

ORDINANCE NO. 2009-02
THE MAYOR AND COUNCIL OF BOONSBORO

ALTERNATE 40 WATERLINE EXTENSION BOND, 2009 SERIES

AN ORDINANCE OF THE MAYOR AND COUNCIL OF BOONSBORO, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, PROVIDING FOR THE ISSUANCE AND SALE OF A GENERAL OBLIGATION BOND TO BE KNOWN AS "ALTERNATE 40 WATERLINE EXTENSION BOND, 2009 SERIES", TO BE ISSUED AND SOLD PURSUANT TO THE AUTHORITY OF SECTIONS 31 THROUGH 37, INCLUSIVE, OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, SECTIONS 9-1601 THROUGH 9-1622, INCLUSIVE, OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND AS AMENDED, AND SECTION 716 OF THE CHARTER OF THE TOWN OF BOONSBORO, FOR THE PURPOSE OF PROVIDING A PORTION OF THE FUNDS NECESSARY TO FINANCE THE CONSTRUCTION COSTS OF THE ALTERNATE 40 WATERLINE EXTENSION PROJECT AND TO PAY THE COSTS OF ISSUING THE BOND AND RELATED COSTS; PROVIDING THAT THE BOND SHALL BE ISSUED UPON THE FULL FAITH AND CREDIT OF THE MAYOR AND COUNCIL OF BOONSBORO, PROVIDING FOR THE DISBURSEMENT OF THE PROCEEDS OF THE SALE OF THE BOND AND FOR THE LEVY OF ANNUAL TAXES UPON ALL ASSESSABLE PROPERTY WITHIN THE CORPORATE LIMITS SUBJECT TO ASSESSMENT FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND AS IT SHALL MATURE; PROVIDING FOR THE FORM, TENOR, DENOMINATION, MATURITY DATE AND OTHER PROVISIONS OF THE BOND; PROVIDING FOR THE SALE OF THE BOND; AND PROVIDING FOR RELATED PURPOSES, INCLUDING THE METHOD OF FIXING THE INTEREST RATE TO BE BORNE BY THE BOND.

WHEREAS, The Mayor and Council of Boonsboro (the "Issuer") is a municipal corporation, of the State of Maryland organized and operating under a charter (the "Charter") adopted in accordance with Article XI-E of the Constitution of Maryland, and Article 23A of the Annotated Code of Maryland, as amended; and

WHEREAS, pursuant to the authority of Sections 31 through 37, inclusive, of Article 23A of the Annotated Code of Maryland, as amended, Sections 9-1601 through 9-1622, inclusive, of the

Environment Article of the Annotated Code of Maryland, as amended, and Section 716 of the Charter of the Town of Boonsboro (the "Charter"), the Issuer has determined to issue its general obligation bond in the principal amount of up to Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for the purpose of providing a portion of the funds necessary to finance the construction costs for the Alternate 40 Waterline Extension Project ("Project") and the payment of issuance costs and related costs; and

WHEREAS, the Issuer proposes to issue and sell the Bond at private sale to the Maryland Water Quality Financing Administration, an agency in the Maryland Department of the Environment (the "Administration"), in connection with the Administration's Drinking Water Revolving Loan Program (the "Program"); and

WHEREAS, it is the intention of the Issuer by this Ordinance to provide for the issuance and sale of the aforementioned bond and the obtaining of a loan from the Administration pursuant to the Program (the "Loan");

NOW, THEREFORE, BE IT ORDAINED By The Mayor and Council of Boonsboro as follows:

SECTION 1
AUTHORIZATION, TERMS, FORM OF BOND

(a) The Issuer shall borrow upon its full faith and credit and shall issue and sell upon its full faith and credit a general obligation bond in the aggregate principal amount not to exceed Three Hundred Thousand and 00/100 Dollars (\$300,000.00), to be issued pursuant to the authority of Sections 31 through 37, inclusive, of Article 23A of the Annotated Code of Maryland, as amended, Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended, and Section 716 of the Charter, to be known as "Alternate 40 Waterline Extension Bond, 2009 Series" (the "Bond"). The proceeds from the sale of the Bond shall be used for the purpose of providing a portion of the funds necessary to finance the Project and pay issuance and other related costs. Notwithstanding anything in this Ordinance to the contrary, the Issuer shall use and apply proceeds of the Bond only as permitted by the Loan Agreement (as defined herein), the Safe Drinking Water Act as defined in the Loan Agreement and the Act (as defined in the Loan Agreement).

(b) The Bond shall be issued as a single, fully-registered bond in the aggregate principal amount of up to Three Hundred Thousand and 00/100 Dollars (\$300,000.00), payable to the Administration as the registered owner thereof. The Bond shall be issued in such amount or such lesser amount as determined by the Mayor pursuant to subsection 1(g) of this Ordinance, which shall be the amount of the Loan to be financed under the Program.

(c) The Bond shall be dated as of the closing date of the Loan; shall be numbered R-1, shall be initially registered in the name of the Administration or its designee; shall bear interest from the dated date payable in semi-annual installments at the designated office of the Administration.

(d) The Bond shall bear interest at the rate of one percent (1.00%) per annum.

(e) The Bond shall, be in substantially the form set forth on an Exhibit to the proposed form of Loan Agreement, hereinafter defined attached hereto and made a part hereof, which form, together with all of the covenants and conditions therein contained, is hereby adopted by the Issuer as and for the form of obligation to be incurred by the Issuer and such covenants and conditions are hereby made binding upon the Issuer, including the promise to pay therein contained.

(f) The Bond is to be issued in connection with the Program to finance the Project and to pay costs of issuance and other related costs. Under the Program, the Issuer will enter into a Loan Agreement with the Administration (the "Loan Agreement") the form of which is attached hereto. The Issuer also will execute and deliver in connection with the issuance of the Bond and the Program additional documents, agreements, instruments and certificates (which, together with the Loan Agreement are herein referred to as the "Program Documents"). The Program Documents shall be in such form and shall contain such terms and conditions as shall be approved by the Mayor and acceptable to the Administration. The Issuer agrees to perform the covenants and agreements set forth in the Program Documents and hereby expressly acknowledges its absolute and unconditional obligation to pay the Administrative Fee of the Administration in accordance with the Loan Agreement.

(g) Because this Ordinance is being adopted before completion of the Administration financing, the details of the Loan to be made by the Administration to the Issuer under the Program have not been finalized, therefore, the Mayor is hereby authorized by the Council, as its presiding officer, to make such changes to the amount and form of the Bond, including insertions therein or additions or deletions thereto, as may be necessary to conform the terms of the Bond to the rate of interest and other terms of the financing to be provided to the Issuer under the Program. Without limiting the foregoing, it is presently contemplated that the Loan will be in an amount not to exceed the maximum principal amount of the Bond hereby authorized, subject to final approval by the Administration; accordingly, the Mayor is specifically authorized: (i) to make changes to the principal amount of the Bond in order to reflect the final principal of the Loan as approved by the Administration and accepted by the Issuer, (ii) to authorize and approve an interest rate or rates and payment schedule reflecting the principal and interest payments with respect to the Bond, and (iii) to insert such payment schedule, as approved, in the Bond.

SECTION 2
EXECUTION OF BOND AND PROGRAM DOCUMENTS

The Bond and the Program Documents shall be executed on behalf of the Issuer by the manual signature of the Mayor of the Issuer, and the seal of the Issuer shall be affixed thereto or reproduced thereon and attested by the manual signature of the Clerk of the Issuer. In the event any official whose signature appears on the Bond or the Program Documents shall cease to be an official prior, to the delivery of the Bond or the Program Documents, or, in the event any official whose signature appears on any of the Bond or the Program Documents becomes an officer after the date of the issue, the Bond or Program Documents shall nevertheless be valid and binding obligations of the Issuer in accordance with their terms. The Mayor of the Issuer is hereby authorized, empowered and directed to complete the applicable form of the Bond and the Program Documents and to make modifications, deletions, corrections or other changes thereto in any manner which the Mayor, in his discretion, shall deem necessary, proper and convenient to complete the issuance and sale of the Bond and the execution and delivery of the Program Documents, as will not alter the substance thereof. The Mayor is hereby also authorized to execute other documents relating to

the Loan and the Bond and its administration, including subsequent modifications, deletions, corrections and other changes thereto in any manner which the Mayor, in his discretion, shall deem appropriate.

The execution of the Bond and the Program Documents and any other documents relating to the Loan and the Bond by the Mayor shall be conclusive evidence of his approval of the form and substance thereof.

SECTION 3 REGISTRATION OF BONDS

The Town Manager shall act as registrar for the Bond and shall maintain registration books for the registration and registration of transfer of the Bond. No security or bonds shall be required of the Town Manager in the performance of the duties of registrar for the Bond.

The Issuer may deem and treat the person in whose name any Bond shall be registered upon the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal, premium, if any, of and interest on such Bond and for all other purposes.

SECTION 4 PREPAYMENT

The Bond is subject to mandatory prepayment as required under the Loan Agreement and optional prepayment in whole or in part only at such times and in such amounts, and upon the payment by the Issuer of such premium or penalty, as the Administration may specify and approve.

SECTION 5 REPLACEMENT OF MUTILATED, LOST, STOLEN, OR DESTROYED BONDS

In case the Bond shall become mutilated or be destroyed, lost or stolen, the Issuer may cause to be executed and delivered a new Bond of like date and tenor and bearing the same or a different number, in exchange and substitution for each Bond mutilated, destroyed, lost or stolen, upon the owner paying

the reasonable expenses and charges of the Issuer in connection therewith and, in the case of any Bond being destroyed, lost or stolen, upon the owner filing with the Issuer evidence satisfactory to it that such Bond was destroyed, lost or stolen, and furnishing the Issuer with indemnity satisfactory to it. Any Bond so issued in substitution for a Bond so mutilated, destroyed, lost or stolen: (i) may be typewritten, printed or otherwise reproduced in a manner acceptable to the owner thereof, and (ii) shall constitute an original contractual obligation on the part of the Issuer, whether or not the Bond in exchange for which said new Bond is issued shall at any later date be presented for payment and such payment shall be enforceable by anyone, and any such new Bond shall be equally and proportionately entitled to the benefits of this Bond with all other like Bonds, in the manner and to the extent provided herein.

SECTION 6 USE OF PROCEEDS

(a) The proceeds of the Bond shall be held, invested, administered and disbursed by the Administration pursuant to the Loan Agreement and shall be used, when and as required to pay the costs of the Project.

(b) After the Project has been completed and all costs in connection therewith have been paid, the Loan may be re-amortized by the Administration under the Loan Agreement based upon the then outstanding principal amount.

SECTION 7 COVENANTS

The Issuer covenants with the Administration and for the benefit of the owners from time to time of the Bond, that so long as the Bond or installments of principal thereunder shall remain outstanding and unpaid:

(a) The Issuer will duly and punctually pay, or cause to be paid, to the Administration the principal of the Bond and interest accruing thereon, at the dates and places and in the manner mentioned in the Bond from unlimited *ad valorem* taxes in the event that available revenues are inadequate to make such payment.

(b) The Issuer covenants that so long as the Bond is outstanding and not paid, unless other revenues are available for payment of principal of, premium (if any) and interest on the Bond, it will levy annually, in the manner prescribed by law, a tax on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation, *ad valorem* taxes rate and amount, and sufficient, to provide for the payment of the principal of and interest on the Bond as the same become due and payable; and in the event that the revenues available or the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Issuer shall levy additional taxes in the succeeding fiscal year to make up such deficiency; and the full faith and credit and the unlimited taxing power of the Issuer are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bond as the same become due.

(c) The Issuer will promptly provide to the Administration (or to any person designated by the Administration) all financial information and operating data concerning the Issuer as may be required by the Administration in its discretion in order to comply with the requirements of the United States Securities and Exchange Commission, as in effect from time to time, applicable to the Administration's Bonds.

SECTION 8
ORDINANCE A CONTRACT

The provisions of this ordinance shall constitute a contract with the purchasers and owners from time to time of the Bond, and this shall not be repealed, modified or altered in any manner materially adverse to the interests of such purchasers or owners while the Bond or any portion thereof remain outstanding and unpaid without the consent of the owners of the Bond.

SECTION 9
PURCHASE PRICE OF BONDS

The Bond shall be sold for cash in accordance with the terms and provisions of this Ordinance, at par in accordance with the terms and provisions of this Ordinance, and as authorized by Sections 31 through 37 of Article 23A of the Annotated Code of Maryland, as amended and Sections 9-1601

through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended.

SECTION 10
SALE OF BOND

The Bond shall be sold to the Administration under the Program at private sale, as authorized by Section 9-1606(b) of the Environment Article of the Annotated Code of Maryland, as amended.

SECTION 11
AUTHORITY TO TAKE ACTION

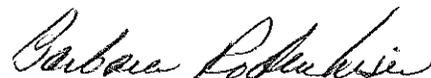
The officers and employees of the Issuer are hereby authorized and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all the terms, covenants and provisions of the Bond, the Program Documents and this Ordinance and to do and perform all acts and to execute, seal and deliver all documents or instruments of writing which may be necessary or desirable to carry out the full intent and purposes of this Ordinance and the Program Documents.

SECTION 12
EFFECTIVE DATE; MISCELLANEOUS

This Ordinance shall take effect on the date which is twenty (20) days following the date on which it is approved by the Mayor after being adopted and passed by the Council, or, if vetoed by the Mayor, twenty (20) days after the date on which it is passed by the Council over the veto of the Mayor, and it is the intent hereof that the laws of the State of Maryland shall govern its construction and the construction of the Bond. Any copy of this Ordinance duly certified by the Town Manager, the Town Clerk or his or her successor in office shall constitute evidence of the contents and provisions hereof.

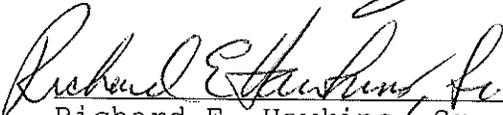
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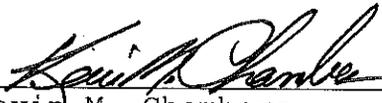
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BOONSBORO

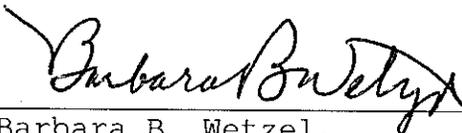

Barbara Rodenhiser, Clerk

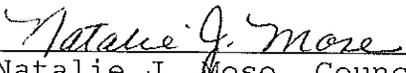
By: 
Charles F. Kauffman, Jr., Mayor

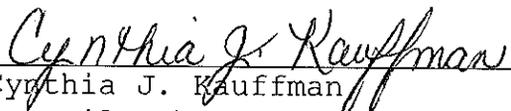

Howard W. Long, Assistant Mayor


Richard E. Hawkins, Sr.,
Councilmember


Kevin M. Chambers,
Councilmember


Barbara B. Wetzel,
Councilmember


Natalie J. Mose, Councilmember


Cynthia J. Kauffman
Councilmember

INTRODUCED: June 1, 2009

ENACTED: JUNE 1, 2009

EFFECTIVE: JUNE 21, 2009