



Gregory J. Swain, County Attorney

MEMORANDUM

To: Members, Anne Arundel County Council

From: Lori L. Blair Klasmeier, Deputy County Attorney /s/

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

Date: July 15, 2019

Subject: Bill No. 63-19 – Snug Harbor Waterways Improvement District – Approval of Loan and Assignment 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 and assignment agreement for the Snug Harbor Waterways Improvement District.

Purpose.

The purpose of the Bill is to approve the levy of the waterways improvement assessment necessary to repay a loan in the amount of \$525,000 from Sandy Spring Bank (the “Bank”) to Snug Harbor Waterway Improvement District, Inc. (the “Association”), the community association responsible for administering the Snug Harbor Waterways Improvement District under § 4-7-406(k) of the County Code, to fund dredging of an area of Snug Harbor and refinancing existing debt from prior waterways improvement projects.

Background.

The purposes of the Snug Harbor Waterways Improvement District include “providing for the repair of the bulkhead, pilings, and catwalk; the dredging of the harbor and the channel; and future maintenance and other improvements as permitted by § 4-7-405(b), should future maintenance or improvements become necessary”. To fund the dredging of an area of Snug Harbor, the Association sought and has a commitment for a loan from the Bank in the amount of \$525,000, plus closing costs, for a term of 20 years (the “Loan”). Interest is at the rate of 5.5% per annum for the first five years, after which the rate shall be adjusted in relation to the U.S. Treasury Rate.

Security for the Loan is a lien on the waterways improvement assessments collected within the Snug Harbor Waterways Improvement District. The Loan is contingent upon the Council passing an ordinance “authorizing annual payments to be made to the Bank on this Loan from the Special Benefit Tax District collections of Borrower, to pay the Loan payments as they are due.”

The County is not contracting with the Bank, is not obligated to repay the Loan with general County funds, and is not pledging the full faith and credit of the County for the repayment of the Loan. The County Council must approve all loans taken by the administering entities of special taxing districts that require the pledge of County-collected special tax revenues beyond the immediate fiscal year as collateral for the Loan.

County law requires annual budgeting and tax levies for special taxing districts, including waterways improvement districts. The bill authorizes the County to levy the waterways improvement district tax in an amount sufficient to repay the Loan in each fiscal year during the term of the Loan in which a payment is due on the Loan. It also requires the Association to budget annually for repayment of the Loan in those fiscal years. Even if the Association fails to submit a budget in any fiscal year during the term of the Loan, the Council will be obligated to assess to make the Loan payment during that fiscal year.

The County is requiring the Association to enter into an Agreement, a draft of which is attached, whereby the Association assigns its rights to receive the waterways improvement assessment collections designated for repayment of the Loan to the Bank. This Agreement obligates the Association to comply with all relevant provisions of the County Code related to waterways improvement districts, including the submission and approval of annual budgets. The Agreement makes it 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 the Bank other than those waterways improvement assessments collected by the County from owners of property within the Snug Harbor Waterways Improvement District that are budgeted, appropriated, and encumbered for repayment of the Loan.

SECTION 1 of the bill provides that the County will levy the special tax known as the waterways improvement assessment in an amount sufficient to repay the Loan in each fiscal year during the entire term of the Loan.

SECTION 2 provides that the County undertakes no obligations with regard to the Loan other than as set forth in Section 1, 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 the collected waterways improvement assessments directly to the Bank for repayment of the Loan.

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

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
Jessica Leys, Acting Budget Officer