

ORDINANCE NO. 71

COMMISSIONERS OF LEONARDTOWN

AN ORDINANCE OF The Commissioners of Leonardtown (the "Borrower") approving the form and authorizing the execution, issuance, sale and delivery of a general obligation installment bond of the Borrower in a principal amount not exceeding \$113,100 pursuant to the authority of Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as amended, the Maryland Water Quality Financing Administration Act (codified as Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as amended), and Section 501-58 of the Charter of the Borrower, the bond to be designated Water Quality Bond, Series 1991, the net proceeds of the sale thereof to be used and applied for the public purpose of financing the cost of acquiring, constructing and equipping a wastewater facility as more particularly described herein, including the development of property, the acquisition and installation of equipment and furnishings and any related architectural, financial, legal, planning and engineering expenses; authorizing the execution of a loan agreement between the Borrower and the Maryland Water Quality Financing Administration; prescribing the form and tenor of the bond and the terms and conditions for the issuance and sale thereof at private sale to the Maryland Water Quality Financing Administration; providing for the prompt payment of the maturing principal of and interest on the bond; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on such bond; and generally relating to the issuance, sale and delivery of such bond.

RECITALS

Title VI of the Federal Water Pollution Control Act, as amended by the Water Quality Act of 1987 (the "Clean Water Act"), authorizes the United States Environmental Protection Agency (the "EPA") to award grants to qualifying States to establish and capitalize State water pollution control revolving funds ("SRFs") for the purpose of providing loans and certain other forms of financial assistance (but not grants) to finance, among other things, the construction of publicly-owned wastewater treatment facilities, estuary conservation management plans and the implementation of nonpoint source management programs.

As contemplated by the Clean Water Act, the General Assembly of Maryland at its 1988 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland (the "Act"), establishing the Maryland Water Quality Financing Administration (the "Administration") and establishing an SRF designated the Maryland Water Quality Revolving Loan Fund (the "Fund") to be maintained and administered by the Administration. The Act authorizes the Administration, among other things, to make a loan from the Fund to a "local government" (as defined in the Act) for the purpose of financing all or a portion of the cost of a "wastewater facility" (as defined in the Act). The Commissioners of Leonardtown (the "Borrower") is a "local government" within the meaning of the Act.

The Borrower has applied to the Administration for a loan from the Fund to assist in the financing of a certain project which constitutes a "wastewater facility" within the meaning of the Act. As contemplated by the Act, the Administration and the Borrower will enter into a loan agreement (the "Loan Agreement") to effect and evidence the loan.

The Borrower has determined that it will issue its bond, which constitutes a "loan obligation" within the meaning of the Act, to evidence its payment obligations under the Loan Agreement.

BE IT ORDAINED BY THE COMMISSIONERS OF LEONARDTOWN:

Section 1. Pursuant to the authority of Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as amended, the Maryland Water Quality Financing Administration Act (codified as Section 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as amended (the "Act") and Section 501-58 of the Charter of Leonardtown (the "Charter") (collectively, the "Enabling Legislation"), The Commissioners of Leonardtown (the "Borrower"), a body politic and corporate and a municipal corporation of the State of Maryland, hereby determines to borrow money and incur indebtedness for the public purpose of financing a portion of the

cost of acquiring, constructing and equipping a certain project as described in Exhibit A attached hereto as part hereof (the "Project"), including the development of property, the acquisition and installation of equipment and furnishings and any related architectural, financial, legal, planning and engineering expenses. The Project constitutes a "wastewater facility" within the meaning of the Act. As contemplated by the Act, such borrowing and indebtedness shall be made and incurred in accordance with the provisions of a loan agreement (the "Loan Agreement") between the Borrower and the Maryland Water Quality Financing Administration (the "Administration"). The Loan Agreement shall be in substantially the form of the standard form of the loan agreement utilized by the Administration in connection with its Revolving Loan Fund Revenue Bonds, Series 1991A and with such other insertions, omissions or variations as may be deemed necessary or appropriate and approved by the officers executing the same, the execution of the Loan Agreement by such officers to constitute conclusive evidence of such approval.

Section 2. To evidence the payment obligations of the Borrower under the Loan Agreement, the Borrower shall issue and sell, upon its full faith and credit, a general obligation installment bond to be known as the Borrower's Water Quality Bond, Series 1991(the "Bond"). The Bond shall be issued in a maximum principal amount determined in accordance with the Loan Agreement not to exceed \$113,100 and shall mature in annual installments such that the entire principal amount of the Bond shall be

amortized on an approximately level debt service basis no later than twenty years following the completion date of the Project in accordance with the Loan Agreement. The Bond shall bear interest at an annual rate of interest equal to seventy per cent (70%) of the true interest cost per annum of the Administration's Revolving Loan Fund Revenue Bonds, Series 1991B subject to adjustment in accordance with the Loan Agreement in the event the interest during construction is paid from the proceeds of the Bonds. The determination of the interest rate on the Bond by the Administration in accordance with the foregoing shall be conclusive.

The Bond shall be in substantially the form set forth in Exhibit B attached hereto as part hereof, in the maximum principal amount, maturing and bearing interest as determined in the foregoing paragraph and with such other insertions, omissions or variations as may be deemed necessary or appropriate and approved by the officers executing the same, the execution of the Bond by such officers to constitute conclusive evidence of such approval. The Borrower hereby approves the form of and authorizes the execution and delivery of the Bond in substantially the form set forth in Exhibit B attached hereto, including all covenants and conditions set forth therein.

Section 3. The Loan Agreement and the Bond shall be executed on behalf of and in the name of the Borrower by the Mayor of the Borrower. The corporate seal of the Borrower shall be affixed to the Loan Agreement and the Bond, attested by the

signature of the Secretary of the Borrower. The principal of and interest on the Bond shall be paid in accordance with the terms and conditions of the Loan Agreement and the Bond. The Loan Agreement and the Bond shall be valid and legally binding obligations of the Borrower in accordance with their terms.

Section 4. As authorized and contemplated by the Loan Agreement and Section 9-1606 of the Act, the Bond shall be sold at private sale to the Administration, public advertisement and sale of the Bond not being required by the terms of the Act and the best interests of the Borrower being hereby declared to be served by such private sale. The Mayor is expressly authorized and empowered to take any and all action necessary to complete and close the award, sale, and delivery of the Bond to the Administration, including, without limitation, making such changes or modifications in the form of the Bond adopted herein as may be necessary or appropriate to comply with Administration practices and policies applicable from time to time.

Section 5. The proceeds of sale of the Bond shall be applied from time to time as and when received by the Borrower to finance costs of the Project in strict compliance with the provisions of the Loan Agreement and the Act.

Section 6. For the purpose of paying the maturing principal of and interest on the Bond when due, the Borrower has established or shall establish a dedicated source of revenues as described in the Loan Agreement. In the event such revenues are insufficient to meet the debt service requirements of the Bond in

any fiscal year in which the Bond is outstanding, the Borrower shall levy in such fiscal year upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation ad valorem taxes in rate and amount sufficient to provide for the prompt payment of such principal and interest on the Bond in such fiscal year, and, if the proceeds from the collection of 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. The full faith and credit and unlimited taxing power of the Borrower are hereby irrevocably pledged to the payment of the principal of and interest on the Bond 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 the Bond. The Borrower hereby covenants and agrees with the registered owner of the Bond to levy and collect the taxes hereinabove described and 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.

Section 7. The Mayor of the Borrower shall be the certifying official for the Borrower responsible for the execution and delivery on the date of the issuance of the Bond of a tax and arbitrage certificate of the Borrower that complies with the requirements of Section 148 of the Internal Revenue Code of 1986,

as amended, and the applicable regulations thereunder. The Mayor is hereby authorized and directed to execute and deliver the tax and arbitrage certificate to counsel rendering an opinion on the excludability from gross income of interest on the Bond for purposes of federal income taxation on the date of the issuance of the Bond. The tax and arbitrage certificate shall set out the reasonable expectations of the Borrower as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bond or of any moneys, securities or other obligations to the credit of any account of the Borrower which may be deemed to be bond proceeds under Section 148 or the arbitrage regulations. The Borrower covenants with the owner of the Bond that the facts, estimates and circumstances set forth in the tax and arbitrage certificate will be based on the Borrower's reasonable expectations on the date of the issuance of the Bond and will be, to the best of the certifying official's knowledge, true, correct, and complete as of that date.

Section 8. The Borrower covenants and agrees with the registered owner of the Bond that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the bond proceeds that would cause the Bond to be an "arbitrage bond" within the meaning of Section 148 and the arbitrage regulations. The Borrower further covenants that it will comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder which are applicable to the Bond on the date of issuance of the Bond and which may

substantially lawfully be made applicable to the Bond. The Borrower further covenants that it shall make such use of the proceeds of the Bond, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bond. All officers, employees and agents of the Borrower are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bond, as may be necessary or appropriate from time to time to comply with, or to evidence the Borrower's compliance with, the covenants set forth in this Section.

Section 9. The Borrower covenants that the execution and delivery of the Loan Agreement and the issuance, sale, execution and delivery of the Bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by the Constitution or statutes of the State of Maryland or the Enabling Legislation.

Section 10. Any official intent to reimburse expenditures on the Project made prior to the issuance of the Bond with the proceeds of the sale of the Bond declared by the Mayor or his designee pursuant to Resolution #2-91 is hereby ratified.

Section 11. This Ordinance shall be effective at the expiration of twenty (20) calendar days following approval by the Mayor.

Adopted by the Council this 9th day of September 1991.

J. Maguire Mattingly, Jr.
J. Maguire Mattingly, Jr., Mayor

Stephen L. Raley
Stephen L. Raley, Vice President

James W. Densford III
James W. Densford III, Councilman

Norman A. Norris
Norman A. Norris, Councilman

Ruth W. Proffitt
Ruth W. Proffitt, Councilwoman

Wayne L. Vincent Sr.
Wayne L. Vincent, Councilman

Approved by the Mayor this 9 day of

September 1991.

ATTEST:

Anita N. Aud
Anita N. Aud, Secretary

EXHIBIT A

REHABILITATION OF LEONARDTOWN WASTEWATER
COLLECTION SYSTEM

DESCRIPTION OF PROJECT

This project is located throughout the incorporated limits of Leonardtown, Maryland. It consists of a systematic review of the existing collection system, identification of locations where structural failures have occurred, evaluating the priority of each failure, selection of appropriate repair method, and ultimately completing repair of each failure.

This project, which is expected to be completed in phases, will provide a reliable system for conveying sewage to the Leonardtown WasteWater Treatment Facility.

EXHIBIT B

\$(MAX. AMT.)

R-1

REGISTERED

UNITED STATES OF AMERICA
STATE OF MARYLAND

[NAME OF BORROWER]
WATER QUALITY BOND, SERIES 1991
Dated _____, 1991

PAYMENTS OF PRINCIPAL AND INTEREST ON THIS BOND ARE MADE BY CHECK OR DRAFT TO THE REGISTERED OWNER AND IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR ANY PART OF THE PRINCIPAL OF OR INTEREST ON THIS BOND HAS BEEN PAID.

REGISTERED OWNER: Maryland Water Quality Financing Administration

_____, a [body politic and corporate] [municipal corporation] of the State of Maryland (the "Borrower"), hereby acknowledges itself obligated to pay to the Registered Owner shown above, the principal amount of \$_____ (the "Maximum Principal Amount") or so much thereof as shall have been advanced from time to time under the terms of the Loan Agreement dated as of _____, 1991 (the "Loan Agreement") by and between the Borrower and the Maryland Water Quality Financing Administration (the "Administration"), plus interest on the unpaid principal advanced under the terms of the Loan Agreement at the rate of _____ per centum (_____%) per annum (the "Interest Rate"). [Notwithstanding the above, amounts advanced under Section 3.03(c) of the Loan Agreement in respect of Construction Period Interest (as defined in the Loan Agreement) shall bear interest at the Bond Rate (as defined in the Loan Agreement).]

The principal advanced under the Loan Agreement shall be paid in installments on [August 1 and] February 1 in the years and amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
1993		2003	
1994		2004	
1995		2005	
1996		2006	
1997		2007	
1998		2008	
1999		2009	
2000		2010	
2001		2011	
2002		2012	

If the amount advanced to the Borrower under the Loan Agreement prior to August 1, 1993 is less than the Maximum Principal Amount, then the difference between the Maximum Principal Amount and the amount so advanced shall be applied to reduce the installments of principal due hereunder in inverse order of payment so that any such reduction is applied, first, to the last installment of principal due under this bond. With the written consent of the Administration, the Borrower may apply any such difference to installments of principal due under this bond in any other manner, in which event a new bond will be issued in substitution for this bond. Any such reduction shall not affect the obligation of the Borrower to pay the principal of and interest on this bond as and when the same shall become due.

Notwithstanding the foregoing, all outstanding unpaid principal amounts advanced under the Loan Agreement, if not previously due hereunder, shall be due on that date which is 20 years after the date of completion of the Project (defined in the Loan Agreement), as certified by the Borrower to the Administration pursuant to Section 2.02(d) of the Loan Agreement.

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 August 1, 1991 and semiannually thereafter on the 1st day of February and August in each year until the principal amount hereof has been paid.

This bond is subject to prepayment only in accordance with Section 3.10 of the Loan Agreement.

Both the principal of and interest on this bond will be paid in lawful money of the United States of America, at the time of payment, and will be paid by check or draft mailed (by

depositing such check or draft, correctly addressed and postage prepaid, in the United States mails on or 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 [INSERT BORROWER'S AUTHORIZED OFFICER].

This bond is issued pursuant to and in full conformity with the provisions of [INSERT BORROWER'S LOCAL ACT(S)] and the Maryland Water Quality Financing Administration Act (codified as Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (1987 Replacement Volume and 1990 Cumulative Supplement), and by virtue of due proceedings had and taken by the Borrower, particularly Resolution (numbered _____) adopted by [INSERT BORROWER'S AUTHORIZING ORDINANCE OR RESOLUTION] (collectively, the "Resolution").

This bond, together with the Loan Agreement, evidences the Loan (defined in the Loan Agreement) to the Borrower from the Maryland Water Quality Financing Administration. In accordance with the Loan Agreement, the principal amount of the Loan, being the amount denominated as principal under this bond, is subject to reduction or adjustment by the Administration in accordance with the Loan Agreement.

The full faith and credit and unlimited taxing power of the Borrower are hereby irrevocably pledged to the prompt payment of the principal of and interest on this bond according to its terms, and the Borrower does hereby covenant and agree to pay the principal of and interest on this bond at the dates and in the manner prescribed herein.

This bond is transferable only after August 1, 1993 or the date upon which the Maximum Principal Amount has been borrowed, whichever is earlier, upon the books of the Borrower at the office of the [INSERT BORROWER'S AUTHORIZED OFFICERS] by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to the [INSERT BORROWER'S AUTHORIZED OFFICER], duly executed by the registered owner or his duly authorized attorney. The Borrower shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds, in such denominations as the Borrower 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. If more than one bond is issued upon any such transfer, 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 bonds 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 Borrower may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland and the Resolution to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that the issuance of this bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution or statutes.

IN WITNESS WHEREOF, this bond has been executed by the manual signature of the [INSERT AUTHORIZED OFFICERS] and the seal of the Borrower has been affixed hereto, attested by the manual signature of the [INSERT AUTHORIZED OFFICER], all as of the ____ day of _____, 1991.

(SEAL)

ATTEST:

[OFFICER]

By: _____

[OFFICER]