

COUNCIL OF THE TOWN OF LEONARDTOWN

ORDINANCE NO. 128

Introduced by Mayor J. Harry Norris, III

AN ORDINANCE concerning

General Obligation Borrowing for Water and Sewer System Repairs/Upgrades in Streets

FOR the purpose of authorizing and empowering The Commissioners of Leonardtown to issue and sell from time to time, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00), the proceeds of the sale thereof to be used and applied for the public purpose of financing, reimbursing or refinancing costs of repairs and upgrades to components of the Town's water and sewer systems located in the beds of, or near, certain streets owned or to be acquired by the Town and related activities including (without limitation) street repair, curb and gutter work, together with related costs, costs of issuance and, if the Council so determines in a subsequent resolution, interest during construction and for a reasonable period thereafter; determining that the bonds of each series be sold by private (negotiated) sale without advertisement or solicitation of competitive bids unless a subsequent resolution or resolutions of the Council provides for the solicitation of competitive bids at public sale after publication or dissemination of notice of sale of any series of the bonds; authorizing the adoption of a resolution or resolutions of the Council to determine, approve or provide for various matters relating to the authorization, sale, security, issuance, delivery, payment and redemption of and for each series of the bonds; authorizing the Council to provide by resolution for the issuance and sale from time to time of one or more series of general obligation bond anticipation notes in an aggregate principal amount not to exceed One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00), prior to and in anticipation of the issuance of any of the bonds authorized hereby, in order to finance or reimburse project costs on an interim basis; authorizing the Council to provide by resolution for the issuance and sale from time to time of one or more series of general obligation bonds in an aggregate principal amount not to exceed One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00) in order to refund any of the bonds issued pursuant to the authority of this Ordinance (including paying related costs of issuance and interest on such refunding bonds); providing that any series of the bond anticipation notes or refunding bonds authorized hereby shall be sold at private (negotiated) sale unless the Council determines otherwise by resolution; providing that debt service on any of the bonds, bond anticipation notes or refunding bonds authorized hereby will be payable in the first instance from available water and sewer system revenues; providing for the levy and collection of ad valorem taxes sufficient for, and pledging the full faith and credit and unlimited taxing power of the Town to, the prompt payment of the principal of and interest on each series of such obligations; providing that the principal of

and interest on each series of such obligations 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 bonds, bond anticipation notes and refunding bonds provided for hereby; providing that this title shall be deemed a fair summary of this Ordinance for all purposes and authorizing any other fair summary; and otherwise generally relating to the issuance, sale, delivery and payment of the bonds, bond anticipation notes and refunding bonds authorized hereby.

RECITALS

WHEREAS, The Commissioners of Leonardtown, a municipal corporation of the State of Maryland (the “Town”), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, 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 and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the Town has determined to make repairs to, and upgrade, components of the Town’s water and sewer systems located in the beds of, or near, certain streets owned or to be acquired by the Town and to undertake related activities including (without limitation) street repair, curb and gutter work, and, in connection therewith, to acquire or pay for, as applicable, necessary property rights and equipment, related site and utility improvements and related architectural, financial, legal, planning, design, engineering and construction expenses, costs of issuance and, if the Council so determines in a subsequent resolution, interest during construction and for a reasonable period thereafter (collectively, the “Project”); and

WHEREAS, the Town has determined to authorize the issuance from time to time of one or more series of its general obligation bonds in order to finance, reimburse or refinance all or a portion of the costs of the Project; and

WHEREAS, Charter Amendment Resolution No. CA-06-02, adopted by the Town on September 25, 2006, amends Section 719 of Article 7 of the Charter of the Town in order to provide, among other matters, that general obligation bonds of the Town may be sold by private (negotiated) sale without advertisement or solicitation of competitive bids; and

WHEREAS, the Town has determined that, assuming Charter Amendment Resolution No. CA-06-02 becomes effective on November 14, 2006 in accordance with its terms and applicable Maryland law, each series of the bonds authorized hereby shall be sold by private (negotiated) sale, unless a subsequent resolution or resolutions of the Council provides for the sale of any series of the bonds by solicitation of competitive bids at public sale; and

WHEREAS, in the event Charter Amendment Resolution No. CA-06-02 does not become effective and no other applicable law provides for the sale of the Town's general obligation bonds by private (negotiated) sale, any such series of bonds shall be sold at public sale by solicitation of competitive bids; and

WHEREAS, prior to issuing any of the bonds authorized hereby, the Town may wish to obtain interim financing in order to finance or reimburse applicable project costs on a timely basis through the issuance from time to time of general obligation bond anticipation notes in one or more series pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Bond Anticipation Note Enabling Act"); and

WHEREAS, subsequent to the issuance of any bonds provided for herein, the Town may desire to refund or advance refund all or a portion of such bonds through the issuance from time to time of one or more series of its general obligation refunding bonds pursuant to the authority of Section 24 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Refunding Act"); 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 any bonds, bond anticipation notes or refunding bonds authorized hereby, although debt service on such obligations will be payable in the first instance from available water and sewer system revenues; and

WHEREAS, the Town has determined to issue any bonds, bond anticipation notes or refunding bonds 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 and applicable law.

SECTION 1: BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that the recitals to this Ordinance are deemed a substantive part of this Ordinance and incorporated by reference herein.

SECTION 2: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that pursuant to the authority of the Enabling Act and the Charter, the Town hereby determines to borrow money and incur indebtedness from time to time for the public purpose of financing, reimbursing or refinancing costs of the Project.

SECTION 3: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that (a) to evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the Town, acting pursuant to the authority of the Enabling Act and the Charter, hereby determines to issue and sell from time to time, in one or more series, upon its full faith and credit, its general obligation bonds in an aggregate principal amount not to exceed One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) (collectively, the "Bonds"). Any series of the Bonds may be issued as one or more general obligation installment bonds.

(b) In the event the Town issues any series of BANs pursuant to Section 7 of this Ordinance, proceeds of the Bonds of any series in anticipation of which such BANs were issued may also be applied to prepay or pay principal, premium and/or interest on such series of the BANs in accordance with the Bond Anticipation Note Enabling Act.

SECTION 4: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that pursuant to the authority of the Enabling Act and the Charter, the Town hereby determines that it is in the public interest of the Town to sell each series of the Bonds by private (negotiated) sale without advertisement or solicitation of competitive bids due to the ability to time the market, negotiate flexible terms and achieve a beneficial interest rate or rates, unless the Resolution (as defined in Section 6 of this Ordinance) provides for the solicitation of competitive bids at public sale after publication or dissemination of the notice of sale.

SECTION 5: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that the proceeds of the Bonds shall be used and applied by the Town exclusively and solely for the public purposes described in Sections 2 and 3 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 Enabling Act or the Charter.

SECTION 6: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that pursuant to the authority of this Ordinance, the Council, prior to the issuance, sale and delivery of each series of the Bonds, shall adopt a resolution or resolutions (in each such case and, collectively, the “Resolution”) specifying, prescribing, determining, providing for and approving such matters, details, forms (including, without limitation, the complete forms of the Bonds of such series and the bond purchase agreement or any similar agreement with the purchaser or purchasers of such series of Bonds, if deemed necessary or desirable, or if the bonds are sold by solicitation of competitive bids at public sale, the form of notice of sale of such series of Bonds), documents or procedures as may be required by 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 the Bonds. The Resolution shall set forth, approve or provide for the approval of, among other things, the designation of the Bonds of such series; the date of issue of the Bonds of such series; the aggregate principal amount of the Bonds of such series; the price of such series of the Bonds, which may be at, above or below par value; the maturities of or principal installments payable on the Bonds of such series; 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 the Bonds of such series; provisions relating to the prepayment of the Bonds of such series; the procedure for the sale on a private (negotiated) basis of the Bonds of such series, unless the Resolution shall provide for the solicitation of competitive bids at public sale of the Bonds of such series, in which case the Resolution shall set forth the procedures for such sale and the award of the bonds to the successful bidder; and all other terms and conditions pursuant to which the Bonds of such series will be issued, sold and delivered. Among other matters, the Council, pursuant to the Resolution, may authorize, approve or otherwise provide for (i) any commitment fee or similar fee and any other costs payable in connection with such series of the

Bonds, (ii) the obtaining of credit enhancement for any series of the Bonds (and the execution and delivery of any agreements or documents relating thereto), and (iii) any other agreements or documents necessary to enhance the marketability of or as security for any series of the Bonds, including (without limitation) any continuing disclosure undertaking required to satisfy the requirements of Securities and Exchange Commission Rule 15c2-12 and any official statement or other disclosure document. Any single Resolution may determine the matters identified in this Section 6 for more than one series of the Bonds.

SECTION 7: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that pursuant to the authority of the Bond Anticipation Note Enabling Act and the Charter, the Town is hereby authorized and empowered to issue and sell, upon its full faith and credit, its general obligation bond anticipation notes in one or more series from time to time in an aggregate principal amount not to exceed One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) (collectively, the “BANs”), prior to and in anticipation of the sale of any series of the Bonds, for the public purpose of financing (including by reimbursing prior Project expenditures) costs of the Project on an interim basis, paying costs and expenses in connection with the issuance, sale and delivery of such BANs, and, to the extent determined by the Council in a subsequent resolution, paying interest on such BANs. Any such series of the BANs may consist of one or more notes and any note may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Enabling Act, the Charter and this Ordinance authorizing such series of the BANs and specifying, prescribing, determining, providing for or approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution providing for any series of the BANs, each series of the BANs shall be sold at private (negotiated) sale, without advertisement or publication of notice of sale, or solicitation of competitive bids.

SECTION 8: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that pursuant to the authority of the Refunding Act and the Charter, the Town is hereby authorized and empowered to issue and sell, upon its full faith and credit, its general obligation refunding bonds in one or more series from time to time in an aggregate principal amount not to exceed One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00) (collectively, the “Refunding Bonds”), for the purpose of refunding or advance refunding any of the Bonds authorized hereby, including the payment of any prepayment premium and any interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, paying costs and expenses in connection with the issuance, sale and delivery of such Refunding Bonds, and, to the extent determined by the Council in a subsequent resolution, paying interest on such Refunding Bonds, for the public purpose of realizing savings to the Town in the aggregate cost of debt service on either a direct comparison, present value or other basis or in order to accomplish any debt restructuring that is permitted by applicable law. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Council shall adopt a resolution or resolutions authorizing such series of the

Refunding Bonds and specifying, prescribing, determining, providing for or approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution providing for any series of the Refunding Bonds, such series of the Refunding Bonds shall be sold at private (negotiated) sale, without advertisement or publication of notice of sale, or solicitation of competitive bids.

SECTION 9: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that 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 the BANs or the Refunding Bonds authorized hereby, including, without limitation (i) any determination required or authorized by the Bond Anticipation Note Enabling Act or the Refunding Act or other law, as applicable, (ii) to provide that any series of the BANs or the Refunding Bonds may be issued in installment form and/or draw-down form, as applicable, (iii) to commit or provide for the commitment of the Town to pay to the purchaser or purchasers of any series of the BANs or the Refunding Bonds (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 or the Refunding Bonds 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 the BANs or the Refunding Bonds 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 the BANs or the Refunding Bonds) and (iv) to provide for any credit enhancement, ratings, official statements or similar disclosure documents or continuing disclosure undertakings relating to such series of the BANs or the Refunding Bonds.

SECTION 10: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that (a) the principal of and interest on each series of the Bonds, the BANs or the Refunding Bonds, as applicable (the "Obligations"), will be payable in the first instance from water system revenues and sewer system revenues to the extent such revenues are available. Notwithstanding the foregoing sentence, for the purpose of paying the principal of and interest on the Obligations when due, the Town shall levy or cause to be levied, for each and every fiscal year during which any series of the Obligations 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 prompt payment, when due, of the principal of and interest on such Obligations in each such fiscal year, provided that, to the extent of any funds received or receivable as described in the first sentence of this Section 10(a) in any fiscal year, the taxes hereby required to be levied may be reduced proportionately. If the proceeds from the taxes so levied in any such fiscal year are inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up such 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 the Obligations as and when they become due and 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 the Obligations. The Town hereby covenants and agrees with the registered owners, from time to time, of each series of the Obligations to levy and collect the taxes hereinabove described and to take any further action that may be appropriate from time to time during the period that such series of the Obligations remains outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the 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 any series of the Obligations 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, with respect to the BANs from the proceeds of the Bonds authorized hereby and, with respect to the Bonds, from the proceeds of the Refunding Bonds authorized hereby). The Town may apply to the payment of the principal of or interest on any series of the Obligations 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 the types of projects which the Obligations of such series are issued to finance, reimburse 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 11: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that the Mayor, the Town Administrator, the Treasurer, the Town Secretary and all other appropriate officials and employees of the Town are hereby authorized and directed to take any and all action necessary to complete and close the sale and delivery of the Bonds, the BANs or the Refunding Bonds and to execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith.

SECTION 12: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that the title of this Ordinance, or a condensed version of the title or other summary of this Ordinance 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 13: AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that 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 in accordance with Charter Sections 209 and 210, subject to the petition to referendum rights set forth in Charter Section 211.

SEAL

COUNCIL OF THE TOWN
OF LEONARDTOWN

ATTEST:

Walter Wise, Vice President

Laschelle E. Miller
Town Administrator

Thomas R. Collier, Councilmember

Robert C. Combs, Councilmember

J. Maguire Mattingly, III, Councilmember

Leslie E. Roberts, Councilmember

Introduced: _____, 2006

Passed ___ as introduced ___ as amended: _____, 2006

Approved by the Mayor this _____ day of _____, 2006.

By: _____
J. Harry Norris, III, Mayor

Effective: _____, 2006