

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2004 Legislative Session

Bill No. CB-106-2004

Chapter No. _____

Proposed and Presented by Council Member Hendershot

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 The Issuance and Sale of Special Obligation Bonds

3 For the purpose of providing that one or more series of special obligation bonds may be issued
 4 from time to time under the provisions of this Act, Article 41, Sections 14-201 through 14-214 of
 5 the Annotated Code of Maryland, as amended (2003 Replacement Volume) (the "Tax Increment
 6 Act"), and Resolution No. ____ of the County Council of Prince George's County, Maryland
 7 (the "Formation Resolution") in an amount not to exceed the aggregate principal amount of
 8 Fourteen Million Dollars (\$14,000,000) in order for the County to finance the construction of the
 9 parking improvements and infrastructure improvements as more particularly described herein;
 10 making certain findings and determinations, among others, concerning the public benefit and
 11 purpose of such special obligation bonds; providing that such special obligation bonds authorized
 12 to be issued hereby shall be payable, from the amounts levied and deposited in the Tax
 13 Increment Fund (as defined in the Formation Resolution) and any other tax revenues deposited
 14 therein and that the special obligation bonds shall not constitute a general obligation debt of the
 15 County or a pledge of the County's full faith and credit or taxing power other than the taxes
 16 representing the levy on the Tax Increment (as defined in the Formation Resolution); authorizing
 17 the County Executive of the County to specify, prescribe, determine, provide for and approve
 18 certain details, forms, documents or procedures in connection with such special obligation bonds
 19 issued hereunder and any other matters necessary or desirable in connection with the
 20 authorization, issuance, sale and payment of such special obligation bonds; authorizing the
 21 County Executive to take certain actions, to execute documents and make certain commitments

1 on behalf of the County in connection with the issuance, sale and delivery of such special
 2 obligation bonds; authorizing the execution and delivery of such special obligation bonds and
 3 such other documents as may be necessary and desirable to effectuate the financing of the
 4 infrastructure improvements and the issuance, sale and delivery of such special obligation bonds;
 5 and generally providing for, and determining various matters in connection with, the issuance,
 6 sale, delivery and payment of such special obligation bonds.

7 WHEREAS, in order to assist in facilitating the financing for the public infrastructure
 8 improvements described in Exhibit A attached hereto and made a part hereof, the County will
 9 issue its special obligation bonds to fund such improvements; and

10 WHEREAS, the owners of the real property in the Northgate College Park Development
 11 District plan to develop a residential condominium complex, which will include parking facilities
 12 and commercial uses; and

13 WHEREAS, such development will further economic development within the County
 14 and thus meet the public purposes contemplated by the Tax Increment Act and the Formation
 15 Resolution; and

16 WHEREAS, the Formation Resolution has heretofore designated a contiguous area
 17 within the County to be known as the "Northgate College Park Development District" as a
 18 "development district" as that term is used in the Tax Increment Act; and

19 WHEREAS, the special obligation bonds will be issued and secured pursuant to the
 20 provisions of the Tax Increment Act, and the Formation Resolution; and

21 WHEREAS, the parking facilities and infrastructure improvements to be financed will be
 22 owned by, leased to or otherwise made available to the County but maintained by the owners of
 23 the real property located within the Northgate College Park Development; now, therefore,

24 BE IT ENACTED by the County Council of Prince George's County, Maryland, as
 25 follows:

26 A. The words and terms used in this Act that are defined in the Tax Increment Act or the
 27 Formation Resolution shall have the meanings indicated in the Tax Increment Act and the
 28 Formation Resolution, as the case may be, unless the context clearly requires a contrary
 29 meaning.

30 B. Acting pursuant to the Tax Increment Act and the Formation Resolution, it is hereby
 31 found and determined that the issuance of the Bonds, as hereinafter defined, for delivery to the

1 original purchaser in connection with a public offering or private placement for the purpose of
2 providing funds for the financing of the infrastructure improvements related to the development
3 of the Northgate College Park Development District, accomplish the public purposes of the Tax
4 Increment Act and the Formation Resolution and pursuant to the Formation Resolution and this
5 Act, the County has complied with Section 14-206 of the Tax Increment Act.

6 C. The types of infrastructure improvements to be financed as permitted by the Tax
7 Increment Act in connection with the Northgate College Park Development District are set forth
8 in Exhibit A attached hereto and made a part hereof including costs related to such
9 improvements which are intended to be funded with the issuance of the Bonds. It is recognized
10 that the total costs shown as to be financed with the issuance of the Bonds are estimated and that
11 the specific items to be funded and the amount of funding for each item shall be as further
12 specified in documentation approved by the County at the time of the issuance of the Bonds.
13 The infrastructure improvements are contained within the geographic boundaries of the
14 Northgate College Park Development District.

15 D. Pursuant to the provisions of the Formation Resolution and in accordance with the Tax
16 Increment Act, so long as the Bonds remain outstanding, the County shall deposit into the Tax
17 Increment Fund all real property taxes received by the County for any Tax Year after the
18 effective date of the Formation Resolution equal to that portion of the taxes payable to the
19 County representing the levy on the Tax Increment that would normally be paid to the County.
20 Monies in the Tax Increment Fund are pledged to the payment of the Bonds, provided that
21 amounts may be withdrawn by the County Executive in accordance with the provisions of the
22 indenture pursuant to which the Bonds are being issued at the end of any fiscal year of the
23 County, provided that such monies in the Tax Increment Fund will only be permitted to be
24 withdrawn to the extent, and only to the extent, that the monies in the Tax Increment Fund at the
25 end of any fiscal year exceeds the amount needed to pay debt service on the Bonds, to replenish
26 any debt service reserve fund securing such Bonds and to pay administrative costs of the County
27 related to the Northgate College Park Development District and the issuance of the Bonds.

28 E. The special obligations bonds may be issued in one or more series in an aggregate
29 principal amount not to exceed Fourteen Million Dollars (\$14,000,000) (the "Bonds"). The
30 proceeds of the Bonds will be utilized solely to finance all or part of the costs of the
31 improvements described in Exhibit A attached hereto and made a part hereof through the

1 issuance of such Bonds for delivery to the original purchaser in connection with a public offering
2 or private placement as permitted pursuant to the provisions of the Tax Increment Act. The
3 Bonds will be payable from the amounts levied and deposited in the Tax Increment Fund created
4 by the Formation Resolution including any additional taxes. Provisions may be made for
5 municipal bond insurance or any other type of financial guaranty of the Bonds, if applicable. In
6 addition, the Bonds may be secured through the establishment of reserve funds or sinking funds
7 or the pledge of other assets and revenues toward the payment of the principal and interest on the
8 Bonds, if applicable. The Bonds issued hereunder are a special obligation of the County and do
9 not constitute a general obligation debt of the County or a pledge of the County's full faith and
10 credit or taxing power except for the taxes representing the levy on the Tax Increment as set
11 forth in the Formation Resolution. In addition, Bonds issued hereunder may be refunded by
12 bonds issued under the Tax Increment Act.

13 F. The Bonds shall be executed in the name of the County and on its behalf by the County
14 Executive, by manual or facsimile signature, the corporate seal of the County or a facsimile
15 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the
16 County Council or the Chief Administrative Officer by manual or facsimile signature. The
17 acquisition or development agreement(s) to be entered into among the County, any other
18 governmental entity, if necessary, and the developer of the Northgate College Park Development
19 District to provide for the construction by the developer and the acquisition by the County of the
20 improvements related to the Northgate College Park Development District (the "Acquisition
21 Agreement") and, where applicable, all other documents as the County Executive deems
22 necessary to effectuate the issuance, sale and delivery of the Bonds of any series, shall be
23 executed in the name of the County and on its behalf by the County Executive by manual
24 signature, and the corporate seal of the County or a facsimile thereof shall be impressed or
25 otherwise reproduced thereon and attested by the Clerk of the County Council or the Chief
26 Administrative Officer by manual signature. If any officer whose signature or countersignature
27 or a facsimile of whose signature or countersignature appears on the Bonds of any series or on
28 any of the aforesaid documents ceases to be such officer before the delivery of the Bonds of such
29 series or any of the other aforesaid documents, such signature or countersignature or such
30 facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer
31 had remained in office until delivery. The County Executive, the Clerk of the County Council

1 and other officials of the County are hereby authorized and empowered to do all such acts and
 2 things and execute such documents and certificates as the County Executive may determine to be
 3 necessary to carry out and comply with the provisions of this Act, subject to the limitations set
 4 forth in the Tax Increment Act and this Act.

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

10 H. Subject to the provisions of this Act, the County Executive by executive order:

11 (1) shall prescribe the form, tenor, terms and conditions of and security for the Bonds;

12 (2) shall prescribe the principal amounts, rate or rates of interest which shall not exceed
 13 ten percent (10%) per annum, premiums, if any, denominations, date, maturity or maturities
 14 (with the limits prescribed in the Tax Increment Act), and the time and place or places of
 15 payment of the Bonds, and the terms and conditions and details under which the Bonds may be
 16 called for redemption prior to their stated maturities;

17 (3) may appoint bond counsel, underwriters, a financial advisor and if necessary, may
 18 appoint a trustee, a bond registrar and a paying agent or agents for the Bonds;

19 (4) shall approve the form and contents of, and execute and deliver (where applicable),
 20 the Acquisition Agreement and such other documents to which the County is a party and which
 21 may be necessary to effectuate the issuance, sale and delivery of the Bonds;

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

24 (6) shall determine the time of execution, issuance, sale and delivery of the Bonds and
 25 prescribe any and all other details of the Bonds;

26 (7) shall approve the terms of the sale of the Bonds, as provided in Paragraph G hereof;

27 (8) shall provide for the direct or indirect payment of all costs, fees and expenses
 28 incurred by or on behalf of the County in connection with the issuance, sale and delivery of the
 29 Bonds, including (without limitation) costs of printing (if any) and issuing the Bonds, the
 30 funding of reserves, legal expenses (including the fees of bond counsel) and compensation to any
 31 person performing services by or on behalf of the County in connection therewith; and

1 (9) shall do any and all things necessary, proper or expedient in connection with the
2 issuance, sale and delivery of the Bonds in order to accomplish the legislative policy of the Tax
3 Increment Act and the public purposes of this Act, subject to the limitations set forth in the Tax
4 Increment Act and any limitations prescribed by this Act.

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

8 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
9 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
10 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
11 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
12 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
13 Act, since the same would have been enacted without the incorporation in this Act of any such
14 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this _____ day of _____, 2004.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Tony Knotts
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

* * * * *

EXHIBIT A

DESCRIPTION OF PARKING FACILITIES AND INFRASTRUCTURE IMPROVEMENTS

Five-story above-ground structured parking facility consisting of approximately 600 parking spaces. The parking garage is approximately 210 feet in depth and 190 feet in width.