

COUNTY COUNCIL OF PRINCE GEORGE’S COUNTY, MARYLAND

2018 Legislative Session

Resolution No. CR-65-2018

Proposed by The Chair (by request – County Executive)

Introduced by Council Members Davis, Franklin, Taveras and Patterson

Co-Sponsors _____

Date of Introduction September 25, 2018

RESOLUTION

1 A RESOLUTION concerning

2 Economic Development Revenue Bonds

3 For the purpose of issuing, pursuant to and in accordance with the Maryland Economic
4 Development Revenue Bond Act, economic development revenue bonds in an aggregate
5 principal amount not to exceed Seventeen Million Dollars (\$17,000,000), and to loan the
6 proceeds from the sale of such bonds to (i) Chesapeake Lighthouse Foundation, Inc., a not-for-
7 profit corporation organized under the laws of the State of Maryland (the “Foundation”), and (ii)
8 Chesapeake Education Services, L.L.C., a limited liability company organized under the laws of
9 the State of Maryland (“CES” and, together with the Foundation, the “Facility Applicant”), to be
10 used for the purpose of financing or refinancing the costs of certain facilities, within the meaning
11 of the Act (as defined herein), located in Prince George’s County, Maryland (the “County”), to
12 be used by the Facility Applicant in connection with its tax-exempt purposes of operating not-
13 for-profit charter schools in accordance with and pursuant to the laws of the State of Maryland;
14 authorizing the County Executive to specify, prescribe, determine, provide for, approve, execute
15 and deliver any and all matters, details, forms, documents or procedures necessary or appropriate
16 to effectuate the authorization, sale, security, issuance, delivery and payment of and for such
17 bonds and the lending of the proceeds thereof; reserving certain rights in the County; providing
18 for the effective date of this Resolution; providing for the termination of this Resolution; and
19 generally providing for and determining various matters in connection with such bonds and the
20 lending of the proceeds thereof.

21

1 WHEREAS, Sections 12-101 through 12-118, inclusive, of the Economic Development
2 Article of the Annotated Code of Maryland, being the Maryland Economic Development
3 Revenue Bond Act (the “Act”) empowers any public body (as defined in the Act) to issue and
4 sell bonds (as defined in the Act), as its limited obligations and not upon its faith and credit or
5 pledge of its taxing power, at any time and from time to time, and to loan the proceeds of the sale
6 of such bonds to one or more facility users (as defined in the Act) to finance or refinance the
7 costs of the acquisition and improvement (as defined in the Act) of a facility or facilities (as
8 defined in the Act) for one or more facility users or the refunding of outstanding bonds.

9 WHEREAS, the Act states the declared legislative purpose of the General Assembly of
10 Maryland to be to (1) relieve conditions of unemployment in the State of Maryland (the “State”);
11 (2) encourage the increase of industry and commerce and a balanced economy in the State; (3)
12 assist in the retention of existing industry and commerce in, and the attraction of new industry
13 and commerce to, the State through, among other things, the development of ports, the control or
14 abatement of environmental pollution, and the use and disposal of wastes; (4) promote economic
15 development; (5) protect natural resources and encourage resource recovery; and (6) promote the
16 health, welfare and safety of the residents of the State.

17 WHEREAS, on November 9, 2015, as authorized by Resolution No. CR-66-2015 of the
18 County Council of the County, the County issued its (i) \$34,195,000 Charter School Revenue
19 Bonds (Chesapeake Lighthouse Charter School Project) Series 2015A and (ii) \$1,155,000
20 Charter School Revenue Bonds (Chesapeake Lighthouse Charter School Project) Taxable Series
21 2015B (together, the “2015 Bonds”) pursuant to an Indenture of Trust dated as of October 1,
22 2015 (as previously supplemented and amended, the “2015 Indenture”) between the County and
23 UMB Bank, National Association, as trustee (the “Trustee”).

24 WHEREAS, pursuant to the Loan and Security Agreement dated as of October 1, 2015
25 (as previously supplemented and amended, the “2015 Loan Agreement”) among the County, the
26 Foundation and CES, the County loaned (the “2015 Loan”) the proceeds of the 2015 Bonds to
27 the Facility Applicant for the purposes and on the terms set forth in the 2015 Loan Agreement.

28 WHEREAS, on December 6, 2016, as authorized by Resolution No. CR-071-2016 of the
29 County Council of the County, the County issued its (i) \$21,055,000 Charter School Revenue
30 Bonds (Chesapeake Lighthouse Charter School Project) Series 2016A and (ii) \$445,000 Charter
31 School Revenue Bonds (Chesapeake Lighthouse Charter School Project) Taxable Series 2016B

1 (together, the “2016 Bonds”) pursuant to the 2015 Indenture, as amended by a First
2 Supplemental Indenture of Trust dated as of December 1, 2016 (as previously supplemented and
3 amended, the “2016 First Supplemental Indenture”) between the County and UMB Bank,
4 National Association, as trustee (the “Trustee”).

5 WHEREAS, pursuant to the 2015 Loan Agreement, as amended by the First Amendment
6 to Loan and Security Agreement dated as of December 1, 2016 (as previously supplemented and
7 amended, the “2016 First Amendment to Loan Agreement”) among the County, the Foundation
8 and CES, the County loaned (the “2016 Loan”) the proceeds of the 2016 Bonds to the Facility
9 Applicant for the purposes and on the terms set forth in the 2016 First Amendment to Loan
10 Agreement.

11 WHEREAS, the Facility Applicant’s obligations under the 2015 Loan Agreement as
12 amended by the 2016 First Amendment to Loan Agreement were secured by, among other
13 things, certain real property of the Facility Applicant and the improvements located thereon
14 pursuant to and as further described in a Deed of Trust, Assignment of Rents and Security
15 Agreement dated as of October 1, 2015 (the “2015 Deed of Trust”), as amended by the First
16 Amendment to Deed of Trust, Assignment of Rents and Security Agreement dated as of
17 December 1, 2016 (the “2016 First Amendment to Deed of Trust”) (collectively, the 2015 Deed
18 of Trust and 2016 First Amendment to Deed of Trust, the “Deed of Trust”) from CES for the
19 benefit of the County, which Deed of Trust was assigned by the County to the Trustee as security
20 for the 2015 Bonds and 2016 Bonds.

21 WHEREAS, the County has received a letter (the “Letter of Intent”) from the Facility
22 Applicant requesting the County (i) to issue and sell its bonds pursuant to the Act and as
23 “Additional Bonds” pursuant to the 2015 Indenture, which Bonds (as defined herein) will be
24 secured on a parity basis with the 2015 Bonds and 2016 Bonds in accordance with the Trust
25 Indenture (as defined herein), and (ii) to loan the proceeds of the sale thereof to the Facility
26 Applicant, for the purpose of (a) refinancing certain indebtedness of the Facility Applicant
27 incurred in connection with the acquisition of a 60,000 square foot building, the renovation,
28 construction, installation and equipping of such building for operation by the Foundation as
29 Chesapeake Math & IT South Elementary Public Charter School, (b) funding of a debt service
30 reserve fund for the Bonds, (c) paying costs of capitalized interest on the Bonds, and (d) paying
31 allowable costs of issuance of the Bonds ((a) through (d) referred to collectively as the

1 “Project”). The Facility Applicant acknowledges in the Letter of Intent that the County reserves
2 certain rights concerning the issuance of the Bonds as provided in Section 6 of this Resolution.

3 WHEREAS, the facilities which the Facility Applicant has requested to be so financed or
4 refinanced shall consist generally of elementary school-level educational facilities located at
5 9601 Fallard Terrace, Upper Marlboro, Prince George’s County, Maryland (the “Facilities”).

6 WHEREAS, the County, based upon the findings and determinations and subject to the
7 reservation of certain rights as hereinafter set forth, has determined to issue and sell, in addition
8 to any bonds authorized to be issued by any other act of the County, its bonds (within the
9 meaning of the Act), at one time or from time to time, in one or more tax-exempt or taxable
10 series, in an aggregate principal amount not to exceed Seventeen Million Dollars (\$17,000,000),
11 hereinafter designated “Prince George’s County, Maryland Charter School Revenue Bonds
12 (Chesapeake Lighthouse Charter School Project) Series 2018” (all such bonds so issued being
13 referred to herein as the “Bonds”), and to loan (the “2018 Loan” and, together with the 2015
14 Loan and the 2016 Loan, the “Loan”) the proceeds of the Bonds to the Facility Applicant on the
15 terms and conditions as hereinafter provided in order to finance or refinance, in whole or in part,
16 the costs of the Project and of the acquisition and improvement by the Facility Applicant of the
17 Facilities, to encourage economic development and to protect the health, welfare and safety of
18 the citizens of the State and of the County.

19 SECTION 1. NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince
20 George’s County, Maryland, that acting pursuant to the Act, it is hereby found and determined as
21 follows:

22 (i) As evidenced by the Letter of Intent (a “letter of intent” within the meaning of the Act),
23 the Bonds are to be issued pursuant to the Act by the County (a “public body” and a “county”
24 within the meaning of the Act) in order to loan the proceeds thereof to the Facility Applicant (a
25 “facility applicant” and a “facility user” within the meaning of the Act) for the sole and exclusive
26 purpose of financing or refinancing the costs of the Project and of the acquisition and
27 improvement by the Facility Applicant of the Facilities (“facilities” within the meaning of the
28 Act).

29 (ii) The accomplishment of the transactions contemplated and authorized by this
30 Resolution, including (without limitation) the financing and refinancing of costs of the Project
31 and of the acquisition and improvement by the Facility Applicant of the Facilities, will promote

1 the declared legislative purposes of the Act by (a) creating and sustaining jobs and employment,
2 thereby relieving conditions of unemployment in the State and in the County; (b) encouraging
3 the increase of industry and commerce and a balanced economy in the State and in the County;
4 (c) assisting in the retention of existing industry and commerce in, and the attraction of new
5 industry and commerce to, the State and the County; (d) promoting economic development; and
6 (e) promoting the health, welfare and safety of the residents of the County and of the State.

7 (iii) The Bonds, and the interest thereon, and the redemption price and the purchase price
8 thereof, shall be limited obligations of the County secured on a parity basis with the 2015 Bonds
9 and the 2016 Bonds pursuant to the Trust Indenture, and are payable solely from the trust estate
10 established under the Trust Indenture or from other moneys made available to the County for
11 such purpose. Neither the Bonds nor the interest thereon nor the redemption price thereof nor
12 the purchase price thereof shall ever (a) constitute an indebtedness or a charge against the
13 general credit or taxing powers of the State, the County or any other public body within the
14 meaning of any constitutional or charter provision or statutory limitation, or (b) constitute or give
15 rise to any pecuniary liability of the State, the County or any other public body, and the Bonds
16 shall not constitute an indebtedness to which the faith and credit of the State, the County or any
17 other public body is pledged.

18 (iv) The Bonds and the interest thereon shall be limited obligations of the County secured
19 on a parity basis with the 2015 Bonds and the 2016 Bonds pursuant to the Trust Indenture,
20 payable solely from the revenues derived from Loan repayments (both principal and interest)
21 made to the Trustee by the Facility Applicant on account of the Loan and from any other moneys
22 made available to the Trustee for such purpose. No such moneys will be commingled with the
23 County's funds or will be subject to the absolute control of the County, but will be subject only
24 to such limited supervision and checks as are deemed necessary or desirable by the County to
25 insure that the proceeds of the Bonds are used to accomplish the public purposes of the Act and
26 this Resolution. The transactions authorized hereby do not constitute any physical public
27 betterment or improvement or the acquisition of property for public use or the purchase of
28 equipment for public use. The public purposes expressed in the Act are to be achieved by
29 facilitating and expediting the financing and refinancing of the costs of the Project and of the
30 acquisition and improvement by the Facility Applicant of the Facilities.

1 (v) The County Executive of the County (the “County Executive”), the Chief Executive
2 Officer of the County within the meaning of the Act, or his or her designee (the “Authorized
3 Representative”) shall undertake on behalf of the County certain responsibilities described in the
4 Act and hereinafter specified.

5 (vi) The Bonds may be sold pursuant to a limited offering, a private (negotiated) sale or at a
6 public sale, and at, above or below par, and in any event in such manner and upon such terms as
7 the County Executive or Authorized Representative, in his/her sole and absolute discretion,
8 deems to be in the best interests of the County.

9 (vii) All or a portion of the Bonds may be issued as “qualified 501(c)(3) bonds” within the
10 meaning of Section 145 of the Internal Revenue Code of 1986, as amended (the “Code”).

11 SECTION 2. BE IT FURTHER RESOLVED that nothing in this Resolution shall be
12 deemed to constitute (i) an undertaking by the County to expend any of its funds (other than the
13 proceeds from the sale of the Bonds, revenues derived from the Loan repayments made to the
14 County on account of the Loan, and any other moneys made available to the County for such
15 purpose) to effect the transactions described herein or (ii) an assurance by the County as to the
16 availability of one or more ready, willing and able purchasers for the Bonds or as to the
17 availability of one or more purchasers of the Bonds to whom the Bonds may lawfully be sold
18 under, among others, applicable federal and state securities and legal investment laws.

19 SECTION 3. BE IT FURTHER RESOLVED that as described in the Letter of Intent, the
20 County will not incur any liability, direct or indirect, or any cost, direct or indirect, in connection
21 with the issuance and sale of the Bonds, the making of the 2018 Loan or the financing or
22 refinancing of the costs of the Project or of the acquisition and improvement by the Facility
23 Applicant of the Facilities; accordingly, the Facility Applicant shall:

24 (i) negotiate all financing and refinancing arrangements in connection with the financing
25 and refinancing of the costs of the Project and of the acquisition and improvement by the Facility
26 Applicant of the Facilities, and

27 (ii) pay all costs incurred by or on behalf of the County in connection with the issuance
28 and sale of the Bonds, the making of the 2018 Loan, including the administration thereof,
29 including (without limitation) all costs incurred in connection with the development of the
30 appropriate legal documents necessary to effectuate the transactions contemplated herein,
31 including (without limitation) the fees of bond counsel, all costs in connection with publication

1 of notices of any public hearings to be held in connection therewith, and compensation to any
2 other third party performing services by or on behalf of the County in connection with the
3 transactions contemplated by this Resolution, whether or not such transactions are consummated.

4 SECTION 4. BE IT FURTHER RESOLVED that in addition to any bonds authorized to be
5 issued by any other act of the County, the issuance, sale and delivery by the County of the
6 Bonds, at one time or from time to time, and in one or more tax-exempt or taxable series, in an
7 aggregate principal amount not to exceed Seventeen Million Dollars (\$17,000,000), are hereby
8 authorized, subject to the provisions of the Act and this Resolution. The County will lend or
9 otherwise make available the proceeds of the Bonds to the Facility Applicant, as permitted by the
10 Act, pursuant to the terms and provisions of an amendment or supplement to the 2015 Loan
11 Agreement to be entered into between the County and the Facility Applicant (the "Supplement to
12 Loan Agreement"), to be used by the Facility Applicant for the sole and exclusive purpose of
13 financing and refinancing the costs of the Project and of the acquisition and improvement by the
14 Facility Applicant of the Facilities, to the extent permitted by the Act and the Code. The Bonds
15 and the interest thereon shall be limited obligations of the County, repayable solely from the
16 revenue derived from Loan repayments (principal and interest) made to the Trustee by the
17 Facility Applicant and from any other moneys made available to the Trustee for such purpose.
18 The maximum aggregate principal amount of Bonds which may be issued, sold and delivered
19 pursuant to this Resolution is Seventeen Million Dollars (\$17,000,000), unless such amount shall
20 be increased by a resolution supplemental hereto.

21 SECTION 5. BE IT FURTHER RESOLVED that repayment of the 2018 Loan shall be
22 secured by the Deed of Trust, as the same is amended or supplemented (such amendment or
23 supplement being the "Supplement to Deed of Trust") upon the issuance of the Bonds so as to
24 subject certain additional real property of the Facility Applicant and the improvements located
25 thereon (all as more particularly described in the Supplement to Deed of Trust) to the lien
26 originally created by the Deed of Trust. The form and substance of the Supplement to Deed of
27 Trust shall be acceptable to and approved by the County Executive or Authorized Representative
28 prior to the issuance of the Bonds, the issuance and delivery of the Bonds being contingent upon
29 the concurrent execution and delivery of the approved Supplement to Deed of Trust.

1 SECTION 6. BE IT FURTHER RESOLVED that the County reserves the right, in its sole
2 and absolute discretion, to take any actions which it may deem necessary in order to ensure that
3 the County:

4 (i) complies with all federal and State laws, whether proposed or enacted, which may
5 apply to or restrict the issuance of its economic development revenue bonds, and

6 (ii) issues such bonds to finance facilities which the County determines, in its sole and
7 absolute discretion, will provide the greatest benefit to the County.

8 SECTION 7. BE IT FURTHER RESOLVED that each series of the Bonds shall be
9 designated “Prince George’s County, Maryland Charter School Revenue Bonds (Chesapeake
10 Lighthouse Charter School Project) Series 2018.” The Bonds may be further identified by the
11 year of issue (to the extent such year is not 2018) and/or such other appropriate series or
12 subseries designations as the County Executive or Authorized Representative may approve.

13 The Bonds shall mature on such date or dates as may be approved by the County Executive
14 or Authorized Representative; provided that the Bonds shall mature not later than 30 years from
15 their date of issuance.

16 Each of the Bonds shall be executed in the name of the County and on its behalf by the
17 manual or facsimile signature of the County Executive of the County. The seal of the County or
18 a facsimile thereof shall be affixed to each of the Bonds, and attested by the manual or facsimile
19 signature of the County Executive. If deemed appropriate by the County Executive, each of the
20 Bonds may also be authenticated by the manual or facsimile signature of a trustee, registrar or
21 paying agent. At least one of such signatures on each Bond shall be a manual signature.

22 SECTION 8. BE IT FURTHER RESOLVED that the Bonds authorized pursuant to this
23 Resolution shall be “Additional Bonds” issued in accordance with the terms of the 2015
24 Indenture and the 2016 First Supplemental Indenture, and secured on a parity basis with the 2015
25 Bonds and the 2016 Bonds pursuant to the Trust Indenture, and that in connection with the
26 issuance of the Bonds the County will enter into an amendment or supplement to the 2015
27 Indenture (such amendment or supplement being the “Supplement to Trust Indenture”) with the
28 Trustee for the protection of the holders of the Bonds, which Supplement to Trust Indenture shall
29 be approved by the County Executive or Authorized Representative. The 2015 Indenture and the
30 2016 First Supplemental Indenture, as previously amended and supplemented and as

1 | supplemented or amended by the Supplement to Trust Indenture, is referred to herein as the
2 | “Trust Indenture.”

3 | SECTION 9. BE IT FURTHER RESOLVED that in connection with the transactions
4 | described herein, the County Executive or Authorized Representative is hereby authorized and
5 | empowered, by Executive Order or otherwise:

6 | (i) to approve the form and provisions of and execute and deliver the Bonds, the
7 | Supplement to Loan Agreement, the Supplement to Trust Indenture and any other documents
8 | related to the transactions contemplated herein;

9 | (ii) to approve the form and provisions of any Limited Offering Memorandum or other
10 | offering documents with respect to the Bonds;

11 | (iii) to confirm the appointment of the Trustee, bond registrar and paying agent or agents
12 | for the Bonds, which confirmation shall be evidenced by the County’s execution and delivery of
13 | the Supplement to Trust Indenture;

14 | (iv) to provide for the direct payment by the Facility Applicant of all costs, fees and
15 | expenses incurred by or on behalf of the County in connection with the issuance, sale and
16 | delivery of the Bonds, including (without limitation) costs of printing (if any) and issuing the
17 | Bonds, legal expenses (including the fees of bond counsel) and compensation to any third party
18 | performing services by or on behalf of the County in connection therewith; and

19 | (v) to specify, prescribe, determine, provide for, approve, execute and deliver (where
20 | applicable) such other matters, details, forms, documents, or procedures, including (without
21 | limitation) bond purchase agreements, deeds of trust, assignments and financing statements, and
22 | such other documents as are necessary or appropriate to effectuate the authorization, sale,
23 | security, issuance, delivery or payment of or for the Bonds and the making of the 2018 Loan.

24 | SECTION 10. BE IT FURTHER RESOLVED that the County Executive or the
25 | Authorized Representative, for and on behalf of the County, are hereby authorized and
26 | empowered to do all things, execute all instruments, and otherwise take all such action as the
27 | County Executive or Authorized Representative may determine by Executive Order or otherwise
28 | to be necessary, proper or expedient to carry out the authority conferred by this Resolution,
29 | including (without limitation) the execution of a certificate and/or agreement pursuant to Section
30 | 148 of the Code and the U.S. Treasury Regulations prescribed thereunder, subject to the
31 | limitations set forth in the Act and this Resolution.

1 SECTION 11. BE IT FURTHER RESOLVED that pursuant to Section 12-111(e) of the
2 Act that a resolution adopted under the Act is administrative in nature and is not subject to
3 procedures required for legislative acts.

4 SECTION 12. BE IT FURTHER RESOLVED that this Resolution shall take effect upon
5 its approval by the County Executive. It shall remain effective for a period of one year, and with
6 no further action required by the County Executive and the County Council of Prince George’s
7 County, Maryland, this Resolution shall be abrogated and of no further force and effect.

Adopted this 16th day of October, 2018.

COUNTY COUNCIL OF PRINCE
GEORGE’S COUNTY, MARYLAND

BY: _____
Dannielle M. Glaros
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____

BY: _____
Rushern L. Baker, III
County Executive