

RESOLUTION NO. RS-2020-13

A RESOLUTION SUPPLEMENTING RESOLUTION NO. RS-2016-05 ADOPTED ON APRIL 12, 2016 (THE “2016 RESOLUTION”) AND THE 2016 ACCOMPANYING MATERIALS IDENTIFIED HEREIN, IN ORDER TO PROVIDE THAT A PORTION OF THE PROCEEDS OF THE \$20,635,000 COUNTY COMMISSIONERS OF WASHINGTON COUNTY PUBLIC IMPROVEMENT BONDS OF 2016 (THE “2016 PUBLIC IMPROVEMENT BONDS”) ARE REALLOCATED AND MAY BE APPLIED TO A PROJECT NOT ORIGINALLY CONTEMPLATED BY THE 2016 RESOLUTION AND THE 2016 ACCOMPANYING MATERIALS THAT IS IDENTIFIED HEREIN AS THE “CAPACITY MANAGEMENT PROJECT”; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY MAKE ANY NECESSARY OR DESIRABLE FUTURE REALLOCATION OF PROCEEDS OF THE 2016 PUBLIC IMPROVEMENT BONDS AMONG THE PROJECTS CONTEMPLATED BY THE 2016 RESOLUTION AND THE 2016 ACCOMPANYING MATERIALS, AS SUPPLEMENTED HEREBY, BY APPLICABLE COUNTY BUDGETARY PROCEDURES OR APPLICABLE LAW; AUTHORIZING CERTAIN OFFICIALS TO SUPPLEMENT AND AMEND THE TAX CERTIFICATE AND COMPLIANCE AGREEMENT OF THE COUNTY DATED MAY 17, 2016 IN CONNECTION WITH THE MATTERS CONTEMPLATED BY THIS RESOLUTION; AND GENERALLY PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF THE 2016 PUBLIC IMPROVEMENT BONDS.

RECITALS

Pursuant to the authority of Resolution No. RS-2016-05, adopted by the Board of County Commissioners of Washington County (the “Board”) on April 12, 2016 (the “2016 Resolution”), County Commissioners of Washington County (the “County”) on May 17, 2016 issued two separate series of its general obligation bonds as follows: (i) “County Commissioners of Washington County Public Improvement Bonds of 2016” issued in the aggregate principal amount of \$20,635,000 (the “2016 Public Improvement Bonds”) and (ii) “County Commissioners of Washington County Refunding Bonds of 2016” issued in the aggregate principal amount of \$9,455,000. The 2016 Public Improvement Bonds were also issued under the authority of Chapter 60 of the Laws of Maryland of 2013 (the “2013 Act”) and Title 6 of the Code of Public Local Laws of Washington County, Maryland (2007), as amended, as applicable (the “Water and Sewer Act”).

Capitalized terms used in these Recitals and not otherwise defined in the following Sections of this Resolution shall have the meanings given to such terms in these Recitals. All capitalized terms used herein but not defined herein shall have the meanings given to such terms in the 2016 Resolution.

Section 3 of the 2016 Resolution provides that, subject to net original issue discount, if any, and adjustments made in connection with the sale of the 2016 Public Improvement Bonds, the projects and purposes on account of which the 2016 Public Improvement Bonds were issued and the approximate amount of the par value of proceeds of the 2016 Public Improvement Bonds allocated to each class of projects were identified as follows:

<u>Proceeds</u>	<u>Use</u>
\$7,415,000	Infrastructure Projects – Public Improvement Bonds
482,000	Public Facilities Projects – Public Improvement Bonds
500,000	Public Safety Projects – Public Improvement Bonds
8,635,000	Environmental Projects – Public Improvement Bonds
3,506,000	Educational Projects – Public Improvement Bonds
97,000	Public Improvement Bonds Issuance Costs

As described in Exhibit II (“Exhibit II”) to the Tax Certificate and Compliance Agreement of the County dated May 17, 2016 relating to the Bonds (the “2016 Tax Certificate”), and in materials provided to the Board at the time of consideration and adoption of the 2016 Resolution (the “2016 Accompanying Materials”), the category of “Environmental Projects – Public Improvement Bonds” referred to in Section 3 of the 2016 Resolution included \$6,054,000 allocated to a project identified as “Conoccocheague WwTP – ENR Upgrades”.

Due to unanticipated grant funds becoming available for the “Conoccocheague WwTP – ENR Upgrades” project, the County has determined to use such grant funds to pay the costs of the “Conoccocheague WwTP – ENR Upgrades” project contemplated by the 2016 Resolution, Exhibit II and the 2016 Accompanying Materials and to reallocate a \$316,618 portion of the proceeds of the 2016 Public Improvement Bonds originally expected to be spent on the “Conoccocheague WwTP – ENR Upgrades” project to another County project that was not contemplated by the 2016 Resolution, Exhibit II and the 2016 Accompanying Materials.

Accordingly, in accordance with the provisions of the Water and Sewer Act (which served as authority for the “Conoccocheague WwTP – ENR Upgrades” project originally contemplated by the 2016 Resolution), the County desires to reallocate \$316,618 of the proceeds of the 2016 Public Improvement Bonds originally expected to be spent on the “Conoccocheague WwTP – ENR Upgrades” project to a project not contemplated by the 2016 Resolution, Exhibit II or the 2016 Accompanying Materials that (A) is generally known as the “Capacity Management Project” and (B) qualifies as a “project” for purposes of the Water and Sewer Act, subject to the further provisions of this Resolution. The Board approved a budget adjustment on May 5, 2020 authorizing such reallocation and recognizing that a resolution providing for the same would be required.

The Chief Financial Officer has advised that the reallocation of proceeds of the 2016 Public Improvement Bonds provided for in this Resolution shall not cause the County to violate the provisions of Income Tax Regulation Section 1.148-6(d)(1)(iii), which provides that “an issuer must account for the allocation of proceeds to expenditures not later than 18 months after the later of the date the expenditure is paid or the date the project, if any, that is financed by the issue is

placed in service. This allocation must be made in any event by the date 60 days after the fifth anniversary of the issue date or the date 60 days after the retirement of the issue, if earlier.”

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY:

Section 1. That (a) the 2016 Resolution and the 2016 Accompanying Materials are hereby supplemented to provide that (i) \$316,618 of the \$6,054,000 par amount of the 2016 Public Improvement Bonds originally allocated to the project identified in Exhibit II and the 2016 Accompanying Materials as the “Conoccocheague WwTP – ENR Upgrades” project is reallocated to the project identified in the Recitals to this Resolution as the “Capacity Management Project”, (ii) the project identified in the Recitals to this Resolution as the “Capacity Management Project” be added to and included among the “Environmental Projects – Public Improvement Bonds” to be funded from proceeds of the 2016 Public Improvement Bonds, and (iii) \$316,618 of the par amount of the proceeds of the 2016 Public Improvement Bonds originally allocated to the “Conoccocheague WwTP – ENR Upgrades” project pursuant to the 2016 Resolution and the 2016 Accompanying Materials be applied to the “Capacity Management Project” in accordance with the 2016 Resolution and the 2016 Accompanying Materials, as supplemented by this Resolution.

(b) In accordance with the last paragraph of Section 3 of the 2016 Resolution, the County may, to the extent necessary or desirable, make future reallocations of proceeds of the 2016 Public Improvement Bonds to the projects originally contemplated by Exhibit II and the 2016 Accompanying Materials (as supplemented hereby) and to the project identified herein as “Capacity Management Project” through customary budgetary procedures or applicable law rather than by further amending or supplementing the 2016 Resolution or the 2016 Accompanying Materials; provided that, no such further reallocation shall be made that shall cause the County to be in violation of its covenants and agreements set forth in the 2016 Tax Certificate. In the event the County wishes in the future to apply proceeds of the 2016 Public Improvement Bonds to projects not contemplated by the 2016 Resolution and the 2016 Accompanying Materials, as supplemented by this Resolution, the County will need to comply with the provisions of the 2013 Act or the Water and Sewer Act, as applicable.

Section 2. That the President or the Vice President of the Board and the Chief Financial Officer are hereby authorized and empowered to execute and deliver from time to time on behalf of the County any supplement or amendment to the 2016 Tax Certificate deemed necessary or desirable by bond counsel to the County in order to reflect the matters provided for in this Resolution. The appropriate official or officials of the County are hereby directed to make or change any written allocations of the proceeds of the 2016 Public Improvement Bonds (within the meaning of Income Tax Regulation Section 1.148-6(d)(1)(iii)) to reflect the matters provided for in this Resolution.

Section 3. That this Resolution supplements the 2016 Resolution and the 2016 Accompanying Materials as provided herein.

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Section 4. That this Resolution shall take effect from the date of its adoption.


Adopted this 16th day of June, 2020.

(SEAL)

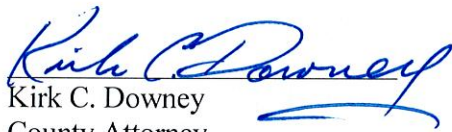
ATTEST:


Krista L. Hart, County Clerk

COUNTY COMMISSIONERS OF
WASHINGTON COUNTY

By: 
Jeffrey A. Chme, President
Board of County Commissioners
of Washington County

Approved as to form and legal sufficiency:


Kirk C. Downey
County Attorney

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