



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Kinley R. Bray, Senior Assistant County Attorney /s/

Via: Gregory J. Swain, County Attorney /s/

Date: December 16, 2019

Subject: Bill No. 93-19, Cape St. Claire Special Community Benefit District – Approval of Loan Agreement

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of the attached bill, which would approve a Loan Agreement for the Cape St. Claire Special Community Benefit District.

Purpose.

The purpose of the Bill is to approve the levy of a special community benefit assessment necessary to repay a loan in the amount of \$650,000, plus closing costs, to be made by Branch Banking & Trust Company (“BB&T”) to the Cape St. Claire Improvement Association, Inc. (the “Association”), the community association responsible for administering the Cape St. Claire Special Community Benefit District pursuant to Anne Arundel County Code § 4-7-204(n), to fund a beach restoration and shore erosion prevention project on community-owned property.

Background.

The purposes of the Cape St. Claire Special Community Benefit District are “maintenance of community property, including lawn care, trash removal, repair, lighting, paving, and erosion prevention; special security for community property; acquisition, improvement, and construction of real and personal community property; and funding administrative expenses incidental to carrying out these purposes, including mailing, secretarial, auditing, insurance, and legal costs.” A beach restoration project and shore erosion prevention are permitted purposes for SCBD funds. In order to fund the project, the Association has contracted with BB&T for a loan in the amount of \$650,000 plus closing costs, for a term of 180

months at a fixed interest rate of 4.53%.¹ BB&T has required, as a condition of making the loan, that the Association authorize and maintain the authorization for the loan payments due under the loan, which in turn requires the Association to pledge special community benefit assessment revenue for the entire term of the loan.

The County is not contracting with BB&T and is not obligated to repay the loan. This legislation is being submitted because the County Council must approve all loans taken by the administering entities of special taxing districts that require as collateral the pledge of County-collected special tax revenues beyond the immediate fiscal year. County law requires annual budgeting and levies for all special taxing districts; without a special ordinance approving such action, the SCBD cannot pledge to levy taxes necessary to repay this loan outside of the current fiscal year. Accordingly, this legislation authorizes the County to levy the SCBD tax in an amount sufficient to repay the loan for multiple fiscal years throughout the term of the loan, and requires the SCBD to budget annually for repayment of this loan in those fiscal years.

In connection with this legislation, the County also requires the Association to enter into an Agreement (attached) whereby the Association will assign its rights to receive certain special community benefit district taxes designated for repayment of the loan and collected by the County to BB&T. This Agreement obligates the Association to comply with all relevant portions of the Anne Arundel Code related to special community benefit districts, including those related to submission and approval of annual budgets. The Agreement makes clear that the County is not a creditor of the Association, is not a party to the loan, does not pledge the full faith and credit of the County for the repayment of the loan, and is otherwise under no contractual or moral obligation to remit any funds to BB&T other than those that are special community benefit district taxes collected by the County for the Cape St. Claire SCBD and are budgeted, appropriated, and encumbered for repayment of the loan. The legislation simply authorizes the levy of the tax in five separate fiscal years.

SECTION 1 provides that the County will levy the SCBD tax in an amount sufficient to repay the loan during the entire term of the loan.

SECTION 2 provides that the County undertakes no obligations with regard to the loan except to levy the tax as budgeted by the SCBD, that the County is not a co-obligor or a guarantor of the loan, and that the County does not pledge the full faith and credit of the County to repay the loan.

SECTION 3 authorizes the County Executive to enter into such further agreements necessary to disburse directly to Branch Banking & Trust Company such amounts of the special community benefit district assessment levied on the Cape St. Claire SCBD as are collected by the County and are necessary to repay the loan.

SECTION 4 provides that the Bill takes effect 45 days after it becomes law.

¹ It is our understanding that the project will additionally be funded by grants from the County and the Chesapeake Bay Trust. The total projected cost of the project as of July 2019 was \$989,601, including a 10% cost overrun.

The Office of Law is available to answer any additional questions regarding this bill.
Thank you.

cc: Honorable Steuart Pittman, County Executive
Jennifer Purcell, Chief of Staff
Benjamin J. Birge, Chief Administrative Officer
Peter Baron, Legislative Liaison
Jim Beauchamp, Budget Officer