

RESOLUTION NO. RS-2021- 10

A RESOLUTION SUPPLEMENTING AND AMENDING, AS APPLICABLE, RESOLUTION NO. RS-2019-10 ADOPTED ON APRIL 23, 2019 (THE “2019 RESOLUTION”) AND THE 2019 ACCOMPANYING MATERIALS IDENTIFIED HEREIN, IN ORDER TO PROVIDE THAT A PORTION OF THE PAR AMOUNT OF THE \$13,310,000 COUNTY COMMISSIONERS OF WASHINGTON COUNTY PUBLIC IMPROVEMENT BONDS OF 2019 (THE “2019 PUBLIC IMPROVEMENT BONDS”) ARE REALLOCATED AND MAY BE APPLIED TO A PROJECT NOT ORIGINALLY CONTEMPLATED BY THE 2019 RESOLUTION AND THE 2019 ACCOMPANYING MATERIALS THAT IS IDENTIFIED HEREIN AS THE “POLICE, FIRE AND EMERGENCY SERVICES TRAINING FACILITY” PROJECT; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY MAKE ANY NECESSARY OR DESIRABLE FUTURE REALLOCATION OF THE PAR AMOUNT OF THE 2019 PUBLIC IMPROVEMENT BONDS AMONG THE PROJECTS CONTEMPLATED BY THE 2019 RESOLUTION AND THE 2019 ACCOMPANYING MATERIALS, AS SUPPLEMENTED AND AMENDED HEREBY, AS APPLICABLE, 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 21, 2019 IN CONNECTION WITH THE MATTERS CONTEMPLATED BY THIS RESOLUTION; AND GENERALLY PROVIDING FOR THE APPLICATION OF THE PAR AMOUNT OF THE 2019 PUBLIC IMPROVEMENT BONDS.

RECITALS

Pursuant to the authority of Resolution No. RS-2019-10, adopted by the Board of County Commissioners of Washington County (the “Board”) on April 23, 2019 (the “2019 Resolution”), County Commissioners of Washington County (the “County”) on May 21, 2019 issued a series of its general obligation bonds captioned as follows: “County Commissioners of Washington County Public Improvement Bonds of 2019” in the original aggregate principal amount of \$13,310,000 (the “2019 Public Improvement Bonds”). The 2019 Public Improvement Bonds were also issued under the authority of Chapter 60 of the Laws of Maryland of 2013 (the “2013 Act”), Chapter 99 of the Laws of Maryland of 2018 (the “2018 Act”) and Title 6 of the Code of Public Local Laws of Washington County, Maryland (2007) (the “Water and Sewer Act”), each as then amended to date, as applicable.

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. Any capitalized terms used herein but not defined herein shall have the meanings given to such terms in the 2019 Resolution.

Section 2 of the 2019 Resolution provides that, subject to net original issue discount, if any, and adjustments made in connection with the sale of the 2019 Public Improvement Bonds, the projects and purposes on account of which the 2019 Public Improvement Bonds were issued and the approximate amount of the par value of proceeds of the 2019 Public Improvement Bonds allocated to each class of projects were identified as follows:

<u>Proceeds</u>	<u>Use</u>
\$8,004,000	Infrastructure Projects
3,996,000	Education Projects
1,310,000	Environmental Projects

As described in materials provided to the Board at the time of consideration and adoption of the 2019 Resolution (the “2019 Accompanying Materials”) and in Exhibit II (“Exhibit II”) to the Tax Certificate and Compliance Agreement of the County dated May 21, 2019 relating to the 2019 Public Improvement Bonds (the “2019 Tax Certificate”), the category of “Infrastructure Projects” referred to in Section 2 of the 2019 Resolution included \$550,000 allocated to a project identified as “Colonel Henry K. Douglas Drive Ext Phase I”.

Due to unanticipated cost savings achieved with regard to the project identified as “Colonel Henry K. Douglas Drive Ext Phase I”, the County has determined to reallocate a portion of the par amount of the 2019 Public Improvement Bonds originally allocated to pay costs of the “Colonel Henry K. Douglas Drive Ext Phase I” project to pay costs of another County project that was not contemplated by the 2019 Resolution, the 2019 Accompanying Materials and Exhibit II.

According to County records, the \$550,000 par amount of the 2019 Public Improvement Bonds originally allocated to the “Colonel Henry K. Douglas Drive Ext Phase I” project was derived as follows: (i) \$290,722 from the 2013 Act and (ii) \$259,278 from the 2018 Act. Each of the 2013 Act and the 2018 Act provide that bonds issued pursuant to the authority of such acts, among other purposes, may be applied to finance the “construction, improvement, or development of public facilities” (as such phrase is used in such acts) for “[b]uildings and facilities for public safety,...

Accordingly, in accordance with the provisions of the 2013 Act and the 2018 Act (which each served as authority for application of a portion of the par amount of the 2019 Public Improvement Bonds to the “Colonel Henry K. Douglas Drive Ext Phase I” project originally contemplated by the 2019 Resolution), the County desires to reallocate \$496,631 of the par amount of the 2019 Public Improvement Bonds originally expected to be spent on the “Colonel Henry K. Douglas Drive Ext Phase I” project to a project not contemplated by the 2019 Resolution, the 2019 Accompanying Materials or Exhibit II that (A) is generally known as the “Police, Fire and Emergency Services Training Facility” project (and is sometimes referred to more generically as the “Public Safety Training Facility”, the “Public Safety Training Center” or by a similar name) and (B) qualifies as a building and facility for public safety for purposes of the 2013 Act and the 2018 Act, subject to the further provisions of this Resolution. The Board approved a budget adjustment on October 13, 2020 authorizing such reallocation and recognizing that a resolution providing for the same would be required at a later date.

With respect to the \$496,631 of the par amount of the 2019 Public Improvement Bonds to be reallocated from the “Colonel Henry K. Douglas Drive Ext Phase I” project to the “Police, Fire and Emergency Services Training Facility” project, \$290,722 of such par amount will be credited to the 2013 Act and \$205,909 will be credited to the 2018 Act.

The Chief Financial Officer has advised that the reallocation of the portion of the par amount of the 2019 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 2019 Resolution and the 2019 Accompanying Materials are hereby supplemented and amended to provide that (i) the project identified in the Recitals to this Resolution as the “Police, Fire and Emergency Services Training Facility” project be added to the projects to be funded from the par amount of the 2019 Public Improvement Bonds and be considered as being listed on Exhibit II in the principal amount of \$496,631, with the par amount of the 2019 Public Improvement Bonds originally allocated to the “Colonel Henry K. Douglas Drive Ext Phase I” project as listed on Exhibit II being reduced from \$550,000 to \$53,369, (ii) \$496,631 of the \$550,000 par amount of the 2019 Public Improvement Bonds originally allocated to the project identified in the 2019 Accompanying Materials and Exhibit II as the “Colonel Henry K. Douglas Drive Ext Phase I” project be reallocated to the project identified in the Recitals to this Resolution as the “Police, Fire and Emergency Services Training Facility” project, and (iii) the \$496,631 portion of the par amount of the 2019 Public Improvement Bonds so reallocated to the “Police, Fire and Emergency Services Training Facility” project be applied to costs of such project in accordance with the 2019 Resolution and the 2019 Accompanying Materials, as supplemented and amended by this Resolution.

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(b) Section 2 of the 2019 Resolution is hereby amended to delete the table detailing the use of the par value of the 2019 Public Improvement Bonds (which are referred to as the “Bonds” in the 2019 Resolution) and to insert in place thereof the following:

<u>“Proceeds</u>	<u>Use</u>
\$7,507,369	Infrastructure Projects
496,631	Public Safety Projects
3,996,000	Education Projects
1,310,000	Environmental Projects “

(c) In accordance with the last paragraph of Section 2 of the 2019 Resolution, the County may, to the extent necessary or desirable, make future reallocations of the par amount of the 2019 Public Improvement Bonds to the projects originally contemplated by the 2019 Accompanying Materials (as supplemented hereby) and Exhibit II (as the same may be supplemented or amended) and to the project identified herein as “Police, Fire and Emergency Services Training Facility” through applicable budgetary procedures or applicable law rather than by further supplementing or amending the 2019 Resolution or the 2019 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 2019 Tax Certificate. In the event the County wishes in the future to apply proceeds (including par amount, original issue premium and/or investment proceeds) of the 2019 Public Improvement Bonds to projects not contemplated by the 2019 Resolution and the 2019 Accompanying Materials, as supplemented and amended by this Resolution, as applicable, the County will need to comply with the provisions of the 2013 Act, the 2018 Act or the Water and Sewer Act, or other applicable law, 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 2019 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 2019 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 and amends, as applicable, the 2019 Resolution and the 2019 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 20th day of April, 2021.


(SEAL)

ATTEST:



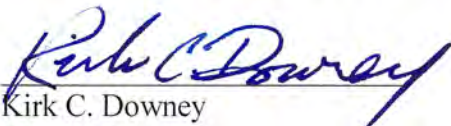
Krista L. Hart, County Clerk

COUNTY COMMISSIONERS OF
WASHINGTON COUNTY

By: 

Jeffrey A. Cline, President
Board of County Commissioners
of Washington County

Approved as to form and legal sufficiency:



Kirk C. Downey
County Attorney

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