

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2009 Legislative Session

Bill No. CB-34-2009

Chapter No. 19

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Member Bland

Co-Sponsors _____

Date of Introduction June 23, 2009

BILL

1 AN ACT concerning

2 The Issuance and Sale of Reimbursement Bonds to refinance the costs of the Duvall Wing of the
3 Prince George's County Courthouse in an amount not to exceed \$30,000,000 or in the alternative
4 the authorization of the County Executive to enter into a Sale and Leaseback or Lease and

5 Leaseback of the Duvall Wing of the Prince George's County Courthouse

6 For the purpose of authorizing and empowering Prince George's County, Maryland to issue and
7 sell an amount not to exceed Thirty Million Dollars (\$30,000,000) in aggregate principal amount
8 of bonds for the purpose of providing a means to refinance in whole or in part costs of the
9 reconstruction, rehabilitation or repair of the Duvall Wing of the Prince George's County
10 Courthouse, including describing the project to be refinanced in whole or in part from the
11 proceeds of the bonds hereby authorized and the costs and probable useful life thereof;
12 prescribing or providing for the procedures for the issuance and sale of such bonds at private or
13 negotiated sale; showing compliance with the power of the County to incur indebtedness;
14 directing the application of the proceeds of such bonds; pledging payments from the County's
15 General Fund, subject to annual appropriation, to the payment of such bonds and providing for
16 the payment of the principal of such bonds when due; showing compliance with the limitations
17 on the power of the County to incur indebtedness; authorizing the County Executive to delegate
18 to appropriate officials the power to make certain determinations and sign certain documents,
19 certificates or agreements authorized to be made or signed by the County Executive herein;
20 providing for compliance with Securities and Exchange Commission Rule 15c2-12; to the extent
21 the reimbursement bonds are not issued, authorizing the County Executive to enter into a sale

1 and leaseback or lease and leaseback of the Duvall Wing of the Prince George's County
2 Courthouse in order to effect the reconstruction, rehabilitation or repair of the facility; and
3 otherwise generally determining or providing for the determination of certain matters in
4 connection with the issuance, sale and delivery of the bonds authorized by this Act.

5 WHEREAS, Prince George's County, Maryland (the "County") is authorized to issue, sell
6 and deliver bonds to refinance in whole or in part costs of the reconstruction, rehabilitation or
7 repair of the Duvall Wing of the Prince George's County Courthouse (the "Project");

8 WHEREAS, to the extent bonds are not issued for the refinancing of the Project, the
9 County is authorized to enter into transactions for the Project with the approval of the County
10 Council under the enumerated express powers granted and conferred upon the County under
11 Article 25A, Section 5(B) of the Annotated Code of Maryland, as amended, including a sale and
12 leaseback or lease and leaseback of the Project pursuant to which the County would sell or lease
13 the Project to either the Industrial Development Authority of Prince George's County, the Prince
14 George's County Redevelopment Authority, the Revenue Authority of Prince George's County,
15 any other public instrumentality of the County or a public instrumentality of the State of
16 Maryland, and such entity would lease the Project back to the County for a term of years;

17 WHEREAS, to the extent bonds are not issued for the refinancing of the Project, the
18 County Executive requests that the County Council authorize the County Executive or his duly
19 authorized designee to take the actions necessary to determine the structure of any sale and
20 leaseback or lease and leaseback of the Project that best serves the needs and public purposes of
21 the County, including whether tax-exempt or taxable participation interests are offered in the
22 County's leaseback, giving consideration to a multitude of factors including (without limitation)
23 disposition price, term of years offered for any leaseback (including any renewal terms, options
24 to terminate, or options to purchase, if applicable), lease payment amounts, operating and
25 maintenance expenses that would be the responsibility of the County, ongoing fees and charges
26 in connection with any offering of participation interests in any leaseback to the County, and
27 whether or not the remaining economic life of the Project upon expiration of the stated term of
28 the leaseback (and any renewal terms) would be such that acquisition of title to the Project by the
29 County upon such expiration would continue to serve a public purpose of the County, and to
30 effectuate and consummate the transactions contemplated in the recitals to this Act with respect
31 to the Project that is in the best interests of the County; now, therefore,

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that the issuance, sale and delivery of reimbursement bonds (the "Bonds") of the County in one or more series from time to time in an aggregate principal amount not exceeding Thirty Million Dollars (\$30,000,000) is hereby authorized in order to refinance in whole or in part costs of the reconstruction, rehabilitation or repair of the Duvall Wing of the Prince George's County Courthouse (the "Project"), as more particularly described on Exhibit A attached hereto ("Exhibit A"). The principal amount of Bonds authorized by this Act to refinance costs of the Project shall be \$30,000,000. Such principal amount of the Bonds is hereby determined to be sufficient to refinance costs associated with reconstruction, rehabilitation or repair of the Project, to provide for a debt service reserve fund and the payment of costs of issuance. The probable useful life of the Project is forty (40) years, and the Bonds shall be made payable within the probable useful life of the Project. The Bonds are specifically exempted from the provisions of Sections 10 and 11 of Article 31 of the Annotated Code of Maryland, as amended, replaced or recodified from time to time. The powers granted under this Act are additional and cumulative and the Bonds authorized by this Act may be issued, notwithstanding that other bond acts or laws may provide for the same or similar purposes. This Act does not modify or repeal any prior acts granting bond issuing authority for the same or similar purposes.

SECTION 2. BE IT FURTHER ENACTED that Exhibit A lists the Project that is to be refinanced in whole or in part with the proceeds of the Bonds, the reimbursement cost of the Project or a usable portion thereof (the "Cost"), the portion of the Cost of the Project to be refinanced hereunder (the "Bond Refinanced Portion"), the source or sources of funds to refinance the balance of the Cost of the Project (the "Other Funding Sources") and the probable useful life of the Project.

It is the purpose and intent of this Act to authorize the borrowing of money to refinance the Project as such project is identified on Exhibit A. To implement the intent and purpose of this Act in the most expeditious manner, the County Executive of the County (the "County Executive") may revise the amounts set forth on Exhibit A representing the Cost, Bond Refinanced Portion and Other Funding Sources for the Project to be consistent with the information set forth in any capital budget or capital improvement program. Nothing contained in this Act shall be deemed to preclude the County Council by resolution from effecting such a

1 revision in Exhibit A. The authority granted in this Act to revise Exhibit A shall not be
 2 construed to permit an increase in the aggregate principal amount of Bonds to be issued pursuant
 3 to this Act or to effect results inconsistent with the Charter of Prince George's County,
 4 Maryland, as amended, modified or recodified from time to time (the "County Charter"), or other
 5 applicable laws; accordingly, any such revision to Exhibit A shall evidence that (i) the Bond
 6 Refinanced Portion of the Project is sufficient to refinance at least a usable portion of such
 7 project, (ii) the amount of all bonds authorized to be issued for the Project does not exceed the
 8 amount of bonds authorized by this Act, and (iii) the Bonds are payable within the probable
 9 useful life of the Project.

10 SECTION 3. BE IT FURTHER ENACTED that as determined by the County Executive,
 11 the Bonds (or any portion of them, as applicable) may be issued, sold and delivered as a single
 12 series of Bonds or as two or more series of Bonds. The Bonds of each series issued solely
 13 pursuant to the authority of this Act shall each be designated "Prince George's County, Maryland
 14 Reimbursement Bonds (Duvall Wing Courthouse Project), Series 20__," and, in the event any
 15 such Bonds are issued at more than one time, the County Executive may specify such additional
 16 designation as he or she shall deem appropriate. Moreover, the County Executive is hereby
 17 authorized to provide such other or alternative designation as he or she deems necessary or
 18 convenient.

19 SECTION 4. BE IT FURTHER ENACTED that, subject to and in accordance with the
 20 provisions of this Act, the County Executive shall determine all matters relating to the sale,
 21 issuance, delivery and payment of the Bonds, including all matters relating to the forms, dates
 22 and denominations of the Bonds, the principal maturity or maturities and/or sinking fund
 23 installments, any reserve fund requirements, the provision of bond insurance on all or any
 24 portion of the Bonds, and provisions for registration of the Bonds, for their redemption prior to
 25 stated maturity, and for the use of facsimile signatures or seals, whether the Bonds are to be
 26 issued in book-entry form and all matters incident to the issuance of the Bonds in book-entry
 27 form. The County Executive shall provide for the form, numbering, term and authentication of
 28 the Bonds pursuant to Section 822 of the County Charter. The County Executive may provide
 29 that no Bonds shall be issued for the Project authorized by this Act to be refinanced by the Bonds
 30 and to reduce the aggregate principal amount of Bonds to be issued accordingly. The County
 31 Executive may provide for a reduction in the aggregate principal amount of Bonds to be issued

1 consistent with a determination of the minimum bond denomination size based on municipal
 2 security market practices regarding denomination size, and for a corresponding reduction in the
 3 principal amount of Bonds issued to refinance the cost of the Project. It is hereby recognized and
 4 acknowledged that, in order to manage prudently the capital programs of the County, the County
 5 Executive, pursuant to Section 3 of this Act, may provide for the financing of the Bond
 6 Refinanced Portion of the Project by the issuance of Bonds at more than one time and from time
 7 to time. Notwithstanding the provisions of Sections 2, 3 and 4 of this Act, no order of the
 8 County Executive permitted under this Act shall authorize or permit a reduction in the principal
 9 amount of Bonds issued for the Project below the amount for which the County Council has
 10 authorized temporary borrowing from other County funds.

11 The aggregate principal amount of Bonds authorized to be issued hereunder may be
 12 increased by a supplemental ordinance.

13 SECTION 5. BE IT FURTHER ENACTED that the Bonds shall be sold for a price of par.
 14 The Bonds shall be sold at private (negotiated) sale, and such procedure is hereby determined to
 15 be appropriate in that neither price nor interest rate may be fixed through a public sale. With
 16 respect to each series of Bonds sold pursuant to this Act, authority is hereby conferred on the
 17 County Executive to take the following actions and make the following commitments on behalf
 18 of the County:

19 (a) to sell such series of Bonds upon such terms as he or she deems favorable under the
 20 existing market conditions to one or more banks, investment banking firms or other financial
 21 institutions that, in such official's judgment, offers to purchase such series of Bonds on terms
 22 such official deems favorable to the County under the existing market conditions;

23 (b) to approve, execute and deliver, as a binding and enforceable obligation of the County,
 24 an underwriting or purchase agreement for any series of Bonds issued pursuant to this Act;

25 (c) after considering any recommendations of the financial advisor to the County, if any, to
 26 fix and determine the date of any such series of Bonds, the maturity or schedule of annual
 27 maturities and/or sinking fund installments of any such series, the amount of any such series, and
 28 all matters relating to the provision of bond insurance, if any, on all or any portion of the Bonds.

29 SECTION 6. BE IT FURTHER ENACTED that there may be printed on each of the Bonds
 30 the text of the approving legal opinion of bond counsel or co-bond counsel with respect to such
 31 Bonds. Any such printed text shall be certified to be a correct copy of said opinion by the

1 manual or facsimile signature of the County Executive.

2 The Bonds shall contain similar provisions and be in substantially the form approved by the
3 County Executive, and Bonds issued substantially in accordance with said form, with appropriate
4 insertions or deletions as indicated, when properly executed and authenticated as required by this
5 Section shall be deemed to constitute limited obligations of the County, to the payment of which
6 amounts on deposit in the County's General Fund are pledged, subject to annual appropriation,
7 and all the covenants and conditions contained in the Bonds shall be deemed to be binding upon
8 the County. Authority is hereby conferred on the County Executive to complete, delete or
9 modify the blanks in such bond form with necessary information, to insert applicable paragraphs
10 as indicated or needed and to make such additions, deletions and substitutions in such bond form,
11 not inconsistent with this Act or the County Charter as may be necessary or desirable for the sale
12 of the Bonds, including (without limitation) such additions, deletions and substitutions as may be
13 necessary or desirable in connection with the establishment or discontinuance of a book-entry
14 registration system for the Bonds.

15 SECTION 7. BE IT FURTHER ENACTED that the County Executive may authorize on
16 behalf of the County the preparation and distribution of a preliminary official statement and a
17 final official statement or similar offering documents in connection with the issuance and sale of
18 the Bonds.

19 SECTION 8. BE IT FURTHER ENACTED that the proceeds of the sale of the Bonds shall be
20 paid directly to the Director of Finance of the County, who shall deposit the same in the proper accounts
21 of the County. The cost of marketing the Bonds shall be the cost of advertising, printing, legal services,
22 any financial services, rating agencies fees and other related expenditures (including, without limitation,
23 any bond insurance premiums payable by the County), in connection with the issuance, sale and delivery
24 of the Bonds. Such costs of issuance shall be allocated to the Project refinanced by the Bonds and shall
25 be charged to the appropriate debt service accounts of the County by the Director of Finance. The
26 balance of the proceeds of the sale of the Bonds shall be expended by the County for refinancing the
27 costs of the Project for which the Bonds have been issued in accordance with this Act. If the principal
28 amount of the Bonds issued for the Project exceeds the amount needed to refinance the Project, the
29 excess shall be applied to any other authorized capital project.

30 Unless otherwise provided by act or resolution of the County Council or by the County
31 Executive pursuant to Section 17 of this Act, earnings derived from the investment of the

1 proceeds of the Bonds may be treated as general revenues of the County and applied to general
2 County purposes and such use of investment proceeds is hereby acknowledged and authorized.

3 SECTION 9. BE IT FURTHER ENACTED that, for the purpose of redeeming and paying
4 the Bonds as they mature or become subject to mandatory redemption, the County shall make
5 withdrawals from amounts on deposit in the County's General Fund (the "General Fund"),
6 subject to availability and appropriation for such purpose, in an amount sufficient to provide for
7 the payment, when due, of the principal of all of the Bonds due in each such fiscal year. The
8 County may apply to the payment of the principal of the Bonds any funds received by it from the
9 State of Maryland, the United States of America, or any agency or instrumentality thereof, or
10 from any other source, if such funds are granted for the purpose of assisting the County in
11 obtaining public facilities of the class or classes of public facilities for which the Bonds are
12 authorized or may be otherwise lawfully applied to such payment; to the extent that any such
13 funds are applied to such purposes in any fiscal year as provided herein, the amount allocated
14 from the General Fund shall be reduced proportionately.

15 SECTION 10. BE IT FURTHER ENACTED that in the event any official of the County
16 whose signature shall appear on any Bonds or on other instruments or documents pertaining
17 thereto, shall cease to be such official prior to the delivery of the Bonds or other instruments or
18 documents, or in the event that any official shall take office subsequent to the sale of the Bonds,
19 his or her signature shall nevertheless be valid, sufficient and binding for the purposes herein
20 intended.

21 SECTION 11. BE IT FURTHER ENACTED that the County Executive is hereby
22 authorized to select and appoint a bank or other financial institution to act as paying agent for the
23 payment of the principal and redemption price, if any, on the Bonds and to act as registrar for the
24 Bonds. The selection of the paying agent and bond registrar shall be accomplished in accordance
25 with applicable provisions of law. In the event that the Bonds are issued in book-entry form, the
26 County Executive may determine that a bond registrar and paying agent need not be designated
27 or that the County shall act as bond registrar and paying agent.

28 SECTION 12. BE IT FURTHER ENACTED that the powers granted by this Act are
29 additional and cumulative and the Bonds authorized by this Act may be issued, notwithstanding
30 that other bond acts or laws may provide for the issuance of other bonds or the borrowing of
31 money for the same or similar purposes on the same or other terms and conditions. This Act

1 shall be liberally construed to effectuate its purposes, namely, to authorize the borrowing of
 2 money and the incurring of indebtedness to refinance the Project set forth in this Act. Provisions
 3 of this Act shall be deemed met and satisfied if there is substantial compliance with such
 4 provisions. This Act is not intended to provide or imply that this Act or any prior act not
 5 containing a similar provision precludes the County from exercising any power or prerogative
 6 provided by this Act or any other law whether exercised solely pursuant to such other law or in
 7 conjunction with the powers provided by this Act so that, without limiting the generality of this
 8 Section, the County may exercise the power to issue (i) bond anticipation notes (in anticipation
 9 of the issuance of bonds pursuant to this Act or otherwise) and grant anticipation notes pursuant
 10 to Section 12 of Article 31 of the Annotated Code of Maryland, as amended, replaced or
 11 recodified from time to time, (ii) bonds (or any related bond anticipation or other notes)
 12 authorized by Sections 12-201, *et seq.*, of the Economic Development Article of the Annotated
 13 Code of Maryland, as amended, replaced or recodified from time to time, and (iii) interest-
 14 bearing general obligation bonds; and in exercising such powers, the County may sell such notes
 15 or bonds at public or private (negotiated) sale as authorized by these or any other applicable
 16 laws.

17 SECTION 13. BE IT FURTHER ENACTED that, pursuant to Section 30 of Article 31 of
 18 the Annotated Code of Maryland, as amended, replaced or recodified from time to time (the
 19 “Registration Statute”), the Bonds issued hereunder may be issued in “registered form” within
 20 the meaning of the Registration Statute, as may be determined by the County Executive, who
 21 may determine, approve or authorize the selection of trustees, transfer agents, registrars, paying
 22 or other agents, a custodian for a central depository or book-entry system and appropriate
 23 agreements with any of the foregoing and such other matters not inconsistent with this Act
 24 necessary or deemed appropriate in connection with the issuance of the Bonds in “registered
 25 form” within the meaning of the Registration Statute.

26 SECTION 14. BE IT FURTHER ENACTED that, the County Executive is hereby
 27 authorized, on behalf of the County, to make such undertakings, covenants or agreements for the
 28 benefit of the holders of the Bonds with regard to secondary market disclosure as shall be
 29 necessary or appropriate to comply with the provisions of Securities and Exchange Commission
 30 Rule 15c2-12, as amended, modified or replaced from time to time (“SEC Rule 15c2-12”). Such
 31 authority shall include (without limitation) the power to approve and enter into continuing

1 disclosure or dissemination agreements with any third party; the power to amend or modify any
 2 such undertakings, covenants, agreements, or continuing disclosure or dissemination agreements,
 3 to the extent permitted by SEC Rule 15c2-12; and the power to provide for the insertion of a
 4 description regarding any such secondary market disclosure covenants or agreements in any
 5 applicable notice of sale, bond purchase agreement or other purchase contract, and any
 6 preliminary or final official statement, offering circular, official circular or similar offering
 7 document. Such undertakings, covenants or agreements shall be binding upon the County and
 8 the County hereby covenants and agrees to abide by any such undertakings, covenants or
 9 agreements made in accordance with this Section for the benefit of the holders of the Bonds.

10 SECTION 15. BE IT FURTHER ENACTED that, to the extent the Bonds are not issued for
 11 purposes of refinancing the Project, the County Executive is authorized to take the actions
 12 necessary to determine the structure of any sale and leaseback or lease and leaseback of the
 13 Project to either the Industrial Development Authority of Prince George's County, the Prince
 14 George's County Redevelopment Authority, the Revenue Authority of Prince George's County,
 15 any other public instrumentality of the County or a public instrumentality of the State of
 16 Maryland that best serves the needs and public purposes of the County, including whether tax-
 17 exempt or taxable participation interests are offered in the County's leaseback, giving
 18 consideration to a multitude of factors including (without limitation) disposition price, term of
 19 years offered for any leaseback (including any renewal terms, options to terminate, or options to
 20 purchase, if applicable), lease payment amounts, operating and maintenance expenses that would
 21 be the responsibility of the County, ongoing fees and charges in connection with any offering of
 22 participation interests in any leaseback to the County, and whether or not the remaining
 23 economic life of the Project upon expiration of the stated term of the leaseback (and any renewal
 24 terms) would be such that acquisition of title to the Project by the County upon such expiration
 25 would continue to serve a public purpose of the County, and to effectuate and consummate the
 26 transactions contemplated in the recitals to this Act with respect to the Project that is in the best
 27 interests of the County.

28 SECTION 16. BE IT FURTHER ENACTED that the appropriate officials of the County
 29 are hereby authorized and directed to prepare or provide for the preparation of, and the
 30 publication of, any notices required by Article 25A, Section 5(B) of the Annotated Code of
 31 Maryland, as amended, in connection with a sale and leaseback or lease and leaseback of the

1 Project.

2 SECTION 17. BE IT FURTHER ENACTED that any and all determinations, approvals,
3 authorizations, decisions, undertakings, specifications, covenants, agreements or provisions (by
4 whatever terminology so specified) authorized to be made by the County Executive pursuant to
5 the provisions of this Act shall be made by order of the County Executive unless otherwise
6 expressly provided herein; provided that, unless contrary to the provisions of the County Charter
7 or other applicable law, the County Executive is hereby expressly authorized to delegate by order
8 to such official or officials designated in such order the power to make any such determinations,
9 approvals, authorizations, decisions, undertakings, specifications, covenants, agreements or
10 provisions or other matters and the manner in which to evidence the same. In addition, unless
11 contrary to the provisions of the County Charter or other applicable law, the County Executive is
12 hereby authorized by order to delegate to one or more appropriate County officials the authority
13 granted to the County Executive by this Act to sign any documents, certificates or instruments,
14 or to specify that one or more appropriate County officials in addition to the County Executive
15 shall sign any such documents, certificates or instruments.

16 SECTION 18. BE IT FURTHER ENACTED that if any one or more of the provisions of
17 this Act, including any covenants or agreements provided herein on the part of the County to be
18 performed, should be contrary to law, then such provision or provisions shall be null and void
19 and shall in no way affect the validity of the other provisions of this Act or of the Bonds.

20 SECTION 19. BE IT FURTHER ENACTED that the provisions of this Act are hereby
21 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
22 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
23 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
24 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
25 Act, since the same would have been enacted without the incorporation in this Act of any such
26 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

27 SECTION 20. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
28 calendar days after it becomes law.

Adopted this 21st day of July, 2009.

COUNTY COUNCIL OF PRINCE
GEORGE’S COUNTY, MARYLAND

BY: _____
Marilynn M. Bland
Chairperson

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

Note: Exhibit A and Attachment 1 available in hard copy and as an Inclusion File in LIS

