

COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND

LEGISLATIVE BILL #2010-3

INTRODUCED BY: COMMISSIONERS COLE, LAYTON AND GHRIST

INTRODUCED ON: OCTOBER 12, 2010

ATTEST:

JOHN W. COLE, PRESIDENT

PUBLIC HEARING: OCTOBER 26, 2010; COURTHOUSE, 109 MARKET STREET,
RM. 106, DENTON, MARYLAND, BEGINNING AT 7:30 PM

THIRD READING:

ENACTED:

EFFECTIVE:

A BILL ENTITLED

**GENERAL OBLIGATION BOND, BOND ANTICIPATION NOTE AND REFUNDING BOND
AUTHORIZATION FOR JONESTOWN WATER SYSTEM PROJECT**

For the purpose of authorizing and empowering County Commissioners of Caroline County (the "County") to issue and sell from time to time, at public or private sale, one or more series of general obligation bonds in an aggregate principal amount not to exceed Ninety-five Thousand Dollars (\$95,000.00), each series of bonds to be issued and sold and the proceeds thereof to be used and applied to finance, reimburse or refinance a portion of the costs as described herein of the acquisition and construction of a new water supply, treatment and distribution system to serve the Jonestown area of the County, including the Nelpine Heights community in the Jonestown area, together with related costs, issuance costs and, if the County Commissioners so determine by resolution, interest during construction and for a reasonable period thereafter; authorizing the issuance and sale from time to time, at public or private sale, of one or more series of general obligation bond anticipation notes in an aggregate principal amount not to exceed Ninety-five Thousand Dollars (\$95,000.00), prior to and in anticipation of the issuance of any series of bonds authorized hereby, in order to finance project costs on an interim basis and to pay related costs, including issuance costs and funded interest; authorizing the issuance and sale from time to time, at public or private sale, of one or more series of general obligation bonds in order to refund any bonds issued pursuant to the authority of this public local law and to pay related costs, including issuance costs and funded interest, provided that, the aggregate principal amount of any such issue of refunding bonds may not exceed 130% of the aggregate principal amount of the bonds refunded therefrom; authorizing and empowering the County, by adoption of a resolution or resolutions prior to the issuance of any such bonds, notes or refunding bonds, to approve, determine or provide for the determination of certain details relating to such obligations; making certain representations with respect to any such bonds, notes or refunding bonds issued on a tax-exempt basis; pledging the faith and credit and unlimited taxing power of the County to the payment of the bonds, notes and refunding bonds authorized hereby and providing that any such obligations may be payable from other sources lawfully available for such purposes; providing that this title be deemed a fair summary of this public local law for all purposes; and relating generally to the issuance and sale of the bonds, notes and refunding bonds authorized hereby.

RECITALS

1. County Commissioners of Caroline County, a body politic and corporate and a political subdivision of the State of Maryland (the "County"), is authorized and empowered by Sections 14 to 19, inclusive, of Article 25B of the Annotated Code of Maryland, as amended (the "Enabling Act"), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds. The Board of County Commissioners of Caroline County, the governing body of the County, is hereinafter referred to as the "County Commissioners".

2. The County has determined to acquire and construct a new water supply, treatment and distribution system to serve the Jonestown area of the County, including the Nelpine Heights community in the Jonestown area, which undertaking will include, without limitation, demolishing an existing water treatment building, constructing a new treatment building with disinfection system and hydropneumatic tanks, installing new wells and water distribution mains, service connections and meters, and, in connection therewith, to engage in or pay its allocable share of related acquisition, construction, expansion, reconstruction, renovation, replacement, demolition, excavation, improvement, installation, furnishing and equipping activities, as applicable, and to acquire or pay for, as applicable, acquisition of land, necessary property rights and equipment, related site and utility improvements, and related architectural, financial, legal, planning, design and engineering expenses, and contingencies, and to borrow money to finance, reimburse or refinance a portion of the costs of such undertaking together with costs of issuance and, if the County Commissioners so determine pursuant to a resolution, interest during construction and for a reasonable period thereafter.

3. The County presently intends to borrow money needed for project purposes from the United States Department of Agriculture, Rural Housing Service, or any related department, division, agency or instrumentality (any such entity, "USDA"), and USDA has preliminarily indicated that it can loan the County \$95,000.00 for project purposes.

4. Notwithstanding the County's present expectation to borrow money from USDA, the County Commissioners, pursuant to a resolution or resolutions, may provide for the sale of any series of the bonds authorized hereby to any other purchaser or purchasers or to any combination of USDA and any other purchasers.

5. Prior to issuing any series of bonds authorized hereby, the County may need to obtain interim financing in order to finance project costs on a timely basis through the issuance of one or more series of its general obligation bond anticipation notes pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland, as amended (the "Bond Anticipation Note Enabling Act").

6. Subsequent to the issuance of any series of bonds authorized hereby, the County may desire to refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 24 of Article 31 of the Annotated Code of Maryland, as amended (the "Refunding Act").

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND THAT:

Section 1. The Recitals to this public local law are deemed a substantive part hereof and incorporated by reference herein. Capitalized terms defined in such Recitals and used herein shall have the meanings given to such terms in the Recitals.

Section 2. Pursuant to the authority of the Enabling Act, the County is hereby authorized and empowered to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing a portion of the costs of the acquisition and construction of a new water supply, treatment and distribution system to serve the Jonestown area of the County, including the Nelpine Heights community in the Jonestown area, which

financed, reimbursed or refinanced costs may include, without limitation, costs of demolishing an existing water treatment building, constructing a new treatment building with disinfection system and hydropneumatic tanks, installing new wells and water distribution mains, service connections and meters, and related acquisition, construction, expansion, reconstruction, renovation, replacement, demolition, excavation, improvement, installation, furnishing and equipping costs, as applicable, together with costs of acquisition of land, necessary property rights and equipment, related site and utility improvements, and related architectural, financial, legal, planning, design and engineering expenses and contingencies, costs of issuance, and if the County Commissioners so determine by resolution, interest during construction and for a reasonable period thereafter (collectively, the "Project"). The total cost of the Project not otherwise payable from other sources, including (without limitation) any grants made to the County, is not expected to exceed Ninety-five Thousand Dollars (\$95,000.00).

Section 3. (a) To evidence the borrowing and indebtedness authorized in Section 2 of this public local law, the County, acting pursuant to the authority of the Enabling Act, is hereby authorized and empowered to issue and sell, at one time or from time to time, at public or private sale, one or more series of its general obligation bonds in an aggregate principal amount not to exceed Ninety-five Thousand Dollars (\$95,000.00).

(b) In the event the County issues any bond anticipation notes as authorized in Section 5 hereof, proceeds of any bonds authorized in Section 3 hereof may also be applied to prepay or pay principal, premium and/or interest on such bond anticipation notes, and any such expenditure shall be considered an expenditure for Project purposes.

Section 4. Prior to issuing any series of the bonds authorized to be issued hereunder, the County Commissioners shall adopt a resolution or resolutions containing all of the provisions required under Section 15(4) of the Enabling Act. Any such resolution may also contain such other provisions as the County Commissioners may deem appropriate. Any such resolution may be adopted by the County Commissioners at any time after the enactment of this public local law and the appropriate officers of the County may take any action deemed appropriate to effect the timely issuance and sale of the bonds pursuant to a resolution at any time after the enactment of this public local law, provided only that such resolution may not become finally effective until the effective date of this public local law. The bonds may be sold on any date or dates after the effective date of this public local law.

Section 5. Pursuant to the authority of the Bond Anticipation Note Enabling Act and this public local law, the County is authorized and empowered to issue and sell, at one time or from time to time, at public or private sale, general obligation bond anticipation notes in one or more series in an aggregate principal amount not to exceed Ninety-five Thousand Dollars (\$95,000.00), prior to and in anticipation of the sale of any of the bonds authorized hereby for the public purpose of financing or reimbursing all or a portion of the costs identified in Section 2 above on an interim basis, paying costs and expenses in connection with the issuance, sale and delivery of such bond anticipation notes, and, to the extent determined by the County Commissioners by resolution, paying interest on such bond anticipation notes. Prior to the issuance, sale and delivery of any such series of bond anticipation notes, the County Commissioners shall adopt a resolution or resolutions pursuant to the authority of this public local law authorizing such series of bond anticipation notes and specifying, prescribing, determining, providing for and approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Any such resolution may not become finally effective until the effective date of this public local law.

Section 6. Pursuant to the authority of the Refunding Act and this public local law, the County is authorized and empowered to issue and sell, at one time or from time to time, at public or private sale, general obligation refunding bonds in one or more series for the purpose of refunding or advance refunding any of the bonds issued pursuant to the authority of this public local law, including the payment of any redemption or prepayment premium and any interest accrued or to accrue to the date of redemption, prepayment, purchase or maturity of the bonds to be refunded, paying costs and expenses in connection with

the issuance, sale and delivery of such refunding bonds, and, to the extent determined by the County Commissioners by resolution, paying interest on such refunding bonds, for the public purpose of realizing savings to the County in the aggregate cost of debt service on either a direct comparison or present value basis or in order to accomplish any debt restructuring that is permitted by applicable law; provided that, the aggregate principal amount of any such issue of refunding bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the bonds refunded thereby. Prior to the issuance, sale and delivery of any such series of refunding bonds, the County Commissioners shall adopt a resolution or resolutions pursuant to the authority of this public local law authorizing such series of refunding bonds and specifying, prescribing, determining, providing for and approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law, including, without limitation, Section 15(4) of the Enabling Act. Any such resolution may not become finally effective until the effective date of this public local law.

Section 7. The bonds and the refunding bonds authorized to be issued hereunder are hereby specifically exempted from the provisions of Sections 9 to 11, inclusive, of Article 31 of the Annotated Code of Maryland, as amended.

Section 8. Any resolution adopted by the County Commissioners pursuant to applicable law and this public local law may approve, determine or provide for the payment of any commitment fee, breakage compensation or related costs to the purchaser of any general obligation bonds, bond anticipation notes or refunding bonds authorized hereby and/or any credit enhancement, ratings, official statements or similar disclosure documents or continuing disclosure undertakings relating to such obligations. Any such resolution may not become finally effective until the effective date of this public local law.

Section 9. Unless otherwise provided by public local law of the County Commissioners, the County Commissioners shall or may:

(a) determine by resolution whether any premium paid to the County upon the sale of any bonds, bond anticipation notes or refunding bonds authorized hereby shall be applied to the costs for which such obligations are authorized to be issued or to the payment of debt service on such obligations;

(b) determine by resolution whether earnings derived from the investment of the proceeds of any bonds, bond anticipation notes or refunding bonds authorized hereby shall be applied to the purposes for which such obligations are issued or to the payment of debt service on such obligations or treated as general revenues of the County and applied to general County purposes; and

(c) by resolution may determine or provide for the making of any determinations deemed necessary or desirable in the event the Project and/or the bonds, bond anticipation notes or refunding bonds authorized hereby are subject to, or issued in accordance with, the provisions of the American Recovery and Reinvestment Act of 2009, as amended (in addition to the authority cited elsewhere in this public local law).

Any such resolution may not become finally effective until the effective date of this public local law.

Section 10. The enactment of this public local law constitutes a covenant with the owner of any bond, bond anticipation note or refunding bond issued hereunder with the expectation that interest on such obligation shall be excludable from gross income of the holder thereof for federal income tax purposes that the County will not make any use of the proceeds of the applicable obligations that would cause any such tax-exempt obligation to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and that the County will comply with the requirements of such section and regulations as the same may be amended from time to time as long as any of such tax-exempt obligations remain outstanding and unpaid.

Section 11. For the purpose of satisfying the debt service requirements on the bonds, bond anticipation notes or refunding bonds authorized hereby, the County shall levy for each and every fiscal year during which any of such obligations may be outstanding, ad valorem taxes upon all real and tangible personal property within its boundaries subject to assessment for unlimited County taxation, in rate and amount sufficient to provide for the prompt payment of the principal of and interest on such obligations payable in such fiscal year; and, in the event the proceeds from the collection of the taxes levied in any such fiscal year shall prove inadequate for such purpose, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency. The faith and credit and unlimited taxing power of the County are hereby irrevocably pledged to the prompt payment of the principal of and interest on such obligations as and when they become due and payable, and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to meet the debt service requirements of such obligations. The County hereby covenants with each holder of the bonds, bond anticipation notes or refunding bonds issued pursuant to the authority of this public local law to take any action that may be lawfully appropriate during the period that any of such obligations may be outstanding and unpaid to provide the funds necessary to make the principal and interest payments due thereon, and further covenants and agrees to levy and collect the taxes hereinabove described. The foregoing provisions shall not be construed so as to prohibit the County from paying the principal of and interest on any such obligations from the proceeds of the sale of any other obligations of the County or from any other funds legally available for that purpose (including, without limitation, with respect to the bond anticipation notes authorized hereby, from the proceeds of the bonds authorized hereby, and with respect to the bonds authorized hereby, from the proceeds of the refunding bonds authorized hereby). The County may apply to the payment of the principal of or interest on any such obligations any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the County for the purpose of assisting the County in accomplishing the types of projects which such obligations are issued to finance, refinance or reimburse, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

Section 12. The title of this Bill shall be deemed to be, and is, a fair summary of this public local law for publication and all other purposes.

Section 13. This public local law shall take effect forty-five days after enactment by the County Commissioners of Caroline County, Maryland.

ENACTED THIS _____ DAY OF _____, 20__.

ATTEST:

**COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND**

SARA B. VISINTAINER
EXECUTIVE ASSISTANT

JOHN W. COLE, PRESIDENT

ROGER L. LAYTON, VICE PRESIDENT

(SEAL)

JEFFERSON L. GHRIST, COMMISSIONER