

Introduced by: Mr. Smiley, Mr. Cartier
Date of introduction: April 12, 2022

ORDINANCE NO. 22-034

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF NEW CASTLE COUNTY FOR THE PURPOSE OF FINANCING CERTAIN CAPITAL PROJECTS APPROVED IN THE FISCAL YEAR 2023 CAPITAL BUDGET

WHEREAS, Chapter 22 of Title 9 of the *Delaware Code*, as amended, authorizes New Castle County to plan, acquire, purchase, construct, reconstruct, improve, better, extend, maintain and operate sewerage systems therein defined, and the County Council of New Castle County has determined to extend existing sewerage systems now maintained by the County by rehabilitating and constructing local sewer projects and to improve existing sewer systems, pump stations, treatment plant sites, and facilities; and,

WHEREAS, Chapter 39 of Title 7 of the *Delaware Code*, as amended, authorizes New Castle County to carry out preventive and control measures and works of improvement for the prevention of erosion, floodwater, and sediment damages, and the County Council of New Castle County determines to construct, improve, and develop stormwater courses and facilities; and,

WHEREAS, Section 1163 of Title 9 of the *Delaware Code* authorizes New Castle County to issue bonds to finance the cost of any object, program or purpose for which New Castle County may raise, appropriate or expend money, and the County Council of New Castle County determines to expend money for various facilities and services; and,

WHEREAS, Subchapter III, of Chapter 13 of Title 9 of the *Delaware Code*, as amended, authorizes New Castle County to develop plans for buildings/facilities, parks, open spaces, natural areas and greenways within the County. Said plans provide for the acquisition of land for the development of parks and recreation facilities and the improvement and development of existing parks and buildings/facilities. The County has deemed it necessary to implement such plans for development and improvements.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS: (10/13th of all the members elected to the County Council concurring therein):

Section 1. New Castle County shall authorize the issuance of its negotiable bonds in the maximum aggregate net principal amount of \$19,425,270 to finance projects approved in the FY2023 Capital Budget (the maximum aggregate principal amount of the bonds to be issued for each purpose is set out in the following schedule):

<u>PURPOSE</u>	<u>BOND AUTHORIZATIONS MAXIMUM AGGREGATE PRINCIPAL AMOUNT</u>
(A) Sanitary Facilities/Stormwater	\$3,196,457
(B) Facilities/Equipment	1,099,890
(C) Parks	6,091,722
(D) Community Services	7,402,425
(E) Public Safety	459,776
(F) Administration	500,000
(G) Executive	675,000
TOTAL BOND AUTHORIZATIONS	<u>\$19,425,270</u>

Section 2. The monies raised by the issuance of the bonds hereby authorized after the payment of the charges and expenses connected with the preparation, sale, and issuance thereof shall be held in separate accounts and shall be expended only for the purposes for which said bonds have been authorized, or for the payment of the principal of, and interest on, temporary loans made in anticipation of the sale of such bonds.

Section 3. The effect of the bonded indebtedness hereby authorized upon the total bonded indebtedness of New Castle County is as shown on the attached fiscal note, Exhibit "A".

Section 4. It is hereby determined and declared that the normal life of said improvements is not less than three (3) years (§ 1163 of Title 9 of the *Delaware Code*).

Section 5. In accordance with Treasury Reg. § 1.150-2, the County hereby states its intentions that a portion of the proceeds of the bonds authorized hereunder will be used to reimburse itself for expenditures paid prior to the date of issuance of the bonds. All capitalized terms used herein and not otherwise defined have the same meaning as ascribed to them in Treasury Reg. § 1.150-2.

All original expenditures to be reimbursed will be capital expenditures (as defined in Treasury Reg. Sec. 1.150-1(b)) and other amounts permitted to be reimbursed pursuant to Treasury Reg. Sec. 1.150-2(d)(3) and (f). The County intends to reimburse the original expenditures through the County's incurrence of debt to be evidenced by the bonds. The description of the type and use of the property for which the original expenditure to be fully or partially reimbursed is to be paid is: costs relating to the projects as defined in Section 3 hereof. The maximum principal amount of the bonds to be issued to reimburse the costs of said projects paid prior to their issuance and to complete said projects is a net \$19,425,270 including the costs of issuance of the bonds.

Once the bonds are issued, the County shall allocate bond proceeds to reimburse a prior expenditure by making the allocation on its books and records maintained with respect to the bonds; provided that such costs to be reimbursed were paid not more than 60 days prior to the date hereof. Such allocations shall specifically identify the actual original expenditure to be reimbursed. Such allocations shall occur not later than 18 months after the later of (i) the date on which the original expenditure is paid, or (ii) the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid. If the bonds are issued before the expiration of the period prescribed in the preceding sentence, then the reimbursement allocation shall occur not later than the date of bonds are issued.

The bond proceeds used to reimburse the County for original expenditures will not be used within 1 year after the allocation in a manner that results in the creation of replacement proceeds (as defined in Treasury Reg. § 1.148-1) for the bonds authorized hereunder or for other bonds. The County will not use the proceeds of bonds to reimburse, refinance or refund an original expenditure paid by another obligation (either tax-exempt or taxable).

Section 6. Continuing Disclosure. The County covenants for the benefit of holders of any bonds that it issues in the public markets, whether pursuant to this Ordinance or otherwise, that, so long as any such bonds are outstanding, it will file, or cause to be filed, all financial information, operating data and notices of events, actions or failure to act, with such persons and entities and at such times as may be necessary to comply with the requirements of Rule 15c2-12(b) (5) of the Securities Exchange Act of 1934 with respect to such bonds. The Chief Financial Officer shall by Resolution adopted in connection with the issuance of such bonds specify the specific actions that the County shall be obligated to undertake to comply with this Section. Upon approval of the County Executive, the Chief Financial Officer is hereby authorized to take such other actions, by contract with a fiscal agent or otherwise, as such official shall deem appropriate to cause the County to comply with this Section.

Section 7. The effective date for the provisions in this Ordinance shall be July 1, 2022.

Section 8. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided by 9 Del. C. § 1156.

Adopted by County Council of
New Castle County on: 5/24/2022


President of County Council
of New Castle County

Approved on: June 1, 2022


County Executive
New Castle County

SYNOPSIS: This Ordinance will authorize New Castle County to issue bonds in the net amount of \$19,425,270 to finance projects approved in the Fiscal Year 2023 Capital Budget.

FISCAL NOTE: See attached Exhibit "A" for fiscal impact of this Ordinance.

EXHIBIT "A"

FISCAL NOTE: This Ordinance will authorize County Bonds in the maximum aggregate principal amount (net of issuance costs) of \$19,425,470.

The fiscal impact of this Ordinance, if approved, is demonstrated on a pro-forma basis below:

<u>Previous Authorizations</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
Authorized and Issued Bonds ⁽¹⁾ (2/28/2022)	\$558,875,000	\$182,981,893	\$741,856,893
Authorized and Unissued Bonds (2/28/2022)	<u>64,450,681</u>	<u>16,918,304</u> ⁽²⁾	<u>81,368,985</u>
Total Previous Authorizations	623,325,681	199,900,197	823,225,878
Proposed Net Authorizations ⁽³⁾ by the Ordinance	19,425,270	5,099,133 ⁽²⁾	24,524,403
Total Previous Authorizations and Proposed Net Authorizations	<u>\$642,750,951</u>	<u>\$204,999,330</u>	<u>\$847,750,281</u>

The following State Revolving Fund loans are not included in the above totals:

Authorized and Issued Bonds ⁽⁴⁾ (2/28/2022)	\$24,878,548	\$4,940,059 ⁽⁵⁾	\$29,818,607
Authorized and Unissued Bonds ⁽⁴⁾ (2/28/2022)	4,158,549	1,014,037 ⁽⁵⁾	5,172,586
Total Previous Authorizations	<u>\$29,037,097</u>	<u>\$5,954,096</u>	<u>\$34,991,193</u>

⁽¹⁾ These amounts have been adjusted to reflect retired principal and interest through 4/30/22.

⁽²⁾ Interest is computed at 2.5 percent.

⁽³⁾ Assuming a constant principal amount of \$971,263.50 over a term of twenty years, total debt service for the \$19,425,270 would be \$5,099,133.

⁽⁴⁾ Future draws on these loans will decrease the unissued bonds amount and increase the issued bonds amount.

⁽⁵⁾ Interest is from DNREC's estimated future repayment schedule. Interest rates for various loans are 2.00, 2.394 and 2.601 percent.