

Ordinance No. 2009-05

AN ORDINANCE OF THE COUNCIL OF THE MAYOR AND COUNCIL OF BOONSBORO AUTHORIZING AND EMPOWERING THE MAYOR AND COUNCIL OF BOONSBORO, PURSUANT TO THE AUTHORITY OF SECTIONS 9-1601 TO 9-1622, INCLUSIVE, OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, SECTIONS 31 TO 37, INCLUSIVE, OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, AND SECTION 716 OF THE CHARTER OF THE TOWN OF BOONSBORO, TO ISSUE AND SELL, UPON ITS FULL FAITH AND CREDIT, A GENERAL OBLIGATION INSTALLMENT BOND IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,000,000 TO BE DESIGNATED "THE MAYOR AND COUNCIL OF BOONSBORO WATER QUALITY BOND, SERIES 2009", THE BOND TO BE ISSUED AND SOLD AND THE PROCEEDS THEREOF TO BE USED AND APPLIED FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING ALL OR A PORTION OF THE COST OF ACTIVITIES RELATING TO THE PLANNING, DESIGN, ENGINEERING, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF THE BOONSBORO WASTEWATER TREATMENT PLANT BIOLOGICAL NUTRIENT REMOVAL (BNR) AND ENHANCED NUTRIENT REMOVAL (ENR) UPGRADE AND EXPANSION PROJECT, INCLUDING, WITHOUT LIMITATION, SEQUENTIAL BATCH REACTORS, TERTIARY FILTRATION, CHLORINATION/DECHLORINATION AND SLUDGE DIGESTION IMPROVEMENTS AND FACILITIES, TOGETHER WITH RELATED COSTS AND COSTS OF ISSUANCE; PRESCRIBING, APPROVING AND ADOPTING THE FORM AND TENOR OF THE BOND, THE TERMS AND CONDITIONS FOR THE ISSUANCE AND SALE OF THE BOND BY PRIVATE SALE, WITHOUT PUBLIC BIDDING, TO THE MARYLAND WATER QUALITY FINANCING ADMINISTRATION (THE "ADMINISTRATION"), AND ALL OTHER DETAILS INCIDENT THERETO, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE TOWN, TO ADJUST AND FIX CERTAIN DETAILS OF THE BOND, INCLUDING FIXING THE FINAL PRINCIPAL AMOUNT OF AND FINAL AMORTIZATION SCHEDULE FOR THE BOND; RATIFYING THE DETERMINATION BY RESOLUTION OF CERTAIN MATTERS REGARDING THE ESTABLISHMENT AND APPLICATION OF A DEBT SERVICE RESERVE ACCOUNT TO SECURE THE TOWN'S OBLIGATIONS TO THE ADMINISTRATION; APPROVING, AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF, A LOAN AGREEMENT WITH THE ADMINISTRATION PURSUANT TO WHICH ADVANCES WILL BE MADE UNDER THE BOND; AUTHORIZING AND DIRECTING THE PAYMENT OF ANY FEES OR COSTS PROVIDED FOR IN THE LOAN AGREEMENT THAT ARE NOT PAYABLE FROM BOND PROCEEDS; PLEDGING ANY MONEYS THAT THE TOWN IS ENTITLED TO RECEIVE FROM THE STATE OF MARYLAND, INCLUDING THE TOWN'S SHARE OF THE STATE INCOME TAX, TO SECURE ITS OBLIGATIONS UNDER THE LOAN AGREEMENT; AUTHORIZING CERTAIN OFFICIALS TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE LOAN AGREEMENT; PROVIDING FOR THE DISBURSEMENT OF ADVANCES OF THE BOND; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON THE BOND WILL BE PAYABLE IN THE FIRST INSTANCE FROM

REVENUES RECEIVED BY THE TOWN FROM THE OPERATION OF OR CONNECTION TO THE WASTEWATER SYSTEM SERVING THE TOWN AND SURROUNDING AREAS; PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES SUFFICIENT FOR THE PROMPT PAYMENT OF THE INSTALLMENTS OF PRINCIPAL OF AND INTEREST ON THE BOND; PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE TOWN TO THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON THE BOND ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE TOWN FOR SUCH PURPOSE; AUTHORIZING AND DIRECTING OFFICIALS AND EMPLOYEES OF THE TOWN TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE SALE AND DELIVERY OF THE BOND; AUTHORIZING AND DIRECTING OFFICIALS TO TAKE ALL ACTION NECESSARY TO APPLY BOND PROCEEDS TO PREPAY OR PAY ANY INTERIM BORROWING OBTAINED FOR PROJECT PURPOSES; PROVIDING THAT THIS TITLE CONSTITUTES A FAIR SUMMARY OF THIS ORDINANCE; AND OTHERWISE GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR THE BOND.

RECITALS

WHEREAS, The Mayor and Council of Boonsboro, a municipal corporation of the State of Maryland (the "Town"), is authorized and empowered by Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Environment Article"), Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Section 716 of the Charter of the Town of Boonsboro, as published in Municipal Charters of Maryland, Volume 1, 2008 Replacement Edition, as replaced, supplemented or amended (the "Charter"), to borrow money for any proper public purpose in connection with the wastewater system serving the Town and surrounding areas and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the Town has determined to undertake the planning, design, engineering, construction, improvement and equipping of the Boonsboro Wastewater Treatment Plant Biological Nutrient Removal (BNR) and Enhanced Nutrient Removal (ENR) upgrade and expansion project, including, without limitation, sequential batch reactors, tertiary filtration, chlorination/dechlorination and sludge digestion improvements and facilities, in order to improve effluent limits and expand capacity, and to pay for related costs and activities, the acquisition of necessary property rights and equipment, related site and utility improvements and related financial and legal expenses and costs of issuance, and has determined to borrow money from the Maryland Water Quality Financing Administration (the "Administration") for the public purpose of financing, reimbursing or refinancing costs of such activities; and

WHEREAS, the Administration has obtained authorization to lend up to \$2,000,000 to the Town for project purposes; and

WHEREAS, such borrowing shall be evidenced by a single general obligation bond issued by the Town to the Administration, in the aggregate principal amount of up to \$2,000,000; and

WHEREAS, pursuant to the authority of the Environment Article, such bond may be sold to the Administration by private sale, without public bidding; and

WHEREAS, in connection with the issuance and sale of such bond, and pursuant to the Environment Article, the Town will enter a loan agreement with the Administration; and

WHEREAS, the Town has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on such bond, and the Town expects to pay the principal of and interest on such bond in the first instance from revenues received in connection with the operation of the wastewater system serving the Town and surrounding areas, including fees for use or connection, or from any other funds available for such purpose (including payments received by the Town pursuant to certain development agreements); and

WHEREAS, the Town, as authorized by the Environment Article, has determined to pledge any moneys that the Town is entitled to receive from the State of Maryland, including the Town's share of the State income tax, to secure its obligations under the loan agreement with the Administration; and

WHEREAS, the Administration is requiring the Town to establish a debt service reserve account to provide a dedicated source of funds to pay obligations of the Town incurred in connection with the Administration loan for a period of time; and

WHEREAS, the Town obtained interim financing from Susquehanna Bank in order to finance project costs on an interim basis and the Council desires to authorize the application of bond proceeds to pay or prepay all or a portion of such interim financing; and

WHEREAS, the Town Manager has advised that issuance of the bond provided for herein shall not cause the Town to violate the debt limit provided for in Section 716(a)(1) of the Charter (which debt limit, as currently written, is construed as four per centum (4%) rather than ten per centum (10%) pursuant to the provisions of the Maryland Truth in Taxation Act of 2000); and

WHEREAS, pursuant to the provisions of Section 716 of the Charter, the Council desires to provide for the issuance, sale and delivery of the bond pursuant to this Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE MAYOR AND COUNCIL OF BOONSBORO, THAT:

SECTION 1. Pursuant to the authority of the Environment Article, the Enabling Act and the Charter, the Town hereby determines to issue and sell, upon its full faith and credit, one series of general obligation bonds, which shall be issued as a single installment bond for the public purpose of financing, reimbursing or refinancing all or a portion of the cost of any one or more activities

relating to the planning, design, engineering, construction, improvement and equipping of the Boonsboro Wastewater Treatment Plant Biological Nutrient Removal (BNR) and Enhanced Nutrient Removal (ENR) upgrade and expansion project, including, without limitation, sequential batch reactors, tertiary filtration, chlorination/dechlorination and sludge digestion improvements and facilities, in order to improve effluent limits and expand capacity, together with related costs and activities, the acquisition of necessary property rights and equipment, related site and utility improvements and related financial and legal expenses and costs of issuance (collectively, the "Project"). Such bond shall be issued in an aggregate principal amount not to exceed Two Million Dollars (\$2,000,000) and shall be designated as "The Mayor and Council of Boonsboro Water Quality Bond, Series 2009" (the "Bond"). The Mayor, on behalf of the Town, is hereby authorized and directed to determine and approve the final aggregate principal amount of the Bond, provided that such final aggregate principal amount shall not exceed Two Million Dollars (\$2,000,000) and such final aggregate principal amount shall not cause the Town to violate the debt limit provided for in Section 716(a)(1) of the Charter, such determination and approval to be evidenced conclusively by the Mayor's execution and delivery of the Bond pursuant to Sections 4 and 6 hereof.

SECTION 2. (a) The Bond shall be issued and sold upon the full faith and credit of the Town, shall be dated the date of its delivery, shall be numbered R-1 and shall be issued in the form of a single, fully-registered bond, without coupons attached. The Bond shall be issued in installment form.

(b) It is presently expected that the Bond will be issued in the maximum authorized principal amount of \$2,000,000 and, in such event, it is anticipated that, subject to the further provisions of this subsection (b) and the provisions of subsection (d) below, the principal advanced under the Loan Agreement (as defined in Section 8(a) hereof) shall be paid in installments on the dates and in the amounts as set forth in the following schedule, as such schedule may be modified or amended in accordance with the terms hereof:

<u>Due</u> <u>February 1</u>	<u>Principal</u> <u>Amount</u>	<u>Due</u> <u>February 1</u>	<u>Principal</u> <u>Amount</u>
2010	\$90,830.59	2020	\$100,333.52
2011	91,738.99	2021	101,336.84
2012	92,656.27	2022	102,350.25
2013	93,582.91	2023	103,373.73
2014	94,518.67	2024	104,407.53
2015	95,463.91	2025	105,451.52
2016	96,418.51	2026	106,506.09
2017	97,382.72	2027	107,571.08
2018	98,356.52	2028	108,646.90
2019	99,340.16	2029	109,733.29

By his execution and delivery of the Bond, the Mayor is hereby authorized to make any corrections to typographical errors in the foregoing schedule required by the Administration. In addition, it is the intention of the Town that principal of the Bond shall be paid in installments on such dates and

in such amounts as shall be determined by the Administration to achieve, as nearly as possible, level debt service payments (determined on an annualized basis) over an approximately 20-year amortization period commencing after completion of the Project and to otherwise meet the program requirements of the Administration. Accordingly, in the event the Bond is issued in a principal amount less than \$2,000,000 and/or in the event the Administration determines to revise the amortization schedule for the Bond in order to meet program requirements of the Administration, the Mayor, on behalf of the Town, is hereby authorized to approve a different amortization period and/or different payment dates and/or amounts of the principal installments due on the Bond, determined in accordance with the provisions of this subsection (b), and to provide for the insertion of the same in the Bond prior to its execution and delivery, which approval shall be evidenced conclusively by the Mayor's execution and delivery of the Bond. Such schedule of principal installments is subject to revision after execution and delivery of the Bond in accordance with the terms of the Bond, the Loan Agreement and subsection (e) below.

(c) The Bond, or so much of the principal amount thereof as shall have been advanced from time to time under the terms of the Loan Agreement, shall bear interest from its dated date at an annual rate of interest equal to one per centum (1.0%) per annum. Interest due on the unpaid principal amounts advanced under the Loan Agreement shall accrue on the basis of a 30-day month, 360-day year from the date of the respective advances of such principal amount, and shall be paid on February 1, 2010, and semiannually thereafter on the 1st day of August and February in each year until the principal amount of the Bond has been paid.

(d) The payment dates provided for in the foregoing subsections (b) and (c) are based on an anticipated date of delivery of the Bond in July or August 2009 and an estimated completion date for the Project in June 2009. Notwithstanding the foregoing, in the event the Bond, for whatever reason, is delivered later than August 2009 or the estimated completion date for the Project is determined prior to the date of delivery of the Bond to be earlier or later than June 2009, the Mayor, on behalf of the Town, is hereby authorized and directed to change such principal and interest payment dates (including, without limitation, by adjusting the dates on which principal and/or interest will commence and otherwise will be due) as required by the Administration, in order to meet the requirements of Section 9-1605(d) of the Environment Article or to meet other requirements of the Administration, such approval and adjustment to be evidenced conclusively by the Mayor's execution and delivery of the Bond.

(e) If the Administration determines at any time to reduce the maximum amount of the Loan Commitment relating to the Bond (as defined in the Loan Agreement) in accordance with Section 3.08 of the Loan Agreement, the Maximum Principal Amount of the Bond (as defined in the Bond) shall be reduced accordingly and such Maximum Principal Amount as so reduced shall be amortized as provided in the Loan Agreement. In such event, as determined by the Administration, the Town may execute and deliver (in the manner provided in Section 4 hereof for the original delivery of the Bond) a new Bond evidencing such reduction in such Loan Commitment or the Administration may deliver, and the Mayor, on behalf of the Town, shall acknowledge in writing, a certificate setting forth such reamortized payment schedule, which shall be attached to the Bond and shall replace and supersede for all purposes the original payment schedule for the Bond. The Mayor, on behalf of the Town, is hereby authorized and directed to approve, execute and

deliver any such certificate relating to a reamortized payment schedule and any other certificates, documents or evidence required by the Administration under Section 3.08 of the Loan Agreement.

(f) The Town shall pay (i) a late charge for any payment of principal or interest on the Bond that is received later than the tenth (10th) day following its due date, in an amount equal to 5% of such payment, and (ii) interest on overdue installments of principal and (to the extent permitted by law) interest at the Default Rate provided for in the Loan Agreement, which Default Rate shall be equal to 100% of the average of the Bond Buyer 11-Bond Index for the calendar month prior to the month in which the Bond is delivered.

(g) Both the principal of and interest on the Bond will be paid to the registered owner thereof in lawful money of the United States of America, at the time of payment, and will be paid by electronic funds transfer, or by check or draft mailed (by depositing such check or draft, correctly addressed and postage prepaid, in the United States mails before the payment date) to the registered owner at such address as the registered owner may designate from time to time by a notice in writing delivered to the Clerk of the Town.

SECTION 3. The Bond shall be subject to mandatory prepayment, in whole or in part, as, when and to the extent required by the United States Environmental Protection Agency's (and its successors) State Revolving Fund Program Regulations. Otherwise, the Bond may be prepaid by the Town, in whole or in part, only at such times and in such amounts, and upon payment by the Town of such prepayment premium or penalty, as the Director of the Administration, in his or her discretion, may specify and approve.

SECTION 4. The Bond shall be executed in the name of the Town and on its behalf by the Mayor. The corporate seal of the Town shall be affixed to the Bond and attested by the signature of the Clerk. In the event any official whose signature shall appear on the Bond shall cease to be such official prior to the delivery of the Bond, or, in the event any such official whose signature shall appear on the Bond shall have become such after the date of delivery thereof, said Bond shall nevertheless be a valid and binding obligation of the Town in accordance with its terms.

SECTION 5. The Bond shall be transferable only after the first principal payment date as set forth in the Bond or the date upon which the Maximum Principal Amount of the Bond has been borrowed, whichever is earlier. The Bond shall be transferable upon the books of the Town at the office of the Clerk, by the registered owner in person or by his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Clerk, duly executed by such registered owner or his duly authorized attorney. The Town shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds of the same series, in such denominations as the Town shall by resolution approve, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds surrendered and with the same maturities and interest rate, as applicable. If more than one bond is issued upon any such transfer of the Bond, the installment of principal and interest to be paid on each such bond on each payment date shall be equal to the product of the following formula: the total installment due on each payment date multiplied by a fraction, the numerator of which shall be the principal amount of such bond and the denominator of which shall be the aggregate principal amount of the Bond then

outstanding and unpaid. The new bond or bonds shall be delivered to the transferee only after payment of any taxes on and any shipping or insurance expenses relating to such transfer. The Town may deem and treat the party in whose name a bond is registered as the absolute owner thereof for the purpose of receiving payment of or on account of the principal thereof and interest due thereon and for all other purposes. If more than one bond is issued upon any such transfer in accordance with this Section 5, references to the Bond in this Ordinance shall be deemed to refer to all such bonds issued upon any such transfer and references to the registered owner in this Ordinance shall be deemed to refer to the registered owners of all such bonds issued upon any such transfer.

SECTION 6. Except as provided hereinafter, the Bond shall be issued in substantially the form attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations and insertions to provide dates, numbers and amounts, and modifications not altering its substance, including, without limitation, to reflect matters determined in accordance with Sections 1 and 2(b), (c), (d), and (f) hereof, may be made by the Mayor. All of the covenants contained in the form attached hereto as Exhibit A are hereby adopted by the Town as and for the form of obligation to be incurred by the Town, and the covenants and conditions are hereby made binding upon the Town, including the promise to pay therein contained.

SECTION 7. By a separate resolution, the Council is providing for the establishment and application of a debt service reserve account to secure the Town's obligations with respect to the Bond and the Loan Agreement for a period of time (the "Account"). The Town hereby ratifies the determination of matters relating to the Account by resolution.

SECTION 8. (a) The Town hereby determines to sell the Bond by private sale, without public bidding, which sale by private sale is hereby deemed by the Town to be in its best interest and in the interest of its citizens due, in part, to the benefit of negotiated flexible terms and the beneficial interest rate. Therefore, and pursuant to the authority of the Environment Article, the Enabling Act and the Charter, the Bond shall be sold by private sale, without public bidding, for a price of the par amount of the Bond (such purchase price to be advanced in accordance with the Loan Agreement) to the Administration, in accordance with the substantially final form of the Loan Agreement attached hereto as Exhibit B (the "Loan Agreement") the terms and conditions of which Loan Agreement are hereby incorporated by reference herein and approved by and adopted as the obligations of the Town. The Mayor is hereby authorized and directed to complete, execute and deliver the Loan Agreement for and in the name of the Town with such changes, insertions and deletions not substantially altering the substance of the Loan Agreement as shall be approved by the Mayor, including, without limitation, to provide for the use and application of the Account in such manner as shall be required by the Administration, such approval to be evidenced conclusively by the Mayor's execution and delivery of the Loan Agreement. Notwithstanding anything to the contrary contained in this Ordinance, advances under the Loan Agreement or the Bond and prepayment or payment of the principal of and interest on the Bond shall be made in accordance with the Loan Agreement. The Town agrees to abide by and perform the covenants and agreements set forth in the Loan Agreement as though such covenants and agreements were set forth in full in this Ordinance.

(b) The Town is hereby authorized and directed to pay any fees or costs provided for in the Loan Agreement that are not payable from Bond proceeds, including (without limitation), any Administrative Fees (as defined in the Loan Agreement) and any ongoing costs and expenses relating to the Bond or the Loan Agreement. The Town hereby expressly acknowledges its absolute and unconditional obligation to make such payments.

(c) As authorized by Section 9-1606(d) of the Environment Article, the Town hereby pledges any moneys that the Town is entitled to receive from the State of Maryland, including the Town's share of the State income tax, to secure its obligations under the Loan Agreement. Such pledge shall be evidenced by and detailed in the Loan Agreement.

SECTION 9. As soon as may be practicable after the enactment of this Ordinance, the Bond shall be suitably prepared in definitive form, executed and delivered to the Administration upon a date mutually satisfactory to the Administration and the Town Manager. The Mayor, the Town Manager, the Treasurer, the Clerk and all other officials and employees of the Town are expressly authorized, empowered and directed to take any and all action necessary to complete and close the sale and delivery of the Bond to the Administration and to negotiate, approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith, including to evidence compliance with the debt limit contained in Section 716(a)(1) of the Charter and to evidence establishment and funding of the Account. Each of the Mayor, the Town Manager and the Treasurer is hereby expressly authorized to take any necessary actions under the Loan Agreement or the Bond in order to requisition advances on behalf of the Town. Each of the Mayor, the Town Manager and the Treasurer is hereby expressly designated an "Authorized Officer" for purposes of the Loan Agreement.

SECTION 10. Each advance of the proceeds of the Bond shall be paid directly to the Town and shall be deposited by the Clerk or other appropriate Town official in the proper municipal accounts, or shall be paid at the direction of the Authorized Officer, or shall be paid as otherwise required by the Administration. Advances under the Bond shall be used and applied by the Town exclusively and solely for the public purpose described in Section 1 hereof. Nothing in this Ordinance shall be construed to authorize the expenditure of any moneys except for a proper public purpose. The proceeds of the Bond are hereby appropriated for the purposes set forth in this Ordinance.

SECTION 11. (a) The principal of and interest on the Bond will be payable in the first instance from revenues received by the Town from the operation of or connection to the wastewater system serving the Town and surrounding areas. In the event such moneys are insufficient in any fiscal year to provide for the prompt payment, when due, of the principal of and interest on the Bond, the Town shall levy or cause to be levied, for each and every fiscal year during which the Bond may be outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on the Bond payable in each such fiscal year and, in the event the proceeds from the collection of the taxes so levied may prove inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency.

(b) The full faith and credit and unlimited taxing power of the Town are hereby irrevocably pledged to the prompt payment of the principal of and interest on the Bond as and when the same are payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Bond. The Town hereby covenants with the registered owner of the Bond to take any action that may be appropriate from time to time during the period that the Bond remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon.

(c) The foregoing provisions shall not be construed so as to prohibit the Town from paying the principal of and interest on the Bond from the proceeds of the sale of any other obligations of the Town or from any other funds legally available for that purpose, including, without limitation, any payments received from certain development agreements entered into by the Town. The Town may apply to the payment of the principal of or interest on the Bond any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if such funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project or projects which the Bond is issued to finance or refinance, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

SECTION 12. Notwithstanding anything to the contrary contained in this Ordinance, the Town shall use and apply proceeds of the Bond only as permitted by the Loan Agreement, the Clean Water Act (as defined in the Loan Agreement) and the Act (as defined in the Loan Agreement).

SECTION 13. The Mayor, the Town Manager, the Treasurer and the Clerk, acting individually or collectively, as appropriate, are hereby authorized and empowered to take all action necessary to provide for the application of proceeds of the Bond to pay or prepay all or any portion of any interim financing incurred in respect of the Project, including, without limitation, giving any required notices of prepayment.

SECTION 14. The title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 15. This Ordinance shall become effective as indicated on the signature page hereof either (i) at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto or (ii) if passed on an emergency basis in accordance with the provisions of Section 210 of the Charter, upon approval by the Mayor or passage by the Council over the Mayor's veto. In either such case, this Ordinance shall be subject to petition to referendum in accordance with the provisions of Section 212 of the Charter and in no event may the Bond be delivered until the applicable petition-to-referendum period has expired without a valid petition having been submitted or this Ordinance shall have been approved at referendum in accordance with the provisions of Section 212 of the Charter.

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THE MAYOR AND COUNCIL OF BOONSBORO

(SEAL)

Howard W. Long
Howard W. Long, Assistant Mayor

Kevin M. Chambers
Kevin M. Chambers, Councilmember

Richard E. Hawkins, Sr.
Richard E. Hawkins, Sr., Councilmember

Cynthia Kauffman
Cynthia Kauffman, Councilmember

Natalie J. Mose
Natalie J. Mose, Councilmember

Barbara B. Wetzel
Barbara B. Wetzel, Councilmember

Introduced: July 6, 2009

Passed [as introduced] [as amended] [on an emergency basis] [check applicable box]: July 6, 2009

Approved by the Mayor: July 6, 2009

ATTEST:

Barbara A. Rodenhiser
Barbara A. Rodenhiser
Clerk

Charles F. Kauffman, Jr.
Charles F. Kauffman, Jr.
Mayor

Effective: July 6, 2009

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