

COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND

LEGISLATIVE BILL #2024-001

INTRODUCED BY: COMMISSIONERS BREEDING, PORTER, AND BARTZ

INTRODUCED ON: JANUARY 9, 2024

ATTEST: J. TRAVIS BREEDING, PRESIDENT

PUBLIC HEARING: JANUARY 23, 2024; BEGINNING AT 9:15 AM
CIRCUIT COURT HOUSE, 109 MARKET STREET,
ROOM 106, DENTON, MD 21629

THIRD READING:

ENACTED:

EFFECTIVE:

**AUTHORIZATION OF ADDITIONAL PROJECTS TO BE FUNDED FROM THE
PROCEEDS OF THE CONSOLIDATED PUBLIC IMPROVEMENT AND REFUNDING BONDS OF 2019**

AN Act amending and supplementing Bill #2019-3.

FOR the purpose of, in effect, authorizing and empowering County Commissioners of Caroline County, Maryland to use and apply a portion of the proceeds of the \$34,210,000 County Commissioners of Caroline County Consolidated Public Improvement and Refunding Bonds of 2019 (the “2019 Bonds”) to the costs of certain additional projects identified herein as Federalsburg Elementary Roof Replacement, North Caroline High School Roof Replacement, Preston Elementary Roof Replacement and Fretterd Center HVAC in addition to the projects identified in Bill #2019-3, which was passed on September 10, 2019 and became effective on October 25, 2019; specifying how unspent proceeds of the 2019 Bonds shall be applied, subject to further reallocation as provided herein; providing that the County Commissioners shall adopt a supplemental resolution before applying 2019 Bonds proceeds to any such additional projects; acknowledging that Bill #2023-002, which was passed on September 12, 2023 for the same purposes provided for in this Bill, is not effective due to a failure to comply with certain statutory publication requirements; providing that the provisions of this Bill shall be liberally construed; providing that this title be deemed a fair summary of this Bill; and relating generally to the use and application of the proceeds of the 2019 Bonds.

WHEREAS, pursuant to the authority of Sections 19-501 to 19-510, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the “Enabling Act”), and Bill #2019-3, a public local law enacted by the County Commissioners

of Caroline County (the “County Commissioners”) on September 10, 2019 and effective on October 25, 2019 (the “2019 Public Local Law”), County Commissioners of Caroline County, a body politic and corporate and a political subdivision of the State of Maryland and a “code county” within the meaning of the Enabling Act (the “County”), authorized the issuance and sale from time to time in one or more series of general obligation bonds in an original aggregate principal amount not to exceed \$23,000,000.00 in order to finance, reimburse or refinance costs of certain projects identified in the 2019 Public Local Law, which authorized general obligation bonds were referred to as the “Bonds” in the 2019 Public Local Law and are referred to in applicable provisions of this Bill as the “Authorized Bonds;” and

WHEREAS, Section 3(a) of the 2019 Public Local Law provided that the par amount of the Authorized Bonds could be applied to finance, reimburse or refinance expenditures made for all or a portion of the costs of the public projects and improvements identified in the table below, which costs may include, as applicable, the acquisition of or payment for: land or necessary property rights; related site improvements and utilities, including (without limitation) paving, repaving, landscaping, sidewalk, curb, gutter, stormwater, water, sewer and other utility improvements; architectural, planning, feasibility, study, design, engineering, surveying, document development, bidding, permitting, acquisition, construction, improvement, installation, modification, demolition, removal, renovation, reconstruction, rehabilitation, expansion, extension, equipping, inspection, construction administration, construction management and related costs; contingencies; costs of activities related to any of the foregoing; related financial, administrative and legal expenses; capitalized interest during construction and for a reasonable period thereafter, whether or not specifically stated; any of the foregoing which may represent the County’s share or contribution to the financing or refinancing of any such projects and improvements; and costs of issuance (which may include costs of bond insurance or other credit enhancement); and such Section 3(a) further provided that the par amount of the Authorized Bonds was allocated to such projects in the amounts indicated in the parentheses below, subject to further reallocation as provided in the 2019 Public Local Law:

1. Greensboro Elementary School Replacement (\$20,000,000.00)
2. Detention Center Renovation and Improvements (\$2,000,000.00)
3. Hot Mix Asphalt (\$750,000.00)
4. Costs of Issuance (\$250,000.00); and

WHEREAS, pursuant to the authority of the Enabling Act, the 2019 Public Local Law, certain other statutes and public local laws described in the 2019 Resolution (defined herein), and Resolution #2019-023, adopted by the County Commissioners on October 22, 2019 and effective on October 25, 2019 (the “2019 Resolution”), the County on November 26, 2019 issued the County Commissioners of Caroline County Consolidated Public Improvement and Refunding Bonds of 2019 in the original aggregate principal amount of \$34,210,000 (the “2019 Bonds”); and

WHEREAS, as described in the 2019 Resolution, the 2019 Bonds were issued for the purposes of (i) financing or reimbursing costs of the projects and improvements and allocable costs

of issuance of the 2019 Bonds described above issued for such purpose, as authorized by the 2019 Public Local Law, and (ii) currently refunding certain outstanding obligations of the County and paying allocable costs of issuance for the portion of the 2019 Bonds issued for such refunding purpose, as authorized by certain other authority referenced in the 2019 Resolution; and

WHEREAS, Section 2(a) of the 2019 Resolution provides that the portion of the par amount of the 2019 Bonds issued for new money purposes is allocated and appropriated to finance or reimburse expenditures made for all or a portion of the costs (as such term is used in Section 3(a) of the 2019 Public Local Law and defined as the “Costs of the Projects” in Section 3(a) of the 2019 Public Local Law) of the projects identified below (collectively, the “Original New Money Projects”), and that the total par amount of the 2019 Bonds allocated to each of the Original New Money Projects is as indicated in the parentheses set forth below; provided that, without notice to or the consent of the holders of the 2019 Bonds or any other party, the County may reallocate the allocable par amount of the 2019 Bonds among the costs of the Original New Money Projects described below in accordance with budgetary or other applicable law:

1. Greensboro Elementary School Replacement (\$20,000,000.00)
2. Detention Center Renovation and Improvements (\$2,000,000.00)
3. Hot Mix Asphalt (\$750,000.00)
4. Costs of Issuance (\$250,000.00); and

WHEREAS, the Original New Money Projects are referred to as the “Projects” in both the 2019 Public Local Law and the 2019 Resolution; and

WHEREAS, the costs of the Original New Money Projects identified in the second preceding WHEREAS clause of this Bill are referred to herein as the “Costs of the Original New Money Projects;” and

WHEREAS, Section 4(b) of the 2019 Resolution provided that it was the stated intention of the County Commissioners that, to the extent available for such purpose, any original issue premium provided for in the successful bidder’s bid for the 2019 Bonds, be applied to reducing the par amount of the 2019 Bonds needed for the purposes contemplated by the 2019 Resolution after giving effect to the payment of underwriter’s discount and any amounts that the President of the County Commissioners, with the advice of the County Administrator of the County (the “County Administrator”), the Director of Finance of the County (the “Director of Finance”), the financial advisor to the County and bond counsel to the County, determined may reasonably be applied to Costs of the Original New Money Projects; and

WHEREAS, pursuant to the authority of the 2019 Resolution, the original aggregate principal amount of the issued 2019 Bonds allocated to the Costs of the Original New Money Projects was approximately \$20,245,000.00 (approximately \$2,755,000.00 less than the maximum original aggregate principal amount of the Authorized Bonds provided for in the 2019 Public Local Law and the 2019 Resolution), and the difference was attributable to (i) the amount of sale

proceeds of the 2019 Bonds intended to be applied for costs of issuance pursuant to Section 2(b) of the 2019 Resolution: approximately \$200,000.00 as opposed to the \$250,000.00 maximum principal amount authorized for such purpose by the 2019 Public Local Law and the 2019 Resolution, (ii) a reduction prior to issuance of the total amount of sale proceeds of the 2019 Bonds to be applied to costs of the Original New Money Project identified as “Greensboro Elementary School Replacement,” and (iii) the use of allocable net original issue premium received in connection with the issuance of the 2019 Bonds to make the total amount of sale proceeds of the 2019 Bonds allocated to the Costs of the Original New Money Projects, exclusive of allocable costs of issuance, total approximately \$22,000,000.00; and

WHEREAS, originally or through subsequent actions, the sale proceeds of the 2019 Bonds (allocable par amount plus allocable net original issue premium) were allocated to the Costs of the Original New Money Projects as follows:

1. Greensboro Elementary School Replacement (\$19,250,000.00)
2. Detention Center Renovation and Improvements (\$2,000,000.00)
3. Hot Mix Asphalt (\$750,000.00)
4. Costs of Issuance (approximately \$200,000.00); and

WHEREAS, the County has achieved cost savings or determined not to pursue the full scope of certain of the Original New Money Projects, and the pace of certain of the Original New Money Projects has slowed, and in order to expedite expenditure of the proceeds of the 2019 Bonds, the County wishes to (i) reallocate a portion of the proceeds of the 2019 Bonds originally allocated to Costs of the Original New Money Projects to certain additional projects that were not authorized by the 2019 Public Local Law and (ii) provide for the reallocation to the Original New Money Project identified in the table in the preceding WHEREAS clause as “Hot Mix Asphalt” of certain proceeds of the 2019 Bonds as provided herein; and

WHEREAS, in order to provide for such reallocation to projects not identified in the 2019 Public Local Law, the County must amend and supplement the 2019 Public Local Law to authorize the use of proceeds of the portion of the 2019 Bonds that constitute the Authorized Bonds for such additional projects; and

WHEREAS, prior to spending any of the 2019 Bonds proceeds on such additional projects, the County will need to supplement the 2019 Resolution to provide for application of the proceeds of the 2019 Bonds for such purposes; and

WHEREAS, on September 12, 2023, the County Commissioners passed Bill #2023-002 in order to provide for the reallocation of proceeds of the 2019 Bonds authorized by this Bill, but due to a failure to comply with certain statutory publication requirements, Bill #2023-002 did not meet all requirements in order to become fully effective, and bond counsel to the County has advised that Bill #2023-022 may not be relied upon; accordingly, the County Commissioners are

introducing and passing this Bill in order to achieve the purposes originally provided for in Bill #2023-022.

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

SECTION 1. (a) The Recitals to this Bill are incorporated by reference herein and deemed a substantive part of this Bill. Capitalized terms used in the Sections of this Bill that are not defined herein shall have the meanings given to such terms in the Recitals.

(b) References in this Bill to any official by title shall be deemed to refer (i) to any official authorized under the County Code of the County (the “County Code”) or other applicable law or authority to act in such titled official’s stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting or interim capacity under the County Code or other applicable law or authority, (iii) to any person who serves in a “deputy,” “associate” or “assistant” capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the County Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the County Code, the official, however known, who is charged under the County Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

(c) References in this Bill to “par amount” shall be construed to mean “principal amount.” References in this Bill to “proceeds” shall be construed to include par amount plus any allocable net original issue premium and any allocable investment earnings, unless the context requires otherwise.

(d) References in this Bill to “costs” shall have the same meaning in terms of the listed activities and types of expenditures provided for in the definition of “Costs of the Projects” as redefined in the portion of Section 2(a) of this Bill that amends Section 3(a) of the 2019 Public Local Law.

SECTION 2. (a) Pursuant to the authority of the Enabling Act and the 2019 Public Local Law, the County hereby amends and supplements the 2019 Public Local Law by deleting in its entirety subsections (a) and (b) of Section 3 thereof and inserting in place thereof the following:

“(a) The proceeds of the Bonds shall be expended for the public purpose of financing, reimbursing or refinancing expenditures made for all or a portion of the costs of the following public projects and improvements identified in the table below (collectively, the “Projects”), which costs may include, as applicable, the acquisition of or payment for: land or necessary property rights; related site improvements and utilities, including (without limitation) paving, repaving, landscaping, sidewalk, curb, gutter, stormwater, water, sewer and other utility improvements; architectural, planning, feasibility, study, design, engineering, surveying, document development, bidding, permitting, acquisition, construction, improvement, installation, modification, demolition, removal, renovation, reconstruction, rehabilitation, expansion, extension, equipping, inspection,

construction administration, construction management and related costs; contingencies; costs of activities related to any of the foregoing; related financial, administrative and legal expenses; capitalized interest during construction and for a reasonable period thereafter, whether or not specifically stated; any of the foregoing which may represent the County’s share or contribution to the financing or refinancing of any such Projects; and costs of issuance (which may include costs of bond insurance or other credit enhancement) (collectively, “Costs of the Projects”). The maximum aggregate par amount of the Bonds or the BANs (as identified in Section 4 hereof) allocated to each of the Projects is as indicated in the parentheses set forth below, except as otherwise provided herein:

1. Greensboro Elementary School Replacement (\$20,000,000.00)
2. Detention Center Renovation and Improvements (\$137,836.00)
3. Hot Mix Asphalt (\$750,000.00)
4. Costs of Issuance (\$250,000.00)
5. Federalsburg Elementary Roof Replacement (\$284,164.00)
6. North Caroline High School Roof Replacement (\$960,000.00)
7. Preston Elementary Roof Replacement (\$168,000.00)
8. Fretterd Center HVAC (\$450,000.00)

(b) The Projects listed in items 1-8 in the table above are identified generally by the same names used for such Projects in County budgetary materials. Notwithstanding the foregoing identification of such Projects, it is the intention of the County Commissioners that the par amount of the Bonds (or of any BANs, if applicable) may be spent on any applicable categories of Costs of the Projects listed in subsection (a) above that are authorized in accordance with applicable County budgetary procedures or applicable law, notwithstanding the descriptive names used for such Projects in subsection (a) above, including, without limitation, costs related to changes in the scopes of and/or names of the Projects effected through applicable County budgetary procedures or applicable law. Furthermore, without notice to or the consent of the holders of the Bonds (or the BANs, if applicable) or any other party, the County may reallocate the par amount of proceeds of the Bonds (or the BANs, if applicable) among the Costs of the Projects in accordance with applicable County budgetary procedures or other applicable law.”

(b) The Projects listed in items 1-4 in subsection (a) above of this Section 2 (which, in part, amends Section 3(a) of 2019 Public Local Law) constitute the “Original New Money Projects” referred to in the Recitals of this Bill and the Projects listed in items 5-8 in subsection (a) above of this Section 2 (which, in part, amends Section 3(a) of the Public Local Law) constitute

projects that are added to Section 3(a) of the Public Local Law and are referred to in this Bill as the “Additional Projects,” and such Additional Projects are included in the definition of “Projects” in such amended Section 3(a).

(c) All of the Projects identified in items 1-8 in subsection (a) above of this Section 2 (which, in part, amends Section 3(a) of the 2019 Public Local Law) are collectively referred to herein as the “Revised Projects.” From and after the effective date of this Bill, all references to the “Projects” contained in the 2019 Public Local Law shall be deemed to be references to the Revised Projects identified in this Bill. From and after the effective date of this Bill, the provisions of this Section 2 shall supersede the provisions of Section 3(a) and (b) of the 2019 Public Local Law with respect to the application of proceeds of the Bonds referred to therein, which authorized Bonds constitute a portion of the issued 2019 Bonds. No additional Bonds (as defined in Section 2 of the 2019 Public Local Law) and no BANs (as defined in Section 4 of the 2019 Public Local Law) will be issued under the authority of the 2019 Public Local Law, as amended and supplemented by this Bill.

(d) By undertaking the amendments to Section 3(a) of the 2019 Public Local Law provided for in subsection (a) of this Section 2, the County is in effect (i) reducing the maximum par amount of the Authorized Bonds allocated to certain of the Original New Money Projects, and (ii) allowing for application of a portion of the par amount of the Authorized Bonds to finance or reimburse costs of the Additional Projects. Such adjustments do not take into account the actual par amount of the 2019 Bonds as actually issued allocated to Costs of the Original New Money Projects, any net original issue premium of the 2019 Bonds as issued allocated to Costs of the Original New Money Projects, or any budgetary adjustments made subsequent to the issuance of the 2019 Bonds with respect to use of the proceeds of the Original New Money Projects.

(e) Unless the County Commissioners determine otherwise in accordance with applicable budgetary procedures or applicable law, including, to the extent permitted, by resolution or by transfer approval forms, it is the intention of the County Commissioners that (i) any unspent net original issue premium of the 2019 Bonds that was previously allocated to the Original New Money Projects, (ii) any unspent investment earnings with respect to the portion of the sale proceeds of the 2019 Bonds that was previously allocated to the Original New Money Projects, and (iii) any unspent portion of the sale proceeds of the 2019 Bonds that was previously allocated to Costs of Issuance, shall be applied to costs of the Original New Money Project identified as “Hot Mix Asphalt.” In addition, unless the County Commissioners determine otherwise in accordance with applicable budgetary procedures or applicable law, including, to the extent permitted, by resolution or by transfer approval forms, it is the intention of the County Commissioners that any unspent portion of the proceeds of the 2019 Bonds that is not needed to finance or reimburse the costs of the Additional Projects shall be applied to costs of the Original New Money Project identified as “Hot Mix Asphalt.”

(f) Notwithstanding the foregoing provisions of this Section 2, proceeds of the 2019 Bonds (including net original issue premium and investment earnings) may not be applied to costs of the Additional Projects unless and until the County Commissioners adopt a resolution making corresponding amendments to applicable provisions of the 2019 Resolution to allow proceeds of the 2019 Bonds (including net original issue premium and investment earnings) to be applied to costs of the Revised Projects. Such resolution may reallocate or provide for the reallocation of proceeds of the 2019 Bonds among the Revised Projects in greater detail than as set forth in this Bill, including,

without limitation, to provide which proceeds of the 2019 Bonds originally allocated to specific Original New Money Projects, together with any net original issue premium realized upon sale or investment earnings, to the extent applicable, shall be reallocated to specific Original New Money Projects or specific Additional Projects.

SECTION 3. The County Administrator, the Deputy County Administrator of the County, the Director of Finance and all other officials and employees of the County are hereby authorized and directed to take any and all action necessary to provide for application of proceeds of the 2019 Bonds to finance or reimburse costs of the Revised Projects and to negotiate, approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith or in connection with the amendment and supplementing of the 2019 Public Local Law provided for hereby, including, without limitation, any amendments or supplements to the Tax and Section 148 Certificate of the County dated November 26, 2019 executed and delivered in connection with the issuance of the 2019 Bonds.

SECTION 4. From and after the effective date of this Bill, the 2019 Public Local Law shall be deemed amended and supplemented as provided herein and all other terms and provisions of the 2019 Public Local Law shall remain in full force and effect.

SECTION 5. Due to a failure to comply with certain statutory publication requirements, Bill #2023-002, passed by the County Commissioners on September 12, 2023, and relating to the same subject matter as this Bill, did not become fully effective. Accordingly, the provisions of Bill #2023-002 may not be relied upon by the County for the reallocation of any proceeds of the 2019 Bonds.

SECTION 6. The provisions of this Bill shall be liberally construed in order to effectuate the transactions contemplated by this Bill.

SECTION 7. The title of this Bill shall be deemed to be, and is, a fair summary of this Bill for publication and all other purposes.

SECTION 8. This Bill shall take effect forty-five days after enactment by the County Commissioners of Caroline County, Maryland; provided, however, in the event the County Commissioners fail to adopt a resolution making corresponding amendments to the provisions of the 2019 Resolution to allow proceeds of the 2019 Bonds to be applied to costs of the Revised Projects, the County may not apply proceeds of the 2019 Bonds for such purpose, notwithstanding the effective date of this Bill.

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ENACTED THIS _____ DAY OF _____, 2024

ATTEST:

**COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND**

Jennifer Reibly
Public Information Officer

J. Travis Breeding, President

Larry C. Porter, Vice President

(SEAL)

N. Franklin Bartz, Commissioner

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Stewart Barroll, County Attorney

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