

Office of the County Auditor
Auditor's Analysis

Council Bill No. 17-2022

Introduced: March 7, 2022

Auditor: Lori Buchman

Fiscal Impact:

Our Office is unable to determine the fiscal impact of this legislation because of uncertainty regarding (1) what type of bonds the County will issue if granted this authorization and (2) the fiscal impacts associated with each type of issuance.

Per the Administration, the pending ordinance intentionally lacks specificity as to what type of bonds will be issued so it has the flexibility to choose the method that offers the best interest rate at that time of issuance. It has stated the two options are to (1) issue General Obligation (GO) bonds directly with the funder, the Environmental Protection Agency (EPA), using negotiated Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) terms or (2) issue through a public sale of GO bonds in the open market.

A budget amendment would be required in Capital Project C0337 if the County decides to issue GO bonds in the open market. However, according to the Administration, a negotiated GO bond sale using WIFIA terms could utilize the existing \$75 million appropriation in the project that was approved in the Fiscal Year 2022 budget legislation. *We have asked the Office of Law to verify that assertion.*

Per the Director of Finance, it intends to do the following:

- Lock into an interest rate for the WIFIA loan this year and, prior to the receipt of any loan proceeds, issue a GO Bond to the funder to secure the loan on the County's full faith and credit. At this point the County could incur costs on its short-term financing facility and either:
 - Draw WIFIA loan proceeds of up to \$75 million, which would be repaid over a 30-year term, to pay off debt from the short-term facility; or
 - Elect to issue regular open market GO Bonds for all or some of the \$75 million if, at that time, current market rates are favorable to the WIFIA loan terms.

It should be noted that the Official Statement from the County's March 2, 2022, bond sale indicates the true interest cost of the County's 20-year GO bond sale was 2.24 percent. This is lower than the Daily Treasury Yield Rate of 2.46 percent as of March 16, 2022, which is the interest rate that the 30-year WIFIA loan is assumed to approximate.

Per the Administration, the County's costs associated with the application are still to be determined. However, our Office has noted that approximately \$415,000 have been obligated against the existing \$75 million WIFIA revenue appropriation in the Ellicott City Safe and Sound Project. This includes a \$100,000 WIFIA loan application fee and \$65,000 in financial advisory services. The remaining amount of approximately \$250,000 appears unrelated to the WIFIA application and is for "owner's representative services" associated with the final design of the North Tunnel project.

Future costs of the WIFIA loan per the EPA are:

- An annual loan servicing fee estimated to be between \$12,000 and \$15,000.
- A credit processing fee due at the time of closing (or in the event that the project does not proceed to closing), estimated to range from approximately \$350,000 to \$700,000 per project.

NOTE: According to the Administration, the WIFIA Term Sheet and Loan Agreement are still under negotiation and preliminary, therefore these documents will not be made available for our Office to review. Additionally, although we were provided with a copy of the original application, the Administration denied our request for any additional information/documentation requested by and provided to the EPA from the County.

Purpose:

This ordinance is authorizing the issuance, sale, and delivery of up to \$75,000,000 consolidated public improvement bonds.

Other Comments:

Our Office confirmed a potential amendment on page 1 of the legislation regarding the amount of \$10,000,097 in bond anticipation notes outstanding. The Administration confirmed this amount will be paid off with bond proceeds of the County's March 2, 2022, bond sale and will be removed from this legislation if paid off prior to Council's vote.

Attachment A includes total sources and uses of funds relating to potential WIFIA financing that were included in the WIFIA loan application submitted to the funder.

Per the WIFIA loan application:

- The County indicated that the only authorizing action required in order to enter into a loan agreement with the WIFIA program was the approval of Council Bill 41-2021, which was approved with the FY 2022 budget legislation.
- The WIFIA loan is backed by the full faith and credit of the County.

- The majority of the loan proceeds will finance the North Tunnel project, whose construction is slated to start in Calendar Year 2022.
- Acquisitions made by the County related to the Ellicott City Safe and Sound Project were not made in compliance with the Federal Government's "Uniform Act" for acquiring real property, due to time and safety concerns.

Attachment A

Ellicott City Safe and Sound Project – Financing Sources and Uses

| Sources | Amount |
|--|-----------------------|
| WIFIA Loan (cannot exceed 49% of eligible costs) | \$ 78,600,000 |
| General Obligation Bonds | 29,084,205 |
| Borrower Cash (PAYGO) | 20,950,000 |
| Previously Incurred Eligible Costs* | 58,071,000 |
| Grants | 8,870,000 |
| Total Sources | \$ 195,575,205 |

| Uses | Amount |
|---------------------|-----------------------|
| Construction | \$ 127,204,316 |
| Planning and Design | 13,927,764 |
| Land Acquisition | 20,067,073 |
| Contingency | 34,376,052 |
| Total Uses | \$ 195,575,205 |

*Previously Incurred Eligible Costs represent project-related costs incurred prior to the WIFIA loan's execution. **Per our Office's review of the County's financial system, \$49,662,036 has been obligated in Capital Project C0337 as of March 17, 2022.**