

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2017 Legislative Session**

Resolution No. CR-69-2017

Proposed by The Chairman (by request – County Executive)

Introduced by Council Members Davis, Turner, Harrison and Glaros

Co-Sponsors \_\_\_\_\_

Date of Introduction September 19, 2017

**RESOLUTION**

1 A RESOLUTION concerning

2 Winding Down and Termination of the Industrial Development Authority; Authorization to  
3 Dispose of Industrial Development Authority Assets, Bonds, Leases and other Property; and  
4 Authorization to Execute Certain Related Leases and Agreements

5 For the purposes of authorizing winding down the affairs of the Industrial Development  
6 Authority (“IDA”), including but not limited to the redemption and defeasance of the IDA  
7 Bonds; the disposition of IDA real property. including but not limited to authorizing the  
8 acquisition by the County of the IDA’s interests in the DuVall Wing Restoration Project and the  
9 Upper Marlboro Justice Center Project; authorizing the transfer of the County’s interests in the  
10 DuVall Wing Restoration Project and the Upper Marlboro Justice Center Project to the Revenue  
11 Authority (defined herein) following the redemption of the IDA Bonds; authorizing the  
12 execution of a lease agreement between the County and the Revenue Authority for the Upper  
13 Marlboro Justice Center and Gabriel DuVall Law Building; approving an amendment to the  
14 existing Justice Center Sublease between the County and the State for a portion of the DuVall  
15 Wing Restoration Project; and upon termination of the IDA, transferring title to all of the  
16 remaining assets and obligations of the IDA to the Revenue Authority.

17 WHEREAS, the Maryland Economic Development Revenue Bond Act, Sections 12-101  
18 through 12-118, inclusive, of the Economic Development Article of the Annotated Code of  
19 Maryland, as amended (the “Act”) authorizes any of the counties of Maryland and the Mayor and  
20 City Council of Baltimore to create an industrial development authority by resolution; and

1       WHEREAS, pursuant to the Act and CR-25-1987, the Industrial Development Authority of  
2 Prince George’s County, a body corporate and politic and an instrumentality of the County (the  
3 “IDA”), was created; and

4       WHEREAS, pursuant to Section 12-105(g) of the Act, the governing body of the County  
5 may in its sole discretion terminate the IDA; and

6       WHEREAS, the governing body has determined that termination of the IDA is in the  
7 interest of efficient government and best serves the public; and

8       WHEREAS, before termination may occur, the IDA must undertake certain steps to wind  
9 down its affairs and plan for the distribution of its assets, bonds, debts, leases, obligations, and  
10 other property, both personal and real, including the execution of the agreements contemplated  
11 herein; and

12       WHEREAS, pursuant to Charter Section 322, the County Executive has contemporaneously  
13 submitted candidates to the IDA for confirmation by the Council for the sole purpose of winding  
14 down the affairs of the IDA; and

15       WHEREAS, pursuant to Section 12-110 of the Act, the IDA issued and sold two  
16 outstanding series of its revenue bonds as its limited obligations to finance or refinance the costs  
17 of the acquisition and/or improvement of the Gabriel DuVall Law Building and the Upper  
18 Marlboro Justice Center; and

19       WHEREAS, pursuant to an Indenture of Trust dated as of June 1, 1989 by and between the  
20 IDA and Manufacturers and Traders Trust Company (f/k/a The First National Bank of  
21 Maryland), as trustee, as amended by a First Supplemental Indenture of Trust dated as of  
22 February 1, 1993 and a Second Supplemental Indenture of Trust dated July 1, 2003 (as amended,  
23 the “Justice Center Indenture”), the IDA issued its Refunding Lease Revenue Bonds (Upper  
24 Marlboro Justice Center Project) Series 2003A in the aggregate principal amount of \$27,430,000  
25 and its Subordinated Lease Revenue Bonds (Upper Marlboro Justice Center Expansion Project)  
26 Series 2003B in the aggregate principal amount of \$22,085,000 (collectively, the “Series 2003  
27 Bonds”) to refinance the costs of the Upper Marlboro Justice Center Project (as defined in the  
28 Justice Center Indenture) and pay costs of issuance; and

29       WHEREAS, pursuant to a Deed of Trust dated as of June 1, 1989 by and between the IDA  
30 and the Justice Center trustee, as amended by a First Amendment to Deed of Trust dated as of  
31 February 1, 1993 and by a Second Amended Deed of Trust dated as of July 15, 2003, the IDA

1 granted a security interest in the Justice Center Project for the benefit of the Justice Center  
2 trustee, on behalf of the Series 2003 Bondholders, as security for the Series 2003 Bonds; and

3 WHEREAS, pursuant to a Ground Lease dated as of June 1, 1989 by and between the  
4 County and the IDA, as amended by a First Supplemental Ground Lease dated July 15, 2003 (as  
5 amended, the "Ground Lease"), the County leased the site on which the Upper Marlboro Justice  
6 Center Project is located (the "Justice Center Land") to the IDA; and

7 WHEREAS, Section 4 of the Ground Lease provides that the Ground Lease shall terminate  
8 upon the conveyance of the IDA's interests under the Justice Center Lease (defined below) to the  
9 County; and

10 WHEREAS, pursuant to a Lease Agreement dated as of June 1, 1989 by and between the  
11 IDA and the County, as amended by a First Supplemental Lease Agreement dated as of February  
12 1, 1993 and a Second Supplemental Lease Agreement dated as of July 15, 2003 (as amended, the  
13 "Justice Center Lease"), the IDA leased the Upper Marlboro Justice Center Project and the  
14 Justice Center Land to the County in return for Rent (as defined in the Justice Center Lease),  
15 which Rent payments secure the payment of the principal of and interest on the Series 2003  
16 Bonds; and

17 WHEREAS, Article 3 of the Justice Center Lease provides that (1) the Justice Center Lease  
18 is effective until (a) the date that principal of and premium, if any, and interest on the Series  
19 2003 Bonds have been fully paid or provisions for the payment of the principal of and premium,  
20 if any, and interest on the Series 2003 Bonds have been made or (b) June 30, 2030 and (2) upon  
21 the expiration of the term, the Authority's interest in the Upper Marlboro Justice Center Project  
22 shall be conveyed to the County upon the payment of \$1.00 by the County to the IDA; and

23 WHEREAS, the Justice Center Lease allows for the voluntary prepayment of Rent, which  
24 prepayment shall be applied to the redemption of the Series 2003 Bonds, provided that the  
25 County must send notice to the Justice Center trustee of its intent to prepay Rent at least 5 days  
26 before any prepayment; and

27 WHEREAS, pursuant to a Sublease Agreement dated May 28, 1992 by and between the  
28 County and the State of Maryland (the "State"), (the "Justice Center Sublease"), the County  
29 subleased a portion of the Upper Marlboro Justice Center Project to the State; and

30 WHEREAS, pursuant to a Subordination, Attornment and Non-Disturbance Agreement  
31 dated as of November 1, 1991 by and among the IDA, the County, the State and the Justice

1 Center trustee, the parties recognized and provided for the subordination of the State's  
2 subleasehold interest in a portion of the Upper Marlboro Justice Center Project to the Ground  
3 Lease and the Justice Center Lease; and

4 WHEREAS, pursuant to an Indenture of Trust dated as of December 1, 2009 by and  
5 between the IDA and Wells Fargo Bank, N.A., as trustee, (the "DuVall Wing Indenture"), the  
6 IDA issued its Taxable Lease Revenue Bonds (Upper Marlboro Courthouse DuVall Wing  
7 Restoration Project) Series 2009 in the aggregate principal amount of \$23,850,000 (the "Series  
8 2009 Bonds," and together with the Series 2003 Bonds, the "IDA Bonds") to refinance the costs  
9 of construction, rehabilitation and repair of the DuVall Wing Restoration Project (as defined in  
10 the DuVall Wing Indenture) and pay costs of issuance; and

11 WHEREAS, pursuant to a Leasehold Deed of Trust dated as of December 1, 2009 by and  
12 between the IDA and the DuVall Wing trustee, the IDA granted a mortgage and security interest  
13 in the IDA leasehold interest in the DuVall Wing Restoration Project for the benefit of the  
14 DuVall Wing trustee, on behalf of the Series 2009 Bondholders, as security for the Series 2009  
15 Bonds; and

16 WHEREAS, pursuant to a Lease dated as of December 1, 2009 by and between the IDA  
17 and the County (the "DuVall Wing Lease"), the County leased the DuVall Wing Restoration  
18 Project and certain related real estate to the IDA; and

19 WHEREAS, the DuVall Wing Lease provides that it shall terminate upon (1) the first to  
20 occur of the fifth anniversary of the final maturity of the Series 2009 Bonds or (2) the payment of  
21 all Rental Payments (as defined in the DuVall Wing Leaseback Lease (as defined below)); and

22 WHEREAS, pursuant to a Financing Lease dated as of December 1, 2009 by and between  
23 the IDA and the County (the "DuVall Wing Leaseback Lease"), the IDA leased the DuVall Wing  
24 Restoration Project and certain related real estate under the DuVall Wing Lease back to the  
25 County; and

26 WHEREAS, the DuVall Wing Leaseback Lease provides that it shall terminate upon the  
27 payment of all Rental Payments and that, upon termination, the County shall be deemed to have  
28 acquired all of the IDA's interest in the DuVall Wing Restoration Project, the DuVall Lease and  
29 the Real Estate (as defined in the DuVall Wing Leaseback Lease); and

30 WHEREAS, pursuant to an Assignment of Rents and Leases dated as of December 1, 2009  
31 by and between the IDA and the County (the "DuVall Wing Assignment"), the IDA assigned to

1 the DuVall Wing trustee all payments from the County due to the IDA under the DuVall Wing  
2 Leaseback Lease as security for the Series 2009 Bonds; and

3 WHEREAS, the DuVall Wing Assignment provides that it shall terminate upon the final  
4 maturity date of the Series 2009 Bonds or upon the payment in full of the Series 2009 Bonds;  
5 and

6 WHEREAS, pursuant to Sections 21A-101 through 21A-112, inclusive, of the Prince  
7 George's County Code ("Subtitle 21A"), the Revenue Authority of Prince George's County,  
8 Maryland (the "Revenue Authority") was created and authorized to issue bonds for the purpose  
9 of financing or refinancing the cost of any one or more of the authorized projects undertaken by  
10 the Revenue Authority; and

11 WHEREAS, pursuant to Subtitle 21A, the Revenue Authority has the power to, *inter alia*,  
12 (1) acquire, purchase or otherwise obtain, hold and use any property, real, personal or mixed,  
13 tangible or intangible or any interest therein; to lease, as lessee, any property, real, personal or  
14 mixed, tangible or intangible or any interest therein; and to lease, as lessor, any project or part of  
15 any project, whether wholly or partially completed, and any property, real, personal or mixed,  
16 tangible or intangible, or any interest therein at any time acquired by the Revenue Authority and  
17 (2) construct, reconstruct, remodel, renovate, improve, equip, furnish, maintain, acquire, operate,  
18 control, regulate and finance or refinance projects within the boundary lines of the County,  
19 devoted wholly or partially for public uses, good or general welfare, including land and buildings  
20 to be occupied by governmental or educational agencies; and

21 WHEREAS, in order to effect the refunding of the IDA Bonds, the County intends to  
22 prepay all Rent and Rental Payments due under the documents of the Series 2003 Bonds and the  
23 Series 2009 Bonds and acquire all of the IDA's interests in the Upper Marlboro Justice Center  
24 Project and the DuVall Wing Restoration Project; and

25 WHEREAS, in order to effect the prepayment of the Rent and Rental Payment due under  
26 the documents of the Series 2003 Bonds and the Series 2004 Bonds and the refunding of the IDA  
27 Bonds, the Revenue Authority intends to issue bonds (the "Revenue Authority Refunding  
28 Bonds"), the proceeds of which will be used to acquire all of the County's interests in the Upper  
29 Marlboro Justice Center Project and the DuVall Wing Restoration Project; and

30 WHEREAS, pursuant to Section 819 of the Charter of the County, the County Council must  
31 approve all multiyear contracts exceeding an aggregate amount of \$500,000; and

1           WHEREAS, in order to effect the refunding of the IDA Bonds and the acquisition of the  
2 IDA's interest in the Upper Marlboro Justice Center Project and the DuVall Wing Restoration  
3 Project, the County and the Revenue Authority intend to utilize a lease financing structure  
4 similar to the existing structure currently in place between the County and the IDA; and

5           WHEREAS, the County intends to lease the Justice Center Land to the Revenue Authority  
6 (and the Revenue Authority intends to lease the same from the County) pursuant to a ground  
7 lease which shall remain in effect until the Revenue Authority Refunding Bonds are no longer  
8 outstanding; and

9           WHEREAS, following the acquisition by the Revenue Authority from the County of the  
10 Upper Marlboro Justice Center Project and the DuVall Wing Restoration Project, the Revenue  
11 Authority intends to lease the same to the County (and the County desires to lease the same from  
12 the Revenue Authority) in return for the payment of rent in an amount equal to the debt service  
13 due on the Revenue Authority Refunding Bonds until the Revenue Authority Refunding Bonds  
14 are no longer outstanding; and

15           WHEREAS, the County intends to supplement the existing Justice Center Sublease with the  
16 State to continue to lease a portion of the Upper Marlboro Justice Center Project to the State; and

17           WHEREAS, the County has been advised by bond rating agencies that it would be prudent  
18 for the County to consolidate certain of its bond issuing entities when practical; and

19           WHEREAS, upon termination of the IDA, the Act provides that title to all of the IDA's  
20 assets and obligations shall vest in and be assumed by the County; and

21           WHEREAS, immediately upon vesting and assumption by the County of the IDA's assets  
22 and obligations, the County shall transfer such assets and obligations to the Revenue Authority.

23           SECTION 1. NOW, THEREFORE, BE IT RESOLVED by the governing body of Prince  
24 George's County, Maryland, that the recitals to this Resolution are hereby incorporated by  
25 reference herein and deemed a substantive part of this Resolution, and terms used in this  
26 Resolution shall have the meanings given to such terms in the recitals hereto, unless otherwise  
27 defined herein.

28           SECTION 2. BE IT FURTHER RESOLVED that the governing body approves the  
29 participation of the County and the Revenue Authority in the acquisition, construction,  
30 improvement, furnishing, equipping, maintenance, control, financing and refinancing of the  
31 DuVall Wing Restoration Project and the Upper Marlboro Justice Center Project and the

1 carrying out and consummation by the County and the Revenue Authority of the transactions,  
2 rights, duties and obligations in support thereof.

3 SECTION 3. BE IT FURTHER RESOLVED that the governing body approves the  
4 Revenue Authority's issuance of the Revenue Authority Refunding Bonds for the purpose of  
5 refunding the IDA Bonds.

6 SECTION 4. BE IT FURTHER RESOLVED that the governing body authorizes and  
7 approves the use of the proceeds of the Revenue Authority Refunding Bonds to prepay all Rent  
8 and Rental Payments due under the documents of the IDA Bonds.

9 SECTION 5. BE IT FURTHER RESOLVED that, following the prepayment of all Rent  
10 and Rental Payments, the governing body authorizes and approves the acquisition by the County  
11 of the IDA's interest in the Upper Marlboro Justice Center Project and the DuVall Wing  
12 Restoration Project for a nominal amount.

13 SECTION 6. BE IT FURTHER RESOLVED that, upon the County's acquisition of the  
14 IDA's interests in the Upper Marlboro Justice Center Project and the DuVall Wing Restoration  
15 Project, the governing body authorizes and approves the conveyance of the County's interests in  
16 the DuVall Wing Restoration Project and the Upper Marlboro Justice Center Project to the  
17 Revenue Authority.

18 SECTION 7. BE IT FURTHER RESOLVED that the governing body authorizes and  
19 approves the ground lease from the County to the Revenue Authority of the Justice Center Land,  
20 the lease from the County to the Revenue Authority of the DuVall Wing Restoration Project, the  
21 leaseback from the Revenue Authority to the County of the DuVall Wing Restoration Project and  
22 the lease from the Revenue Authority to the County of the Upper Marlboro Justice Center  
23 Project as a part of the security structure for the Revenue Authority Refunding Bonds.

24 SECTION 8. BE IT FURTHER RESOLVED that the governing body authorizes and  
25 approves an amendment to the existing Justice Center Sublease as a new sublease between the  
26 County and State for a portion of the DuVall Wing Restoration Project.

27 SECTION 9. BE IT FURTHER RESOLVED that the governing body authorizes and  
28 approves on the 90<sup>th</sup> day after the IDA shall have no outstanding bond obligations (the "Effective  
29 Date") the termination of the IDA as a body politic and corporate pursuant to Section 12-  
30 105(g)(1)(ii) of the Act, and the assumption and transfer of the IDA's remaining assets, debts,  
31 leases, obligations, and other property, both personal and real, to the County pursuant to Section

1 12-105(g)(2).

2 SECTION 10. BE IT FURTHER RESOLVED that, pursuant to Section 21A-103 of  
3 Subtitle 21A, the governing body approves the transfer to the Revenue Authority of all the  
4 County's interests obtained pursuant to Section 9 of this Resolution as a result of the IDA's  
5 termination, and the governing body approves such participation of the Revenue Authority in the  
6 acquisition, construction, improvement, furnishing, equipping, maintenance, control, financing  
7 and refinancing of IDA's assets and obligations and the carrying out and consummation by the  
8 Revenue Authority of the transactions, rights, duties and obligations on the part of the IDA, as  
9 such will be acquired by the County and transferred to the Revenue Authority, contemplated by  
10 any documents, agreements, contracts or instruments of any nature whatsoever originally entered  
11 into by the IDA or to which the IDA originally was subject or by which the IDA originally was  
12 bound.

13 SECTION 11. BE IT FURTHER RESOLVED that the County Executive, or his designee,  
14 unless contrary to the provisions of the County Charter or other applicable law, is hereby  
15 authorized to undertake or execute any and all agreements, approvals, authorizations, covenants,  
16 decisions, determinations, documents, procedures, provisions, or other undertakings (by  
17 whatever terminology so specified) deemed necessary and advisable in the County Executive's  
18 opinion to effect and consummate the refunding of the IDA Bonds, and following such  
19 refundings, the assumption of the IDA's assets and obligations and the conveyance of the  
20 County's interests in the Upper Marlboro Justice Center Project and the DuVall Wing  
21 Restoration Project to the Revenue Authority and any other action contemplated by this  
22 Resolution.

23 SECTION 12. BE IT FURTHER RESOLVED that, until the occurrence of the Effective  
24 Date provided for in this Resolution, it is intended that the IDA shall retain title to all of its  
25 property and assets (except for its interests in the DuVall Wing Restoration Project and the  
26 Upper Marlboro Justice Center Project) and shall continue to exercise all of its rights, duties and  
27 obligations under any documents, agreements, contracts or instruments of any nature whatsoever  
28 to which it is a party or subject or by which it is bound.

29 SECTION 13. BE IT FURTHER RESOLVED that the provisions of this Resolution are  
30 hereby declared to be severable, and in the event that any section, subsection, paragraph,  
31 subparagraph, sentence, clause, phrase or word of this Resolution is declared invalid or



1 | unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall  
2 | not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs,  
3 | subsections or sections of this Resolution since the same would have been adopted without the  
4 | incorporation of this Resolution of any such invalid or unconstitutional word, phrase, clause,  
5 | sentence, subparagraph, subsection or section.

6 | SECTION 14. BE IT FURTHER RESOLVED that this Resolution shall take effect as of  
7 | the date of its adoption, subject to the further provisions hereof.

Adopted this 24<sup>th</sup> day of October , 2017.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Derrick Leon Davis  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive