

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2010, Legislative Day No. 1

Bill No. 2-10

Introduced by Mr. Middlebrooks, Chairman
(by request of the County Executive)

By the County Council, January 4, 2010

Introduced and first read on January 4, 2010
Public Hearing set for and held on February 1, 2010
Bill Expires April 9, 2010

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Amendment of the Capital Projects Bond Ordinance, being
2 Bill No. 51-09, as amended from time to time.

3
4 FOR the purpose of authorizing the County to take any and all actions as may be necessary
5 or desirable to assure that any bonds or bond anticipation notes authorized by the Capital
6 Projects Bond Ordinance are allowed a federal income tax credit, that the County is
7 entitled to a subsidy from the United States of America with respect to such bonds or
8 notes or the interest payable thereon, or that any such bond or note or the interest thereon
9 is entitled to any other available benefits under the Internal Revenue Code, as amended
10 by the American Recovery and Reinvestment Act of 2009 or otherwise.

11
12 By amending: Section 8 of the Capital Projects Bond Ordinance (Bill No. 51-09, as
13 amended)
14 Laws of Anne Arundel County

15
16 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
17 That Section 8 of the Capital Projects Bond Ordinance, being Bill No. 51-09, as amended, be
18 amended to read as follows:

19
20 “SECTION 8. And be it further enacted, That, the provisions hereinafter set
21 forth in Sections (8)(1), (2), (3), (4) and (5) shall be applicable with respect to bonds
22 (including Refunding Bonds) or bond anticipation notes issued and sold hereunder on
23 the basis that the interest on such bonds or notes will be excludable from gross
24 income for federal income tax purposes AND THE PROVISIONS HEREINAFTER SET

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

25 FORTH IN SECTION (8)(7) SHALL BE APPLICABLE WITH RESPECT TO ANY BONDS OR BOND

1 ANTICIPATION NOTES ISSUED AND SOLD HEREUNDER ON THE BASIS THAT SUCH BONDS
2 OR NOTES ARE ALLOWED A TAX CREDIT, THAT THE COUNTY IS ENTITLED TO A SUBSIDY
3 FROM THE UNITED STATES OF AMERICA OR ANY AGENCY OR INSTRUMENTALITY
4 THEREOF WITH RESPECT TO SUCH BONDS OR NOTES OR THE INTEREST PAYABLE
5 THEREON, OR THAT ANY SUCH BOND OR NOTE OR THE INTEREST THEREON IS ENTITLED
6 TO ANY OTHER AVAILABLE BENEFITS UNDER THE INTERNAL REVENUE CODE PURSUANT
7 TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 OR OTHERWISE (ANY
8 SUCH BONDS OR NOTES BEING REFERRED TO HEREIN AS “TAX ADVANTAGED
9 OBLIGATIONS”).

10
11 (1) The County Executive shall be the officer of the County responsible for the
12 issuance of any bonds or bond anticipation notes hereunder within the meaning of the
13 Arbitrage Regulations (defined herein). The County Executive shall also be the
14 officer of the County responsible for the execution and delivery (on the date of
15 issuance of the bonds or bond anticipation notes) of a certificate of the County (the
16 “Section 148 Certificate”) which complies with the requirements of Section 148 of
17 the Internal Revenue Code of 1986, as amended (“Section 148”), and the applicable
18 regulations thereunder (the “Arbitrage Regulations”), and such official is hereby
19 directed to execute the Section 148 Certificate and to deliver the same to bond
20 counsel on the date of the issuance of the bonds or bond anticipation notes.

21
22 (2) The County shall set forth in the Section 148 Certificate its reasonable
23 expectations as to relevant facts, estimates and circumstances relating to the use of
24 the proceeds of the bonds or bond anticipation notes, or of any moneys, securities or
25 other obligations to the credit of any account of the County which may be deemed to
26 be proceeds of the bonds or bond anticipation notes pursuant to Section 148 or the
27 Arbitrage Regulations (collectively, “Bond Proceeds”). The County covenants that
28 the facts, estimates and circumstances set forth in the Section 148 Certificate will be
29 based on the County’s reasonable expectations on the date of issuance of the bonds
30 or bond anticipation notes and will be, to the best of the certifying officials’
31 knowledge, true and correct as of that date.

32
33 (3) The County covenants and agrees with each of the holders of any of the
34 bonds or bond anticipation notes that it will not make, or (to the extent that it
35 exercises control or direction) permit to be made, any use of the Bond Proceeds
36 which would cause the bonds or bond anticipation notes to be “arbitrage bonds”
37 within the meaning of Section 148 and the Arbitrage Regulations. The County
38 further covenants that it will comply with Section 148 and the regulations thereunder
39 which are applicable to the bonds or bond anticipation notes on the date of issuance
40 of the bonds or bond anticipation notes and which may subsequently lawfully be
41 made applicable to the bonds or bond anticipation notes.

42
43 (4) The County further covenants that it shall make such use of the proceeds
44 of the bonds or bond anticipation notes, regulate the investment of the proceeds
45 thereof, and take such other and further actions as may be required to maintain the
46 excludability from gross income for federal income tax purposes of interest on the
47 bonds or bond anticipation notes. All officers, employees and agents of the County
48 are hereby authorized and directed to take such actions, and to provide such
49 certifications of facts and estimates regarding the amount and use of the proceeds of

1 the bonds or bond anticipation notes, as may be necessary or appropriate from time
2 to time to comply with, or to evidence the County's compliance with, the covenants
3 set forth in this Section.
4

5 (5) The County Executive, on behalf of the County, may make such
6 covenants or agreements in connection with the issuance of bonds or bond
7 anticipation notes issued hereunder as he or she shall deem advisable in order to
8 assure the registered owners of such bonds or notes that interest thereon shall be and
9 remain excludable from gross income for federal income tax purposes, and such
10 covenants or agreements shall be binding on the County so long as the observance by
11 the County of any such covenants or agreements is necessary in connection with the
12 maintenance of the exclusion of the interest on such bonds or notes from gross
13 income for federal income tax purposes. The foregoing covenants and agreements
14 may include such covenants or agreements on behalf of the County regarding
15 compliance with the provisions of the Internal Revenue Code of 1986, as amended,
16 as the County Executive shall deem advisable in order to assure the registered
17 owners of such bonds or notes that the interest thereon shall be and remain
18 excludable from gross income for federal income tax purposes, including (without
19 limitation) covenants or agreements relating to the investment of the proceeds of
20 such bonds or notes, the payment of rebate (or payments in lieu of rebate) to the
21 United States, limitations on the times within which, and the purpose for which, such
22 proceeds may be expended, or the use of specified procedures for accounting for and
23 segregating such proceeds.
24

25 (6) Notwithstanding anything in this Ordinance to the contrary, bonds or bond
26 anticipation notes issued and sold hereunder may be issued and sold on the basis that
27 the interest on such bonds or notes will not be excludable from gross income for
28 federal income tax purposes.
29

30 (7) BONDS AND BOND ANTICIPATION NOTES AUTHORIZED HEREBY AND ISSUED
31 AS TAX ADVANTAGED OBLIGATIONS MAY BE ISSUED AS "NEW CLEAN RENEWABLE
32 ENERGY BONDS" ISSUED UNDER SECTION 54C OF THE INTERNAL REVENUE CODE OF
33 1986, AS AMENDED, "QUALIFIED ENERGY CONSERVATION BONDS" ISSUED UNDER
34 SECTION 54D OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, "QUALIFIED
35 ZONE ACADEMY BONDS" UNDER SECTION 54E OF THE INTERNAL REVENUE CODE OF
36 1986, AS AMENDED, "QUALIFIED SCHOOL CONSTRUCTION BONDS" ISSUED UNDER
37 SECTION 54F OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, ANY OTHER
38 "QUALIFIED TAX CREDIT BONDS", "BUILD AMERICA BONDS" ISSUED UNDER SECTION
39 54AA OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND "RECOVERY
40 ZONE ECONOMIC DEVELOPMENT BONDS" ISSUED UNDER SECTION 1400U-2 OF THE
41 INTERNAL REVENUE CODE OF 1986, AS AMENDED.
42

43 WITH RESPECT TO TAX ADVANTAGED OBLIGATIONS, THE COUNTY
44 EXECUTIVE IS HEREBY AUTHORIZED TO MAKE SUCH COVENANTS OR AGREEMENTS
45 IN CONNECTION WITH THE ISSUANCE THEREOF AS HE SHALL DEEM ADVISABLE IN
46 ORDER TO ASSURE (I) THE HOLDERS OF ANY SUCH TAX ADVANTAGED OBLIGATIONS
47 THAT SUCH TAX ADVANTAGED OBLIGATIONS WILL BE ENTITLED TO FEDERAL TAX
48 BENEFITS OF SUCH TAX ADVANTAGED OBLIGATIONS, AND (II) THAT THE COUNTY IS
49 ENTITLED TO ANY SUBSIDY AVAILABLE FOR ANY SUCH TAX ADVANTAGED
50 OBLIGATIONS. SUCH COVENANTS OR AGREEMENTS SHALL BE BINDING ON THE
51 COUNTY SO LONG AS THE OBSERVANCE BY THE COUNTY OF ANY SUCH COVENANTS

1 OR AGREEMENTS IS NECESSARY IN CONNECTION WITH THE ENTITLEMENT OF SUCH
2 TAX ADVANTAGED OBLIGATIONS TO APPLICABLE FEDERAL TAX BENEFITS. THE
3 FOREGOING COVENANTS AND AGREEMENTS MAY INCLUDE (WITHOUT LIMITATION)
4 COVENANTS OR AGREEMENTS ON BEHALF OF THE COUNTY RELATING TO THE
5 INVESTMENT OF PROCEEDS OF SUCH TAX ADVANTAGED OBLIGATIONS, THE REBATE
6 OF CERTAIN EARNINGS RESULTING FROM SUCH INVESTMENT TO THE UNITED STATES
7 OF AMERICA (OR THE PAYMENT OF PENALTIES IN LIEU OF SUCH REBATE),
8 LIMITATIONS ON THE TIMES WITHIN WHICH, AND THE PURPOSES FOR WHICH, SUCH
9 PROCEEDS MAY BE EXPENDED OR THE UTILIZATION OF SPECIFIED PROCEDURES FOR
10 ACCOUNTING FOR AND SEGREGATING SUCH PROCEEDS. ANY COVENANT OR
11 AGREEMENT MADE BY THE COUNTY EXECUTIVE PURSUANT TO THIS PARAGRAPH
12 MAY BE AUTHORIZED BY AN ORDER OR CERTIFICATE OF THE COUNTY EXECUTIVE
13 AND SUCH COVENANT OR AGREEMENT SHALL BE BINDING ON THE COUNTY.

14 IN FURTHERANCE OF THE FOREGOING, IN ORDER TO QUALIFY FOR THE BENEFITS
15 INURING WITH RESPECT TO ANY TAX ADVANTAGED OBLIGATION, THE COUNTY
16 EXECUTIVE SHALL BE AUTHORIZED TO MAKE ANY ELECTIONS OR DESIGNATIONS
17 PERMITTED OR REQUIRED UNDER THE INTERNAL REVENUE CODE, TO APPLY FOR AN
18 ALLOCATION FROM THE STATE OF MARYLAND OR THE FEDERAL GOVERNMENT IN
19 THE CASE OF BONDS OR NOTES SUBJECT TO ANY VOLUME LIMITATION AND TO
20 APPLY FOR ANY TAX CREDIT, TO TAKE SUCH ACTIONS AS SHALL BE NECESSARY TO
21 PERMIT ANY TAX CREDIT TO BE STRIPPED AND SOLD SEPARATELY FROM THE
22 OWNERSHIP INTEREST IN ANY TAX ADVANTAGED BOND AND TO CLAIM ANY CASH
23 SUBSIDY WITH RESPECT TO ANY TAX ADVANTAGED OBLIGATION. IT IS CONFIRMED
24 THAT THE COUNTY EXECUTIVE IS AUTHORIZED TO DECLARE OFFICIAL INTENT TO
25 REIMBURSE EXPENDITURES FROM PROCEEDS OF TAX ADVANTAGED OBLIGATIONS.
26

27 FOR PURPOSES OF ESTABLISHING COMPLIANCE WITH SECTION 148
28 REGARDING THE EXPENDITURE OF PROCEEDS TAX ADVANTAGED OBLIGATIONS, THE
29 SOURCE OF GENERAL FUND MONIES FOR CAPITAL EXPENDITURES MAY BE
30 SPECIFICALLY ATTRIBUTED TO FUNDS DEPOSITED TO THE GENERAL FUND AS A
31 REIMBURSEMENT FROM THE PROCEEDS OF COUNTY DEBT ISSUANCES IN
32 ACCORDANCE WITH A CERTIFICATE EXECUTED BY THE COUNTY EXECUTIVE.
33

34 NOTWITHSTANDING ANYTHING IN THIS ORDINANCE TO THE CONTRARY, TAX
35 ADVANTAGED OBLIGATIONS MAY BE ISSUED PURSUANT TO SECTION 29 OF ARTICLE
36 31 OF THE ANNOTATED CODE OF MARYLAND (2003 REPLACEMENT VOLUME AND 2009
37 SUPPLEMENT) OR ANY OTHER LAWS OF THE STATE OF MARYLAND AUTHORIZING
38 THE ISSUANCE THEREOF AND MAY BE SOLD FOR A PRICE AT, ABOVE OR BELOW PAR,
39 PLUS ACCRUED INTEREST TO THE DATE OF DELIVERY. AUTHORITY IS HEREBY
40 CONFERRED ON THE COUNTY EXECUTIVE TO SELL ANY SUCH TAX ADVANTAGED
41 OBLIGATIONS THROUGH A PUBLIC SALE OR THROUGH A PRIVATE (NEGOTIATED)
42 SALE, WITHOUT SOLICITATION OF COMPETITIVE BIDS, AS THE COUNTY EXECUTIVE,
43 UPON CONSULTATION WITH THE CONTROLLER AND THE COUNTY'S FINANCIAL
44 ADVISOR, SHALL DETERMINE TO BE IN THE BEST INTERESTS OF THE COUNTY. ANY
45 SALE OF TAX ADVANTAGED OBLIGATIONS HEREUNDER BY PRIVATE NEGOTIATION IS
46 HEREBY DETERMINED TO BE IN THE COUNTY'S BEST INTEREST. TAX ADVANTAGED
47 OBLIGATIONS ISSUED HEREUNDER ARE HEREBY SPECIFICALLY EXEMPTED FROM
48 THE PROVISIONS OF SECTIONS 10 AND 11 OF ARTICLE 31 OF THE ANNOTATED CODE
49 OF MARYLAND (2003 REPLACEMENT VOLUME AND 2009 SUPPLEMENT).
50

51 IT IS RECOGNIZED THAT THE MARKET FOR TAX ADVANTAGED OBLIGATIONS
52 IS EVOLVING AND THAT THE ISSUANCE AND SALE FROM TIME TO TIME OF TAX
53 ADVANTAGED OBLIGATIONS WITH ONE STATED MATURITY MAY BE THE MOST
54 PRACTICABLE METHOD FOR SUCCESSFULLY ACCOMPLISHING THE SALE OF TAX
55 ADVANTAGED OBLIGATIONS BY THE COUNTY. ACCORDINGLY, THE COUNTY IS
56 HEREBY AUTHORIZED TO ISSUE TAX ADVANTAGED OBLIGATIONS WITH A SINGLE
57 STATED MATURITY AND TO PROVIDE FOR AN ANNUAL INSTALLMENT PLAN (THE
58 "INSTALLMENT PLAN") WITH RESPECT TO THE PAYMENT OF TAX ADVANTAGED

1 OBLIGATIONS, SUCH INSTALLMENT PLAN TO BE APPROVED BY AN ORDER OF THE
2 COUNTY EXECUTIVE. THE INSTALLMENT PLAN SHALL PROVIDE FOR ANNUAL
3 PAYMENTS TO A SINKING FUND ACCOUNT (THE "ESCROW ACCOUNT") TO BE
4 PLEDGED OR OTHERWISE APPLIED TO THE PAYMENT OF THE TAX ADVANTAGED
5 OBLIGATIONS AND TO BE HELD BY A TRUST COMPANY OR OTHER BANKING
6 INSTITUTION, AS TRUSTEE OR ESCROW AGENT, SUCH ANNUAL PAYMENTS TO
7 COMMENCE NOT LATER THAN TWO YEARS FROM THE DATE OF ISSUANCE OF THE
8 TAX ADVANTAGED OBLIGATIONS. AMOUNTS SO DEPOSITED TO THE ESCROW
9 ACCOUNT SHALL BE INVESTED AND REINVESTED IN DIRECT OBLIGATIONS OF, OR
10 OBLIGATIONS THE PRINCIPAL OF, AND THE INTEREST ON WHICH, ARE GUARANTEED
11 BY, THE UNITED STATES OF AMERICA, OR IN CERTIFICATES OF DEPOSIT OR TIME
12 DEPOSITS SECURED BY DIRECT OBLIGATIONS OR OBLIGATIONS THE PRINCIPAL OF,
13 AND THE INTEREST ON WHICH, ARE GUARANTEED BY, THE UNITED STATES OF
14 AMERICA. EACH ANNUAL PAYMENT DEPOSITED TO THE ESCROW ACCOUNT UNDER
15 THE INSTALLMENT PLAN SHALL BE INVESTED AND REINVESTED IN A MANNER
16 DETERMINED BY THE COUNTY SO AS TO PROVIDE FOR THE PAYMENT OF A PORTION
17 OF THE STATED PRINCIPAL AMOUNT OF SUCH TAX ADVANTAGED OBLIGATIONS AND
18 RELATED INTEREST, IF ANY. THE ISSUANCE AND SALE OF TAX ADVANTAGED
19 OBLIGATIONS AS A SINGLE BOND WITH ONE STATED MATURITY AND THE
20 ESTABLISHMENT OF AN INSTALLMENT PLAN AS HEREIN DESCRIBED ARE HEREBY
21 AUTHORIZED NOTWITHSTANDING THE REQUIREMENT IN SECTION 2 OF THIS
22 ORDINANCE THAT BONDS BE ISSUED AS SERIAL MATURITY BONDS OR TERM BONDS
23 HAVING MANDATORY SINKING FUND REQUIREMENTS, BEGINNING NOT LATER THAN
24 THE SECOND ANNIVERSARY OF SUCH SERIES, OR OF THE FIRST SERIES OF A GROUP.”

25
26 SECTION 2. *And be it further enacted*, except as specifically amended hereby, the
27 Capital Projects Bond Ordinance, being Bill No. 51-09, as amended, shall remain in full
28 force and effect.

29
30 SECTION 3. *And be it further enacted*, That, if any one or more of the provisions of
31 this Ordinance should be contrary to law, then such provision or provisions shall be null and
32 void and shall in no way affect the validity of the other provisions of this Ordinance, the
33 Capital Projects Bond Ordinance or of the bonds or the bond anticipation notes authorized by
34 the Capital Projects Bond Ordinance.

35
36 SECTION 4. *And be it further enacted*, That, this Ordinance shall take effect 45 days
37 from the date it becomes law.

READ AND PASSED this 1st day of February, 2010

By Order:

Judy C. Holmes
Administrative Officer

PRESENTED to the County Executive for his approval this 2nd day of February, 2010

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Judy C. Holmes
Administrative Officer

APPROVED AND ENACTED this _____ day of February, 2010

JOHN R. LEOPOLD
County Executive

EFFECTIVE DATE: