

AN EMERGENCY ORDINANCE concerning

THE REPEAL OF ORDINANCE NO. 101, PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR ON JUNE 11, 2001 AND EFFECTIVE ON JULY 2, 2001, THE AUTHORIZATION OF THE ISSUANCE OF ONE OR MORE GENERAL OBLIGATION BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$1,400,000.00 IN ORDER TO FINANCE OR REFINANCE A PORTION OF THE COST OF THE ACQUISITION, CONSTRUCTION, RENOVATION, UPGRADING, IMPROVEMENT AND EQUIPPING OF COMPONENTS OF THE TOWN'S WASTEWATER SYSTEM, INCLUDING (WITHOUT LIMITATION) COMPONENTS RELATING TO BIOLOGICAL NUTRIENT REMOVAL PROCESSES AND RELATED COSTS, THE AUTHORIZATION OF THE ISSUANCE OF ONE OR MORE GENERAL OBLIGATION BOND ANTICIPATION NOTES PRIOR TO AND IN ANTICIPATION OF SUCH BONDS IN ORDER TO FINANCE OR REFINANCE PROJECT COSTS ON AN INTERIM BASIS, AND PROVIDING FOR ANY AMENDMENTS TO OR WAIVERS OF A CERTAIN AGREEMENT WITH THE ST. MARY'S COUNTY METROPOLITAN COMMISSION DATED APRIL 25, 1980, AS AMENDED TO DATE, AND ANY OTHER MEMORANDUM OF UNDERSTANDING OR OTHER AGREEMENTS DEEMED NECESSARY OR DESIRABLE IN CONNECTION WITH THE FINANCING OR REFINANCING OF AND THE ACTIVITIES RELATED TO THE CONTEMPLATED PROJECT

FOR the purpose of repealing Ordinance No. 101, passed by the Council and approved by the Mayor on June 11, 2001 and effective on July 2, 2001, and authorizing and empowering The Commissioners of Leonardtown to issue and sell, upon its full faith and credit, one or more general obligation bonds in one or more series in an aggregate principal amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) pursuant to the authority of Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (1996 Replacement Volume, as replaced, supplemented or amended), Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (1998 Replacement Volume, as replaced, supplemented or amended) and Section 719 of the Charter of the Town of Leonardtown, as published in Municipal Charters of Maryland, Volume 5, 1990 Replacement Edition, as replaced, supplemented or amended, each such bond to be designated "The Commissioners of Leonardtown Water Quality Bond", and by series or by such other name or names as provided in a subsequent resolution or resolutions of the Council, any such series of bonds to be issued and sold and the proceeds thereof to be used and applied for the public purpose of financing or refinancing all or a portion of the cost of one or more of the following: the acquisition, construction, renovation, upgrading, improvement and equipping of components of the Town's wastewater system, including (without limitation) components relating to biological nutrient removal processes, together with the acquisition of necessary property rights and equipment, related site and

ORIGINAL



utility improvements, related architectural, financial, legal, planning, design and engineering expenses, costs of issuance and interest during construction and for a reasonable period thereafter; determining that any such series of bonds shall be sold to the Maryland Water Quality Financing Administration by private sale, without public bidding; providing that the principal of and interest on any such series of bonds will be payable in the first instance from revenues received by the Town in connection with the operation of the wastewater system serving the Town and surrounding areas; providing for the levy of ad valorem taxes upon all real and personal property within the Town's corporate limits subject to assessment for unlimited municipal taxation to pay the principal of and interest on any such series of bonds in each fiscal year; pledging the full faith and credit and unlimited taxing power of the Town to the prompt payment of the principal of and interest on any such series of bonds; providing that the principal of and interest on any such series of bonds also may be paid from any other sources of revenue lawfully available to the Town for that purpose; authorizing the approval of one or more loan agreements with the Maryland Water Quality Financing Administration pursuant to a subsequent resolution or resolutions of the Council; 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 agreements; authorizing the adoption of a Resolution or Resolutions of the Council to determine and provide for various matters relating to the authorization, sale, security, issuance, delivery, payment and prepayment of and for any such series of bonds; authorizing and directing the payment of any fees or costs provided for in the loan agreements which are not payable from bond proceeds and providing that the Town's obligation to pay such amounts shall be absolute and unconditional as provided in the loan agreements; providing that notwithstanding anything to the contrary contained in this Ordinance, the Town shall use and apply proceeds of any such series of bonds only as permitted by the loan agreements, the Clean Water Act (as defined in the loan agreements) and the Act (as defined in the loan agreements); authorizing the issuance of one or more series of general obligation bond anticipation notes pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland (1997 Replacement Volume, as replaced, supplemented or amended) and the Charter, prior to and in anticipation of any series of bonds; authorizing the Council, pursuant to a subsequent Resolution or Resolutions, to make any further determinations deemed necessary or desirable in connection with the issuance of any such bond anticipation notes; authorizing and directing officials and employees of the Town to take any and all action necessary or desirable to complete and close the issuance, sale and delivery of any series of the bonds or the notes; ratifying, confirming and approving the preparation, execution and delivery of an Amendment dated June 14, 2001 to the Agreement identified below and authorizing the Council, pursuant to a Resolution or Resolutions, to provide for the preparation, negotiation, approval, execution and delivery on behalf of the Town of any further amendments to the Agreement dated April 25, 1980, between the Town and the St. Mary's County Metropolitan Commission, as amended to date, any waiver of the provisions of such Agreement, and any additional memorandum of understanding or other agreements deemed necessary or desirable in connection with the financing or refinancing of and the activities related to the contemplated project; providing that this title, or a condensed version thereof prepared in accordance with Section 209 of the Charter, shall be deemed a fair summary of this Ordinance for all

purposes; and otherwise generally relating to the issuance, sale, delivery and payment of and for the bonds and the notes authorized hereby.

### RECITALS

1. The Commissioners of Leonardtown, 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 (1996 Replacement Volume, as replaced, supplemented or amended) (the "Environment Article"), Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (1998 Replacement Volume, as replaced, supplemented or amended) (the "Enabling Act") and Section 719 of the Charter of the Town of Leonardtown, as published in Municipal Charters of Maryland, Volume 5, 1990 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 issue and sale of its general obligation bonds. Section 12 of Article 31 of the Annotated Code of Maryland (1997 Replacement Volume, as replaced, supplemented or amended) (the "Bond Anticipation Note Enabling Act") provides authority for the Town to issue its bond anticipation notes prior to and in anticipation of the sale of its bonds in order to provide interim financing for a project.

2. The Town has determined to undertake the acquisition, construction, renovation, upgrading, improvement and equipping of components of the Town's wastewater system, including (without limitation) components relating to biological nutrient removal processes, and has determined to borrow money for the public purpose of financing or refinancing all or a portion of the costs of such project, together with the acquisition of necessary property rights and equipment, related site and utility improvements, related architectural, financial, legal, planning, design and engineering expenses, costs of issuance and, if the Council so determines pursuant to a



resolution, interest during construction and for a reasonable period thereafter (collectively, the “Intended Project”), and to evidence this borrowing by the issue and sale of one or more series of its general obligation bonds.

3. The Town has determined that any such series of bonds shall be sold to the Maryland Water Quality Financing Administration (the “Administration”) by private sale, without public bidding.

4. In connection with the issuance and sale of any series of its general obligation bonds, and pursuant to the Environment Article, the Town will enter into one or more loan agreements with the Administration.

5. The Town has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any such series of bonds. The Town expects to pay the principal of and interest on any such series of bonds in the first instance from revenues received in connection with the operation of the wastewater system serving the Town and surrounding areas.

6. 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 any loan agreements with the Administration.

7. It is intended that any series of bonds or bond anticipation notes issued pursuant to the authority of this Ordinance and other applicable Maryland law may be issued as one or more bonds or notes and any of such bonds or notes may be issued in the form of a draw-down and/or installment bond or note.

8. The Town has determined to issue any series of bonds or bond anticipation notes authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council pursuant to this Ordinance.

9. Pursuant to Ordinance No. 101, passed as amended by the Council on June 11, 2001, approved by the Mayor on June 11, 2001, and effective according to its terms on July 2, 2001 (“Ordinance No. 101”), the Town authorized the issuance of one or more of its general obligation bonds in one or more series in an aggregate principal amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) (and the issuance of bond anticipation notes prior to and in anticipation of such bonds) in order to finance a portion of the costs of the Intended Project. As required by Section 209 of the Charter, a notice purporting to be a fair summary of Ordinance No. 101 was published in The Enterprise, a newspaper of general circulation in the Town, on June 20, 2001. However, the notice incorrectly identified the authorized amount of bonds as \$1,200,000.00 instead of \$1,400,000.00. Bond counsel to the Town has advised that Ordinance No. 101 should be repealed and a new ordinance containing substantially the same terms as Ordinance No. 101 should be passed on an emergency basis.

10. It is anticipated that a portion of the total costs of the Intended Project will be paid by the St. Mary’s County Metropolitan Commission (the “Commission”) through one or more loans obtained by the Commission from the Administration and/or other sources and/or funds otherwise available to the Commission. The Town and the Commission are parties to an Agreement dated April 25, 1980 (as the same may have been amended, modified or supplemented prior to June 14, 2001, the “Original Interjurisdictional Agreement”). Pursuant to the Original Interjurisdictional Agreement, the Town undertook the construction of certain wastewater system improvements, including the Town’s wastewater treatment plant, and permitted the Commission to connect to the Town’s system in order to provide sewerage services to the Leonardtown Sanitary District No. 3 identified in the Original Interjurisdictional Agreement (the “Sanitary District”), which Sanitary District is located outside the corporate boundaries of the Town within an unincorporated area of

County Commissioners of St. Mary's County (the "County"). Pursuant to the Original Interjurisdictional Agreement, the Commission pays to the Town on a quarterly basis (based on the equivalent dwelling units in the Sanitary District served by the facilities identified in the Original Interjurisdictional Agreement) (i) a proportionate share of the debt service on certain obligations issued or incurred by the Town to construct the facilities identified in the Original Interjurisdictional Agreement and (ii) a proportionate share of the net yearly operating costs of the facilities identified in the Original Interjurisdictional Agreement. The Original Interjurisdictional Agreement provides, among other matters, in Section 308 thereof that in the event the Town upgrades or otherwise modifies the facilities identified therein to provide improvements not related to capacity, that the Commission shall pay to the Town on a quarterly basis its proportionate share of debt service costs incurred by the Town in connection with such improvements. By an Amendment to Agreement dated June 14, 2001 (the "2001 Amendment" and, together with the Original Jurisdictional Agreement, the "Amended Jurisdictional Agreement"), the Town and the Commission agreed to a different method for paying the shared costs of the Intended Project from the method set forth in the Original Jurisdictional Agreement. By passage of this Ordinance, the Council desires to ratify, confirm and approve the preparation, execution and delivery on behalf of the Town of the 2001 Amendment and provide for the preparation, negotiation, approval, execution and delivery on behalf of the Town of any other additional amendments to the Amended Interjurisdictional Agreement, any waivers of the Amended Interjurisdictional Agreement or any other agreements, memoranda of understanding or other documents between the Town and the Commission if the same are deemed necessary or desirable in connection with the Intended Project and the financing or refinancing thereof (any of the foregoing, the "Further Documents").



NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE COMMISSIONERS OF LEONARDTOWN that:

SECTION 1. From and after the effective date of this Ordinance, Ordinance No. 101 is hereby repealed and shall be considered of no further force and effect.

SECTION 2. Pursuant to the authority of the Environment Article, the Enabling Act and the Charter, the Town hereby determines to borrow money and incur indebtedness for the public purpose of financing or refinancing all or a portion of the cost of one or more of the following: the acquisition, construction, renovation, upgrading, improvement and equipping of components of the Town's wastewater system, including (without limitation) components relating to biological nutrient removal processes, together with the acquisition of necessary property rights and equipment, related site and utility improvements, related architectural, financial, legal, planning, design and engineering expenses, costs of issuance and, if the Council so determines pursuant to the Resolution (hereinafter defined), interest during construction and for a reasonable period thereafter (the "Project"). The total cost of the Project not otherwise payable from other sources, including, without limitation, any grants made by the Maryland Department of the Environment, is not expected to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00).

SECTION 3. To evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the Town, acting pursuant to the authority of the Environment Article, the Enabling Act and the Charter, hereby determines to issue and sell, upon its full faith and credit, one or more series of its general obligation bonds in an aggregate principal amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) (individually, a "Bond" and, collectively, the "Bonds"). Each Bond shall be designated "The Commissioners of Leonardtown Water Quality Bond" and by series or by such other designation or designations as the Council may determine in the Resolution.

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Any such series may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form.

SECTION 4. Pursuant to the authority of the Environment Article, the Enabling Act and the Charter, the Town hereby determines to sell each series of Bonds to the Administration by private sale, without public bidding, due to the benefit of negotiated flexible terms and a beneficial interest rate or rates.

SECTION 5. Pursuant to the authority of the Environment Article, the Enabling Act and the Charter, the Town hereby determines and provides that each series of Bonds shall be issued and sold for a price which may be at, above or below the par value of such Bonds, as provided in the Resolution.

SECTION 6. The proceeds of each series of Bonds shall be used and applied by the Town exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless a supplemental ordinance is enacted by the Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the Environment Article, the Enabling Act or the Charter.

SECTION 7. (a) The principal of and interest on each series of Bonds will be payable in the first instance from revenues received by the Town in connection with the operation of 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 such series of Bonds, the Town shall levy or cause to be levied, for each and every fiscal year during which such series of Bonds 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 such series of Bonds 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 each series of Bonds 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 such series of Bonds. The Town hereby covenants with the registered owner of each Bond to take any action that may be appropriate from time to time during the period that such 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 each series of Bonds from the proceeds of the sale of any other obligations of the Town or from any other funds legally available for that purpose. The Town may apply to the payment of the principal of or interest on each series of Bonds 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 the funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project which such series of Bonds are issued to finance, 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 8. As required by the Environment Article, the Town is hereby authorized to enter into one or more loan agreements with the Administration (each, a "Loan Agreement" and collectively, the "Loan Agreements") in connection with the Bonds. The final or substantially final

form of each Loan Agreement shall be approved by the Council pursuant to the Resolution and the execution and delivery of each Loan Agreement shall be authorized by the Council pursuant to the Resolution.

SECTION 9. 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 Agreements. Such pledge shall be evidenced and detailed in each Loan Agreement.

SECTION 10. Pursuant to the authority of the Enabling Act and this Ordinance, the Council, prior to the issuance, sale and delivery of any series of Bonds, shall adopt a resolution or resolutions (the "Resolution") specifying, prescribing, determining, providing for and approving such matters, details, forms (including, without limitation, the complete form of the Bonds of such series), documents or procedures as may be required by the Environment Article, the Enabling Act, the Charter or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or prepayment of or for such series of Bonds. The Resolution shall set forth, approve or provide for the approval of, among other things, the aggregate principal amount of such series of Bonds; the principal installment or installments of, or the method of determining the principal installment or installments of, such series of Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable, payable on such series of Bonds; provisions relating to the prepayment of such series of Bonds; the procedures for the sale of such series of Bonds by private sale, without public bidding; and all other terms and conditions pursuant to which such series of Bonds will be issued, sold and delivered. Any Resolution may specify, prescribe, determine, provide for and approve the details required by this Section 10 for more than one series of Bonds.



SECTION 11. The Town is hereby authorized and directed to pay any fees or costs provided for in any Loan Agreement which are not payable from Bond proceeds, including, without limitation, any administrative fees and any ongoing fees or costs. The obligation of the Town to pay such amounts shall be absolute and unconditional as further provided in any Loan Agreement.

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

SECTION 13. Pursuant to the authority of the Bond Anticipation Note Enabling Act and the Charter, the Town may issue and sell, upon its full faith and credit, one or more series of bond anticipation notes (collectively, the "BANs") prior to and in anticipation of the sale of any series of Bonds. Any such series of BANs may be comprised of one or more notes and any note may be issued in installment and/or draw-down form. Prior to the issuance, sale and delivery of any series of BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Enabling Act and this Ordinance authorizing such series of BANs and specifying, prescribing, determining, providing for and approving such matters, details, forms, documents or procedures as may be required by applicable law. Any such series of BANs may be sold by private negotiation as determined by the Council pursuant to a resolution or resolutions.

SECTION 14. The Council is hereby authorized, pursuant to a resolution or resolutions, to make any further determinations deemed necessary or desirable in connection with the issuance of any series of BANs authorized hereby, including, without limitation (i) any determination authorized by the Bond Anticipation Note Enabling Act, (ii) to provide that any BANs may be issued in installment and/or draw-down form, (iii) to commit or provide for the commitment of the

Town to pay to the purchaser or purchasers of any series of BANs (A) any commitment fee or similar fee and any legal costs in connection with such purchaser's or purchasers' agreement to purchase such series of the BANs and/or (B) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the Town fails to deliver such series of BANs as provided in the applicable purchase agreement or similar agreement and, in connection therewith, to approve or provide for the approval, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of BANs).

SECTION 15. The Mayor, the Town Administrator, the Treasurer, the Town Secretary and all other officials and employees of the Town are hereby authorized and directed to take any and all action necessary to complete and close the award, sale and delivery of any series of Bonds or BANs authorized hereby and to execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith.

SECTION 16. The Town hereby ratifies, confirms and approves the preparation, execution and delivery on behalf of the Town of the 2001 Amendment. The Council is hereby further authorized, pursuant to a resolution or resolutions (which may, but need not be, the Resolution identified in Section 10 of this Ordinance or any resolution identified in Section 14 of this Ordinance), to approve or to provide for the preparation, negotiation, approval, execution and delivery on behalf of the Town of any Further Document if the same is deemed necessary or desirable in connection with the financing or refinancing of and the activities related to the Project.



SECTION 17. The title of this Ordinance, or a condensed version thereof prepared in accordance with Section 209 of the Charter, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 18. This Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto.

[SEAL]

ATTEST:

  
*Malynda L. Shumaker*  
Malynda L. Shumaker, Town Secretary

THE COMMISSIONERS OF  
LEONARDTOWN

By: *Ruth W. Proffitt*  
Ruth W. Proffitt, Vice-President

By: *Michael L. Bridges*  
Michael L. Bridges, Councilmember

By: *Charles R. Faunce*  
Charles R. Faunce, Councilmember


By: *Walter R. Gillette*  
Walter R. Gillette, Councilmember

By: *Walter Wise*  
Walter Wise, Councilmember

Introduced on: August 13, \_\_\_\_\_, 2001

Passed on an emergency basis: August 13, \_\_\_\_\_, 2001

Approved by the Mayor this 13<sup>th</sup> day of AUGUST, 2001.

By:   
J. Harry Norris, III, Mayor

Effective: September 3, 2001

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