code or other applicable law or authority, (iii) to any person who serves in a “deputy”,
168 “associate” or “assistant” capacity as such an official, provided that the applicable
169 responsibilities, rights or duties referred to herein have been delegated to such deputy,
170 associate or assistant in accordance with the Charter, the County Code or other applicable law
171 or authority, and/or (iv) to the extent an identified official commonly uses another title not
172 provided for in the Charter or the County Code, the official, however known, who is charged
173 under the Charter, the County Code or other applicable law or authority with the applicable
174 responsibilities, rights or duties referred to herein.

175
176 **SECTION 2.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
177 COUNCIL OF DORCHESTER COUNTY, MARYLAND that:

178
179 (a) Pursuant to the authority of the Enabling Act and the 2017 Bill, the County
180 hereby amends and supplements the 2017 Bill in order to provide that, notwithstanding the
181 provisions of Section 1 of the 2017 Bill, which provided for the issuance of bonds to be
182 applied to finance, reimburse or refinance Costs of the Projects (as defined in Section 1 of
183 the 2017 Bill) for the Projects identified therein, which constituted the Original Projects,
184 and for the par amount of any such issued bonds to be allocated to the three Projects
185 identified therein, the County hereby recognizes that pursuant to the authority of the 2017
186 Bill and the 2018 Resolution, the County issued the 2018 Bonds in an original aggregate
187 principal amount of \$28,525,000 and that the 2018 Bonds constitute the “bonds” authorized
188 by the 2017 Bill.

189
190 (b) As described in the Recitals to this Act, the 2018 Bonds were issued in an
191 original aggregate principal (par) amount of \$28,525,000, which par amount is less than
192 the par amount of the 2018 Bonds authorized by the 2018 Resolution, in order to account
193 for the availability of a portion of the net original issue premium received in connection
194 with the sale of the 2018 Bonds to be applied to Costs of the Projects with respect to the
195 Original Projects. In accordance with the 2018 Resolution and pursuant to the 2018 Tax

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196 Certificate, the County originally allocated such \$30,500,000 portion of the Sale Proceeds
 197 (as defined in the 2018 Tax Certificate) of the 2018 Bonds, which \$30,500,000 amount of
 198 Sale Proceeds is comprised of the \$28,525,000 par amount of the 2018 Bonds plus a
 199 \$1,975,000 portion of the total net original issue premium realized in connection with the
 200 sale of the 2018 Bonds, to finance, reimburse or refinance Costs of the Projects with respect
 201 to the Original Projects as follows:
 202

Department/Agency	Description	Maximum Principal Amount
Board of Education	Replace NDHS	\$20,300,000
Finance	Replace Finance Hardware/ software	\$700,000
Public Safety – Emerg. Comm.	Replace Radio System	\$9,500,000

203
 204 (c) By enactment of this Act, the County hereby reallocates the \$30,500,000 of
 205 Sale Proceeds of the 2018 Bonds so allocated to the Original Projects to be applied to Costs
 206 of the Projects as follows:
 207

Department/Agency	Description	Maximum Principal Amount
Board of Education	Replace NDHS	\$20,300,000
Finance	Replace Finance Hardware/ software	\$250,000
Public Safety – Emerg. Comm.	Replace Radio System	\$7,450,000
Public Safety – 911	911 Center Repairs	\$142,200
Public Works – Highways	Repairs to Hoopers Island Causeway	\$250,000
Public Works – Highways	Repairs to Ragged Point Road Bulkhead	\$250,000
Public Works – Highways	Repairs to Bestpitch Ferry Bridge	\$50,000
Public Works - Highways	2021 Infrastructure Initiative	\$1,807,800
	Total	\$30,500,000

208
 209 From and after the effective date of this Act, the reallocation of Sale Proceeds of the 2018
 210 Bonds provided for in the table in this subsection (c) shall be deemed to control and to

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211 supersede any allocations to Costs of the Projects of the Original Projects provided for in
212 the 2017 Bill.

213
214 (d) By enactment of this Act, the County hereby supersedes the list of the
215 Projects set forth in Section 1 of the 2017 Bill, adds the five (5) additional projects set forth
216 in the table in subsection (c) above identified under the Department/Agency category in
217 the “Public Safety – 911” and the “Public Works - Highways” line items, which shall also
218 constitute “Projects” for all purposes of the 2017 Bill, and provides for the reallocation and
219 appropriation of \$30,500,000 of the Sale Proceeds of the 2018 Bonds among the eight (8)
220 listed Projects in the amounts set forth in such subsection (c) in place of the allocation of
221 the par amount of the bonds provided for in Section 1 of the 2017 Bill.

222
223 (e) From and after the effective date of this Act, the text set forth in lines 69
224 through 100 of the 2017 Bill is hereby deleted in its entirety and inserted in place thereof
225 shall be the following:

226
227 “The eight projects identified above are collectively referred to as the
228 “Projects” and, individually, as a “Project”.

229
230 It is hereby recognized and acknowledged that the Project identified
231 above under the Department/Agency category of “Board of Education” and
232 under the Description category with a designation of “Replace NDHS” was
233 included in the Capital Budgets of the County for Fiscal Years 2016 and 2017
234 under the Department/Agency category of “Board of Education” and under
235 the Description category with a designation of “NDHS Replacement
236 Planning/Design”. The Project identified above under the
237 Department/Agency category of “Finance” and under the Description
238 category with a designation of “Replace Finance Hardware/software” and the
239 Project identified above under the Department/Agency category of “Public
240 Safety-Emerg. Comm.” and under the Description category with a
241 designation of “Replace Radio System” were identified for the first time in
242 the Capital Budget of the County for Fiscal Year 2018. The remaining
243 Projects provided for by amendment to this Act were identified for the first
244 time in the Capital Budget of the County for Fiscal Year 2021. Any such
245 Capital Budgets are necessarily subject to change because of corresponding
246 changes in construction and other costs, Project time schedules, availability
247 of other funding sources and other circumstances not now known or
248 anticipated. It is the purpose and intent of this Act to authorize the borrowing
249 of money to finance, reimburse or refinance Costs of the Projects identified
250 in this Section 1 (as this Act may be further amended or supplemented) as
251 any such Project is referenced in the Capital Budgets for Fiscal Year 2016 to
252 2021, inclusive, as the same may be amended, and in any subsequent Capital
253 Budget or capital improvement program, as originally approved or as

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254 amended, unless otherwise contrary to applicable law, subject to the
255 limitations set forth in Section 4 hereof.

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Notwithstanding the foregoing allocation of the maximum principal amount of the bonds (and, correspondingly, of the maximum principal amount of any bond anticipation notes provided for in Section 3 of this Act) to the Projects, the County, without notice to or the consent of the registered owners of such bonds or bond anticipation notes, may reallocate the maximum principal amount of the bonds or bond anticipation notes, as well as any additional sale proceeds of such bonds or bond anticipation notes, to be spent among the Projects identified in this Act (as this Act may be amended or supplemented) in accordance with applicable County budgetary procedures or applicable law.

References to maximum principal amounts in the table set forth in this Section 1 (as this Act may be amended or supplemented) and elsewhere in this Section 1, and references throughout this Act to limits on aggregate principal amounts, are intended to mean to the par amount of the obligations being referenced. Notwithstanding such references to aggregate principal amount or par amounts, to the extent the County amends or supplements this Act to provide for the reallocation of the par amount of the bonds or the bond anticipation notes, as well as the allocation or reallocation of any additional sale proceeds of such bonds or bond anticipation notes, including to additional Projects, the subsequent actions of the County shall control and supersede the provisions of this Section 1.”

(f) The eight (8) Projects identified in the table in subsection (c) above are referred to in this Act as the “Revised Projects”. From and after the effective date of this Act, all references in the 2017 Bill to the “Projects” shall be deemed to include the eight (8) Projects identified in this Act as the “Revised Projects”.

SECTION 3. BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND that:

(a) From and after the effective date of this Act, the provisions of this Act with respect to the allocation of Sale Proceeds of the 2018 Bonds to Costs of the Projects for the Projects provided for in Section 2(c) hereof shall be deemed to supersede and control with respect to any provisions of the 2017 Bill that are contrary to or inconsistent with the provisions of this Act, including with respect to the application of the par amount of the bonds as provided for in the 2017 Bill.

(b) From and after the effective date of this Act, the 2017 Bill shall be deemed amended and supplemented as provided herein and all other terms and provisions of the 2017 Bill shall remain in full force and effect.

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299 **SECTION 4.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
300 COUNCIL OF DORCHESTER COUNTY, MARYLAND that (i) all references to the
301 Projects contained in the 2018 Resolution shall be deemed to refer to the Revised Projects
302 identified in this Act, (ii) the reallocation of the Sales Proceeds of the 2018 Bonds provided
303 for in this Act shall be deemed to control and supersede the application of the proceeds of
304 the 2018 Bonds contemplated or provided for in the 2018 Resolution, including with
305 respect to application of the par amount of the 2018 Bonds and a portion of the net original
306 issue premium component of the Sales Proceeds to Costs of the Projects as provided for in
307 this Act, and (iii) any provisions of the 2018 Resolution that are contrary to or inconsistent
308 with the provisions of this Act are deemed to be amended, supplemented, superseded and
309 controlled by this Act.

310
311 **SECTION 5.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
312 COUNCIL OF DORCHESTER COUNTY, MARYLAND that the County Manager, the
313 Director of Finance, and all other officials and employees of the County are hereby
314 authorized and directed to take any and all action necessary to provide for application of
315 proceeds of the 2018 Bonds to finance, reimburse or refinance Costs of the Projects with
316 respect to the Revised Projects and to negotiate, approve, execute and deliver all
317 documents, certificates and instruments necessary or appropriate in connection therewith
318 or in connection with the amendment and supplementing of the 2017 Bill provided for
319 hereby, including, without limitation, any amendments or supplements to the 2018 Tax
320 Certificate.

321
322 **SECTION 6.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
323 COUNCIL OF DORCHESTER COUNTY, MARYLAND that the title of this Bill shall be
324 deemed to be, and is, a fair summary of this Bill for publication and all other purposes.
325

326 **SECTION 7.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
327 COUNCIL OF DORCHESTER COUNTY, MARYLAND that the provisions of this Act
328 shall be liberally construed in order to effectuate the transactions contemplated by this Act.
329

330 **SECTION 8.** BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY
331 COUNCIL OF DORCHESTER COUNTY, MARYLAND that this Bill shall take effect
332 60 days from the date it is enacted, subject to the provisions of Section 307 of the County
333 Charter.

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335 [CONTINUED ON FOLLOWING PAGE]
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2020 day of October, 2020.

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APPROVED this _____ day of _____, 2020.

ATTEST:

COUNTY COUNCIL OF
DORCHESTER COUNTY:

BY: Keith Adkins
Keith Adkins, County Manager

Jay L. Newcomb
Jay L. Newcomb, President

Newcomb - *aye*
Nichols - *aye*
Travers - *aye*
Pfeffer, Jr. - *aye*
Nagel - *aye*

Key:

Underlining indicates text added to this Bill by amendment.

~~Strike-through~~ indicates text deleted from this Bill by amendment.