

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2010 Legislative Session**

Bill No. CB-98-2010  
 Chapter No. 79  
 Proposed and Presented by The Chairman (by request – County Executive)  
 Introduced by Council Members Dernoga, Exum and Dean  
 Co-Sponsors \_\_\_\_\_  
 Date of Introduction September 28, 2010

**BILL**

1 AN ACT concerning

2 The Issuance of Special Obligation Bonds for the

3 Kingdom Square Development District and Kingdom Square Special Taxing District

4 For the purpose of ratifying the designation of a contiguous area within Prince George's County,

5 Maryland (the "County") that would be coincident with the Kingdom Square Development

6 District as a "special taxing district" as that term is used in Section 10-269 of the Prince

7 George's County Code, as amended, and as that term is used in Section 9-1301 of Article 24 of

8 the Annotated Code of Maryland, as amended (collectively, the "Special Taxing District Act");

9 amending, ratifying and confirming CR-76-2010 adopted by the County Council of Prince

10 George's County, Maryland (the "County Council") on July 13, 2010 (the "Formation

11 Resolution"); providing that special obligation bonds may be issued under the provisions of this

12 Act, Sections 12-201 through 12-213 of the Economic Development Article of the Annotated

13 Code of Maryland, as amended (the "Tax Increment Financing Act"), and the Special Taxing

14 District Act in an aggregate principal amount not to exceed Sixteen Million One Hundred

15 Thousand Dollars (\$16,100,000) in order for the County to finance costs related to the

16 construction or acquisition of the public infrastructure improvements as more particularly

17 described herein; making certain findings and determinations, among others, that prior to the

18 issuance of such special obligation tax increment financing bonds the criteria set forth in CR-89-

19 2006, as amended by CR-98-2010 (the "TIF Criteria Resolution"), that includes but are not

20 limited to the following: the "But-For Test", the "Trigger Mechanism/Look Back Provision",

21 LMBE participation, and the impact of the County credit/bond rating shall have been satisfied;

1 providing that such bonds authorized to be issued hereby shall be payable, first, from amounts  
2 deposited in the Tax Increment Fund established by the Formation Resolution, and, second, to  
3 the extent the Tax Increment Fund does not contain monies in an amount sufficient for payment  
4 of debt service on such special obligation bonds and to the extent amounts are required for  
5 deposit in funds and accounts created within the indenture providing for the issuance of the  
6 special obligation bonds to replenish deficiencies therein and to pay the administrative expenses  
7 of the County, from the special tax to be levied and deposited in the Special Taxing District Fund  
8 established under the Formation Resolution, and that the bonds shall not constitute a general  
9 obligation debt of the County or a pledge of the County's full faith and credit or taxing power  
10 other than the County's pledge of the taxes representing the levy on the Tax Increment, the Hotel  
11 Taxes and the Special Taxes (each as defined in the Formation Resolution); providing for a  
12 proposed agreement between the County and Central Gateway Community Development  
13 Corporation, a Maryland nonstick corporation or its assigns (the "Developer") and any other  
14 governmental entity, if necessary, prior to the issuance and delivery of the bonds in the form of a  
15 TIF Proposal consistent with the requirements of this Act and the County TIF Criteria Resolution  
16 as well as other conditions for the issuance of the bonds and the construction and acquisition of  
17 infrastructure improvements; authorizing the County Executive of the County to specify,  
18 prescribe, determine, provide for and approve certain details, forms, documents or procedures in  
19 connection with such bonds issued hereunder and any other matters necessary or desirable in  
20 connection with the authorization, issuance, delivery and payment of such bonds; authorizing the  
21 County Executive to take certain actions, to execute documents and make certain commitments  
22 on behalf of the County in connection with the issuance and delivery of such bonds; authorizing  
23 the execution and delivery of such bonds and such other documents as may be necessary and  
24 desirable to effectuate the financing of the infrastructure improvements and the issuance and  
25 delivery of such bonds; and generally providing for, and determining various matters in  
26 connection with, the issuance, delivery and payment of such bonds.

27 WHEREAS, the Formation Resolution designated the "Kingdom Square Development  
28 District" and established a special fund designated the "Kingdom Square Development District  
29 Tax Increment Fund"; and

30 WHEREAS, the Formation Resolution also designated the "Kingdom Square Special  
31 Taxing District" and established a special fund designated the "Kingdom Square Special Taxing

1 District Fund”; and

2 WHEREAS, a Rate and Method of Apportionment of Special Taxes was attached to the  
3 Formation Resolution, and, based on such documentation the County Council found that the  
4 methodology is reasonable and results in fairly allocating the cost of the improvements as  
5 required by the Special Taxing District Act, conditioned on and subject to certification by  
6 qualified experts as to the final methodology adopted in apportioning the Special Tax among the  
7 property owners; and

8 WHEREAS, after conducting a public hearing in accordance with the Special Taxing  
9 District Act, the County Council desires to (i) amend the Formation Resolution by deleting the  
10 Rate and Method of Apportionment of Special Taxes attached thereto and inserting in lieu  
11 thereof the Amended and Restated Rate and Method of Apportionment of Special Taxes attached  
12 hereto as Exhibit B, (ii) ratify and confirm the Kingdom Square Special Taxing District referred  
13 to in the Formation Resolution as a “special taxing district” consistent with the Amended and  
14 Restated Rate and Method of Apportionment of Special Taxes attached hereto as Exhibit B and  
15 (iii) authorize the issuance of the Bonds (as hereinafter defined); and

16 WHEREAS, the Developer, or an affiliate, plans to redevelop a site located near Capitol  
17 Heights, Maryland by constructing residential and commercial facilities, structured parking and a  
18 hotel and to acquire, construct and install the infrastructure improvements in the Kingdom  
19 Square Development District and the Kingdom Square Special Taxing District described in  
20 Exhibit A attached hereto and made a part hereof (the “Infrastructure”) to serve such  
21 development; and

22 WHEREAS, the County has the power under the Tax Increment Financing Act, the Special  
23 Taxing District Act and the Formation Resolution to finance costs related to the construction or  
24 acquisition of the Infrastructure through the issuance and delivery of bonds, notes or other  
25 similar instruments (as hereinafter further defined, the “Bonds”) in compliance with the TIF  
26 Criteria Resolution; and

27 WHEREAS, the Bonds will be issued and secured pursuant to the provisions of the Tax  
28 Increment Financing Act, the Special Taxing District Act, this Act, the Formation Resolution and  
29 the Trust Indenture hereinafter authorized; and

30 WHEREAS, to the extent that Hotel Taxes and the taxes representing the levy on the Tax  
31 Increment collected in any given fiscal year of the County exceed the debt service payable on the

1 Bonds in any such fiscal year, any deferred debt service on the Bonds and any other payment  
 2 required to be satisfied by the Tax Increment and the Hotel Tax under the Trust Indenture, such  
 3 excess will be paid over at the end of each such fiscal year to the County for deposit in its  
 4 general fund; and

5 WHEREAS, the redevelopment of residential and commercial facilities, structured parking  
 6 and a hotel will further economic development within the County and thus meet the public  
 7 purposes contemplated by the Tax Increment Financing Act, the Special Taxing District Act and  
 8 the Formation Resolution and will satisfy the criteria set forth in CR-89-2006, as amended by  
 9 CR-98-2010, that includes but are not limited to the following: the “But-For Test”, the “Trigger  
 10 Mechanism/Look Back Provision”, LMBE participation, and the impact of the County  
 11 credit/bond rating; and

12 WHEREAS, prior to the bonds being issued or sold, Central Gateway Community  
 13 Development Corporation, a Maryland nonstick corporation or its assigns (the “Developer”),  
 14 County Executive and Bond Counsel shall certify that the provisions of CR-98-2010 have been  
 15 complied with and that the Minority Business Enterprise (“MBE”) Plan has been approved by  
 16 the Compliance Manager; and

17 WHEREAS, prior to the issuance and sale of the bonds, the County Council must review  
 18 the TIF proposal and certifications and approve the same by Resolution; now, therefore,

19 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
 20 Maryland, as follows:

21 A. The words and terms used in this Act that are defined in the Tax Increment Financing Act,  
 22 the Special Taxing District Act or the Formation Resolution shall have the meanings indicated in  
 23 the Tax Increment Financing Act, the Special Taxing District Act and the Formation Resolution,  
 24 as the case may be, unless the context clearly requires a contrary meaning.

25 B. It is hereby found and determined that the issuance of the Bonds for delivery to an original  
 26 purchaser in connection with a public offering or private placement or for delivery to the  
 27 Developer for the purpose of financing the costs of constructing or acquiring the Infrastructure  
 28 accomplish the public purposes of the Tax Increment Financing Act, the Special Taxing District  
 29 Act and the Formation Resolution;

30 C. The Rate and Method of Apportionment of Special Taxes attached to the Formation  
 31 Resolution is hereby deleted and inserted in lieu thereof is the Amended and Restated Rate and

1 Method of Apportionment of Special Taxes attached hereto as Exhibit B. Except to the extent  
2 modified by this Act, the Formation Resolution is hereby ratified and confirmed.

3 D. In accordance with Section 12-204(b)(2)(i) of the Tax Increment Financing Act, it is hereby  
4 found that the County Council has complied with the provisions of Sections 12-203, 12-208(c)  
5 and 12-208(d) of the Tax Increment Financing Act by designating the Kingdom Square  
6 Development District, receiving a certification of the Supervisor of Assessments, and pledging  
7 the division of property taxes and Hotel Taxes;

8 E. In accordance with Section 9-1301(h)(1)(i) of Article 24 of the Annotated Code of  
9 Maryland, as amended, and Section 10-269(e) of the Prince George's County Code, as amended,  
10 it is hereby found that the County Council has complied with the provisions of Section 9-  
11 1301(h)(1)(i) of Article 24 of the Annotated Code of Maryland, as amended, and Section 10-  
12 269(e) of the Prince George's County Code, as amended, by designating the Kingdom Square  
13 Special Taxing District and pledging the Special Taxes;

14 F. Before the Bonds are issued, the Financial Officer of the County shall record among the  
15 Land Records of the County at the cost of the Kingdom Square Special Taxing District a  
16 declaration encumbering all real property located in the Kingdom Square Special Taxing District  
17 except for property exempt by law and designating that property as subject to a special taxing  
18 district. The declaration shall terminate when the Financial Officer records a release stating that  
19 all Bonds are fully repaid or have been defeased. The boundaries of the Kingdom Square  
20 Development District and the Kingdom Square Special Taxing District may be reduced by  
21 executive order of the County Executive after the Bonds have been issued provided that the  
22 ability to reduce the boundaries was disclosed to the original purchaser of the Bonds or the  
23 Developer, as the case may be, and provided for in the indenture pursuant to which the Bonds are  
24 being issued.

25 G. Pursuant to the provisions of the Formation Resolution and in accordance with the Tax  
26 Increment Financing Act, so long as the Bonds remain outstanding, the County shall deposit into  
27 the Tax Increment Fund all real property taxes on real property within the Kingdom Square  
28 Development District received by the County for any Tax Year after the effective date of the  
29 Formation Resolution equal to that portion of the taxes payable to the County (but not including  
30 any taxes payable to the State of Maryland or to any other party) representing the levy on the Tax  
31 Increment that would normally be paid to the County. The County shall also deposit the Hotel

1 Tax into the Tax Increment Fund. Monies in the Tax Increment Fund are pledged to the payment  
2 of the debt service (including any deferred debt service) on the Bonds, and may be applied to pay  
3 the administrative expenses of the County. The balance remaining in the Tax Increment Fund at  
4 the end of any fiscal year of the County after such payments shall be transferred to the general  
5 fund of the County.

6 The County hereby covenants to levy the Special Tax in rate and amount at least sufficient  
7 in each year in which any of the Bonds are outstanding to provide for the payment of the  
8 principal of and interest on the Bonds to the extent of any deficiency in the Tax Increment Fund  
9 and to provide for replenishment of any debt service reserve fund securing the Bonds as well as  
10 for the payment of County administrative expenses, to the extent such replenishments and  
11 expenses are not otherwise provided for, as aforesaid. The Special Tax also may be levied with  
12 respect to refunding bonds issued under the Special Taxing District Act pursuant to the  
13 provisions of an ordinance or resolution enacted or adopted by the County in connection with the  
14 issuance of such refunding bonds. Monies in the Special Taxing District Fund are pledged to the  
15 payment of the Bonds.

16 H. Bonds, notes or other similar instruments may be issued to finance the Infrastructure in an  
17 aggregate principal amount not to exceed Sixteen Million One Hundred Thousand Dollars  
18 (\$16,100,000) and shall bear interest at a rate not to exceed \_\_\_\_\_ percent (\_\_\_\_%) per annum  
19 (the "Bonds"). The Bonds shall be issued as a single instrument in denomination equal to the  
20 aggregate principal amount of the Bonds issued. The Bonds shall be delivered to the original  
21 purchaser in connection with a public offering or private placement or shall be delivered by the  
22 County to the Developer in consideration of the Developer's construction of the Infrastructure or  
23 acquisition and transfer to the County or other public entity of the Infrastructure, as permitted by  
24 the Tax Increment Financing Act and the Special Taxing District Act. The Bonds will be  
25 payable, first, from the amounts levied and deposited in the Tax Increment Fund and, second, to  
26 the extent the Tax Increment Fund does not contain monies in an amount sufficient for payment  
27 of debt service on such Bonds and to the extent amounts are required for deposit in the debt  
28 service reserve fund securing the Bonds to replenish deficiencies therein, and to pay County  
29 administrative expenses related to the Kingdom Square Development District and the Kingdom  
30 Square Special Taxing District from the Special Tax to be levied and deposited in the Special  
31 Taxing District Fund. The Bonds are a special obligation of the County to be issued in

1 accordance with the TIF Criteria Resolution and do not constitute a general obligation debt of the  
2 County or a pledge of the County's full faith and credit or taxing power except for the pledge of  
3 the Special Taxes, the Hotel Taxes and the taxes representing the levy on the Tax Increment, as  
4 set forth in the Formation Resolution. In addition, Bonds issued hereunder may be refunded by  
5 bonds issued under the Tax Increment Financing Act and/or the Special Taxing District Act.

6 I. To the extent that the debt service payable on the Bonds in any fiscal year exceeds the  
7 amount then on deposit in the Tax Increment Fund, payment of such debt service shall be  
8 deferred and made, without penalty or the accrual of additional interest, to the extent of amounts  
9 thereafter deposited in the Tax Increment Fund and available therefor; provided that any such  
10 deferred debt service that remains unpaid at the final maturity of the Bonds shall be forgiven.

11 J. The Bonds shall be executed in the name of the County and on its behalf by the County  
12 Executive, by manual or facsimile signature, the corporate seal of the County or a facsimile  
13 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the  
14 County Council or the Chief Administrative Officer by manual or facsimile signature. The TIF  
15 Proposal; a trust indenture between the County and a bank or trust company to be approved by  
16 the County Executive, as trustee (the "Trust Indenture"); and, where applicable, all other  
17 documents as the County Executive deems necessary to effectuate the issuance and delivery of  
18 the Bonds, shall be executed in the name of the County and on its behalf by the County  
19 Executive by manual signature, and the corporate seal of the County or a facsimile thereof shall  
20 be impressed or otherwise reproduced thereon and attested by the Clerk of the County Council or  
21 the Chief Administrative Officer by manual signature. If any officer whose signature or  
22 countersignature or a facsimile of whose signature or countersignature appears on the Bonds or  
23 on any of the aforesaid documents ceases to be such officer before the delivery of the Bonds or  
24 any of the other aforesaid documents, such signature or countersignature or such facsimile shall  
25 nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in  
26 office until delivery. The County Executive, the Clerk of the County Council and other officials  
27 of the County are hereby authorized and empowered to do all such acts and things and execute  
28 such documents and certificates as the County Executive may determine to be necessary to carry  
29 out and comply with the provisions of this Act, subject to the limitations set forth in the Tax  
30 Increment Financing Act, the Special Taxing District Act and this Act. Prior to the issuance of  
31 the Bonds as required by the County TIF Criteria Resolution, the Developer, County Executive,

1 and Bond Counsel to the County shall certify to the County Council that the provisions of the  
2 County's TIF Criteria Resolution have been complied with and that the MBE Plan has been  
3 approved by the Compliance Manager in conformance with the MBE Plan Guidelines  
4 promulgated by the Compliance Manager.

5 K. The Bonds shall be delivered to the original purchaser in connection with a public offering  
6 or private placement or shall be delivered to the Developer upon such terms and conditions as the  
7 County Executive shall approve. The County Council deems it to be in the best interest of the  
8 County to authorize the County Executive to approve the terms of the sale and delivery of the  
9 Bonds, within the limitations of the Special Taxing District Act, the Tax Increment Financing  
10 Act and this Act.

11 L. Subject to the provisions of this Act, the County Executive by executive order and/or by the  
12 Trust Indenture which shall be approved by executive order:

13 (1) shall specify the principal amount of the Bonds;

14 (2) shall specify the manner and terms of the delivery of the Bonds, as provided in  
15 Paragraph K hereof;

16 (3) shall specify the form and terms of the Bonds;

17 (4) shall prescribe the date, maturity or maturities (within the limits prescribed in the Tax  
18 Increment Financing Act and the Special Taxing District Act), and the time and place or places  
19 of payment of the Bonds, and the terms and conditions and details under which the Bonds may  
20 be called for redemption prior to their stated maturities;

21 (5) may appoint an underwriter or underwriters, a trustee, a bond counsel and a financial  
22 advisor;

23 (6) may execute and deliver a contract or contracts for the purchase and sale of the Bonds  
24 (or any portion thereof) in form and content satisfactory to the County Executive;

25 (7) shall approve the forms and contents of the TIF Proposal, the Trust Indenture and such  
26 other documents to which the County is a party and which may be necessary to effectuate the  
27 issuance and delivery of the Bonds and the construction or acquisition of the Infrastructure;

28 (8) shall determine the time of execution, issuance and delivery of the Bonds and prescribe  
29 any and all other details of the Bonds;

30 (9) shall provide for the direct or indirect payment of all costs, fees and expenses incurred  
31 by or on behalf of the County in connection with the issuance and delivery of the Bonds and the



1 acquisition of the Infrastructure, including (without limitation) costs of printing (if any) and  
2 issuing the Bonds, the funding of reserves, legal expenses (including the fees of bond counsel)  
3 and compensation to any person performing services by or on behalf of the County in connection  
4 therewith; and

5 (10) shall do any and all things necessary, proper or expedient in connection with the  
6 issuance and delivery of the Bonds and the construction or acquisition of the Infrastructure in  
7 order to accomplish the legislative policy of the Tax Increment Financing Act and the Special  
8 Taxing District Act and the public purposes of this Act, subject to the limitations set forth in the  
9 Tax Increment Financing Act and the Special Taxing District Act and any limitations prescribed  
10 by this Act.

11 This delegation of authority to the County Executive is subject to his discretion and to the  
12 extent he does not exercise such discretion pursuant to the provisions of this Act, neither such  
13 officer nor the County shall be subject to any liability.

14 SECTION 2. BE IT FURTHER ENACTED, that the Bonds and the construction costs of  
15 the public improvements for which said Bonds are authorized and issued are not deemed to be  
16 construction, monetary contributions or procurement for purposes of Subtitle 10A of the Prince  
17 George's County Code and public improvements funded in whole or part by said Bonds are  
18 specifically exempted from the provisions of Subtitle 10A.

19 SECTION 3. BE IT FURTHER ENACTED, that the provisions of this Act are severable,  
20 and if any provision, sentence, clause, section or part hereof is held or determined to be illegal,  
21 invalid or unconstitutional or inapplicable to any person or circumstances, such illegality,  
22 invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining  
23 provisions, sentences, clauses, sections or parts of this Act or their application to other persons or  
24 circumstances. It is hereby declared to be the legislative intent that this Act would have been  
25 passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause,  
26 section or part had not been included herein, and as if the person or circumstances to which this  
27 Act or any part hereof are inapplicable had been specifically exempted herefrom.

28 SECTION 4. BE IT FURTHER ENACTED, that this Act shall take effect 45 days from the  
29 date it becomes law.

Ad opted this 26th day of October, 2010.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Thomas E. Dernoga Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Jack B. Johnson  
County Executive

**THE COUNTY EXECUTIVE HAVING FAILED TO RETURN THIS BILL WITH EITHER HIS APPROVAL OR VETO WITHIN TEN (10) DAYS AFTER THE DATE OF ITS PRESENTATION TO HIM, THIS BILL BECAME LAW ON 11/29/2010.**

**TO BECOME EFFECTIVE ON 1/14/2011.**

**EXHIBIT A**

**DESCRIPTION OF IMPROVEMENTS**

The improvements include, but are not limited to, road improvements, parking facilities, storm water management facilities, utilities, lighting and related infrastructure improvements within the Kingdom Square Development District and the Kingdom Square Special Taxing District, as may be authorized by the Tax Increment Financing Act and the Special Taxing District Act.

**EXHIBIT B**

Amended and Restated Rate and Method of Apportionment of Special Taxes

[See Attached]

Exhibit B available as an Inclusion File in LIS