

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2010 Legislative Session

Resolution No. CR-76-2010

Proposed by The Chairman (by request – County Executive)

Introduced by Council Members Dean, Knotts, Dernoga and Bland

Co-Sponsors _____

Date of Introduction July 13, 2010

RESOLUTION

1 A RESOLUTION concerning

2 Kingdom Square Development District and Kingdom Square Special Taxing District

3 For the purpose of designating a contiguous area within Prince George's County, Maryland (the

4 "County") as a "development district" as that term is used in Sections 12-201 through 12-213,

5 inclusive, of the Economic Development Article of the Annotated Code of Maryland, as

6 amended (the "Tax Increment Financing Act"), as well as for the purpose of designating a

7 contiguous area within the County that would be coincident with the development district as a

8 "special taxing district" as that term is used in Section 10-269 of the Prince George's County

9 Code, as amended, and as that term is used in Section 9-1301 of Article 24 of the Annotated

10 Code of Maryland, as amended (collectively, the "Special Taxing District Act"), such

11 development district and special taxing district to be located in an unincorporated area of the

12 County near Capitol Heights, Maryland and to be known as the "Kingdom Square Development

13 District" and the "Kingdom Square Special Taxing District;" providing for, and determining,

14 various matters in connection with the establishment of a development district and special taxing

15 district; creating a tax increment fund with respect to the development district and a special fund

16 with respect to the special taxing district, and allocating certain property taxes and certain hotel

17 occupancy taxes with respect to the development district to be paid over to the tax increment

18 fund as provided in the Tax Increment Financing Act; providing for the levy of a special tax and

19 the allocation of the special tax with respect to the special taxing district to be paid over to the

20 special fund as provided in the Special Taxing District Act; making certain findings and

21 determinations with respect to the tax increment fund and the special fund and the respective

22 uses of such funds; providing that special obligation bonds may be issued from time to time

1 pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment Financing
2 Act and the Special Taxing District Act and secured by the tax increment fund and the special
3 fund; and generally relating to the Kingdom Square Development District and the Kingdom
4 Square Special Taxing District.

5 WHEREAS, the Tax Increment Financing Act constitutes those provisions of Maryland law
6 authorizing the County to establish a “development district” (as that term is used in the Tax
7 Increment Financing Act) and a tax increment fund into which the taxes representing the levy on
8 the Tax Increment and the Hotel Tax (both hereinafter defined) for the Development District
9 (hereinafter defined) are deposited; and

10 WHEREAS, the Special Taxing District Act constitutes those provisions of Maryland law
11 authorizing the County to establish a “special taxing district” (as that term is used under the
12 Special Taxing District Act) and a special fund into which the Special Tax (hereinafter defined)
13 for the Special Taxing District (hereinafter defined) is deposited; and

14 WHEREAS, the owners of at least two-thirds of the assessed valuation of the real property
15 located within the proposed Special Taxing District and at least two-thirds of the owners of the
16 real property located within the proposed Special Taxing District have petitioned the County to
17 designate and create the Special Taxing District within a certain unincorporated area of the
18 County as more specifically provided within such petition; and

19 WHEREAS, the owners of the real property in the proposed Development District and the
20 proposed Special Taxing District plan to redevelop a site located near Capitol Heights, Maryland
21 by constructing residential and commercial facilities, structured parking, and a hotel; and

22 WHEREAS, such development will further economic development within the County and
23 thus meet the public purposes contemplated by the Tax Increment Financing Act and the Special
24 Taxing District Act; and

25 WHEREAS, there is proposed to be levied and imposed a Special Tax upon all real and
26 personal property within the proposed Special Taxing District unless exempted by law or as
27 provided for herein, for the purposes, to the extent and in the manner herein provided; and

28 WHEREAS, the County has agreed to pledge its receipts from the Hotel Tax and to deposit
29 such Hotel Tax into the tax increment fund, as more specifically provided for herein; and

30 WHEREAS, the Tax Increment Financing Act and the Special Taxing District Act
31 authorize the County to issue special obligation bonds from time to time for the purpose of

1 providing funds to be used to fulfill one or more of the purposes of said Acts; and

2 WHEREAS, the County expects to issue special obligation bonds in one or more series to
3 finance road improvements, parking facilities, storm water management facilities, utilities,
4 lighting and related infrastructure improvements; and

5 WHEREAS, if the County issues its special obligation bonds upon enactment of an
6 ordinance or ordinances such ordinance or ordinances will provide that the special obligation
7 bonds shall be secured by a pledge of (i) the taxes representing the levy on the Tax Increment,
8 (ii) the Hotel Taxes, and (iii) the Special Taxes (collectively, the "County Taxes"), as more
9 specifically provided herein.

10 SECTION 1. NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince
11 George's County, Maryland, that for the purposes of this Resolution, the terms defined in the
12 recitals shall have the meanings therein set forth and, in addition, the following terms shall have
13 the meanings set forth below:

14 (1) "Adjusted Assessable Base" means the fair market value of real property that
15 qualifies for a farm or agricultural use under Section 8-209 of the Tax-Property Article, without
16 regard to the agricultural use assessment for the property as of January 1 of the year preceding
17 the effective date of the resolution creating the Development District under Section 12-203 of the
18 Tax Increment Financing Act.

19 (2) "Assessable Base" means the total assessable base, as determined by the
20 Supervisor of Assessments, of all real property subject to taxation in the Development District.

21 (3) "Assessment Ratio" means a real property tax assessment ratio, however
22 designated or calculated, that is used or applied under applicable general law to determine the
23 Assessable Base including the assessment percentage as provided under § 8-103(c) of the Tax-
24 Property Article.

25 (4) "Bonds" includes any revenue bonds or bond, note or notes, or other similar
26 instruments or instrument issued by the County pursuant to and in accordance with this
27 Resolution and the Tax Increment Financing Act and the Special Taxing District Act.

28 (5) "Development District" means the contiguous area in the County designated in
29 Section 3 of this Resolution as a development district under the Tax Increment Financing Act.

30 (6) "Hotel Taxes" means the transient occupancy taxes levied and collected in each
31 Tax Year by the County pursuant to Division 8, Subdivision 3, Subtitle 10 of the Prince George's

1 County Code, as amended, on hotels located in the Development District.

2 (7) "Original Assessable Base" means the Assessable Base as of January 1 of the year
3 preceding the effective date of this Resolution, which is January 1, 2009.

4 (8) "Original Full Cash Value" means the dollar amount that is determined by
5 dividing the Original Assessable Base by the Assessment Ratio used to determine the Original
6 Assessable Base.

7 (9) "Original Taxable Value" means, for any Tax Year, the dollar amount that is:

8 (a) The Adjusted Assessable Base, if an Adjusted Assessable Base applies; or

9 (b) In all other cases, the lesser of:

10 (i) The product of multiplying the Original Full Cash Value by the
11 Assessment Ratio applicable to that Tax Year; and

12 (ii) The Original Assessable Base.

13 (10) "Special Taxes" means ad valorem or special taxes levied by the County on all
14 real and personal property within the Special Taxing District pursuant to the Special Taxing
15 District Act and the methodology described in Exhibit B to this Resolution to pay, if necessary,
16 the debt service on Bonds in an aggregate principal amount that does not exceed \$16,100,000
17 and to make other payments permitted under the Tax Increment Financing Act and the Special
18 Taxing District Act.

19 (11) "Special Taxing District" means the contiguous area in the County designated in
20 Section 4 of this Resolution as a special taxing district under the Special Taxing District Act.

21 (12) "Special Taxing District Fund" means the special taxing district fund established
22 in Section 7 of this Resolution.

23 (13) "Tax Increment" means for any Tax Year, the amount by which the Assessable
24 Base as of January 1 preceding that Tax Year exceeds the Original Taxable Value divided by the
25 Assessment Ratio used to determine the Original Taxable Value.

26 (14) "Tax Increment Fund" means the tax increment fund established in Section 6 of
27 this Resolution.

28 (15) "Tax Year" means the period from July 1 of a calendar year through June 30th of
29 the next calendar year.

30 SECTION 2. BE IT FURTHER RESOLVED, that acting pursuant to the Tax Increment
31 Financing Act and the Special Taxing District Act, it is hereby found and determined that the

1 establishment of the Development District and the Special Taxing District, the creation of the
2 Tax Increment Fund and the Special Taxing District Fund and the present intent to issue Bonds
3 from time to time pursuant to the Tax Increment Financing Act and the Special Taxing District
4 Act, all for the purpose of providing funds to finance the costs of certain road improvements,
5 parking facilities, storm water management facilities, utilities, lighting, and related infrastructure
6 improvements accomplishes the public purposes of the Tax Increment Financing Act and the
7 Special Taxing District Act, and generally promotes the health, welfare and safety of the
8 residents of the State of Maryland and of the County.

9 SECTION 3. BE IT FURTHER RESOLVED, that a contiguous area of the County
10 consisting of the property set forth on Exhibit A attached hereto is hereby designated as a
11 “Development District” (to be known as the “Kingdom Square Development District”) pursuant
12 to Section 12-203 of the Tax Increment Financing Act. The Development District shall consist
13 of the properties listed as Tax Parcel ID #13-1448661 and Tax Parcel ID #13-2925774 as further
14 described shown on the plat attached hereto as Exhibit A, and all adjoining roads, highways,
15 alleys, rights of way and other similar property in order to form a contiguous area as shown on
16 Exhibit A and submitted to the County Council together with this Resolution. The boundaries of
17 the Development District may be further specified or modified prior to and after the issuance of
18 the Bonds as provided in Section 5 of this Resolution.

19 SECTION 4. BE IT FURTHER RESOLVED, that a contiguous area of the County
20 consisting of the property set forth below is hereby designated as a “Special Taxing District” (to
21 be known as “Kingdom Square Special Taxing District”) pursuant to Section 10-269(e) of the
22 Prince George’s County Code, as amended, and Section 9-1301(f) of Article 24 of the Annotated
23 Code of Maryland, as amended. The Special Taxing District shall consist of property listed in
24 Exhibit A of this Resolution and all adjoining roads, highways, alleys, rights of way and other
25 similar property in order to form a contiguous area as shown on Exhibit A submitted to the
26 County Council together with this Resolution. The boundaries of the Special Taxing District
27 may be modified prior to and after the issuance of the Bonds as provided in Section 5 of this
28 Resolution.

29 SECTION 5. BE IT FURTHER RESOLVED, that prior to the issuance of the Bonds, the
30 County Executive may, by executive order, reduce or enlarge the boundaries of the Development
31 District and the Special Taxing District by not more than two acres or further specify the

1 description of such boundaries. After the issuance of the Bonds, the County Executive, by
2 executive order, may enlarge the boundaries of the Development District and the Special Taxing
3 District but may not reduce the size of such District so long as there are any Bonds outstanding
4 pursuant to the Tax Increment Financing Act, the Special Taxing District Act and this
5 Resolution, unless the ordinance with respect to such Bonds permits the County to reduce the
6 area constituting the Development District and the Special Taxing District or the holders of the
7 Bonds or a representative on their behalf consents to any such reduction.

8 SECTION 6. BE IT FURTHER RESOLVED, that there is hereby established a special
9 fund to be designated the “Kingdom Square Development District Tax Increment Fund” (the
10 “Tax Increment Fund”) with respect to the Kingdom Square Development District and the
11 County Executive, Chief Administrative Officer and the Financial Officer of the County are
12 hereby directed and authorized to deposit in such Tax Increment Fund all taxes received by the
13 County for any Tax Year commencing after the effective date of this Resolution equal to that
14 portion of the taxes payable to the County (but not including any taxes payable to the State of
15 Maryland or to any other party) representing the levy on the Tax Increment that would normally
16 be paid to the County. The County shall also deposit the Hotel Tax into such Fund. The County
17 Executive, the Chief Administrative Officer and the Financial Officer and other officers and
18 employees of the County, to the extent applicable, are hereby authorized to take all necessary
19 steps in order to establish a separate fund to be held by the County. Prior to the issuance of the
20 Bonds, the Tax Increment Fund may be used by the County for any of the purposes set forth in
21 Section 12-209 of the Tax Increment Financing Act, including payments to the County for any
22 legal purpose.

23 SECTION 7. BE IT FURTHER RESOLVED, that there is hereby established a special
24 fund to be designated the “Kingdom Square Special Taxing District Fund” (the “Special Taxing
25 District Fund”) with respect to the Kingdom Square Special Taxing District and the County
26 Executive, Chief Administrative Officer and the Financial Officer of the County are hereby
27 directed and authorized to deposit in such Special Taxing District Fund all Special Taxes
28 received by the County. The County Executive, the Chief Administrative Officer and the
29 Financial Officer and other officers and employees of the County, to the extent applicable, are
30 hereby authorized to take all necessary steps in order to establish a separate fund to be held by
31 the County.

1 SECTION 8. BE IT FURTHER RESOLVED, that Bonds may be issued from time to time
2 pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment Financing
3 Act and the Special Taxing District Act for the purpose of providing funds for the financing of
4 certain road improvements, parking facilities, storm water management facilities, utilities,
5 lighting and related infrastructure improvements. Such ordinance or ordinances shall specify, in
6 general detail, the improvements to be financed through the issuance of the Bonds and the nature
7 and extent of any pledge of County revenues for the payment of debt service on the Bonds, and
8 shall otherwise conform to the applicable requirements of the Tax Increment Financing Act, the
9 Special Taxing District Act and this Resolution.

10 SECTION 9. BE IT FURTHER RESOLVED, that the County hereby covenants and
11 pledges that if any Bonds issued under the Tax Increment Financing Act with respect to the
12 Development District are outstanding, the property taxes on real property within the
13 Development District shall be divided so that (i) that portion of the taxes which would be
14 produced by the rate at which taxes levied each year by the County upon the Original Taxable
15 Value shall be allocated to and when collected paid into the funds of the County in the same
16 manner as taxes by or for the County on all other property are paid and (ii) that portion of the
17 taxes representing the levy on the Tax Increment that would normally be paid to the County (but
18 not including any taxes payable to the State of Maryland or to any other party) shall be paid into
19 the Tax Increment Fund established hereunder to be applied in accordance with the provisions of
20 Section 12-209 of the Tax Increment Financing Act. The County acknowledges that neither the
21 rate at which taxes are levied on real property within the Development District nor the manner of
22 assessment of the value of real property within the Development District is to vary from the rate
23 or manner of assessment that otherwise would have applied if the Development District were not
24 designated and the Tax Increment Fund not created, except to the extent that a specific valuation
25 adjustment is mandated by the Tax Increment Financing Act for real property that qualifies for
26 farm or agricultural use.

27 SECTION 10. BE IT FURTHER RESOLVED, that there hereby is levied and imposed, if
28 necessary, a Special Tax upon all real and personal property within the Special Taxing District,
29 unless exempted by law or by the provisions hereof, for the purposes, to the extent and in the
30 manner provided in Exhibit B attached hereto and made a part hereof, through the application of
31 the procedures provided in Exhibit B. As set forth in Exhibit B, no Special Tax shall be levied to

1 pay debt service on any Bonds which are secured by both the Tax Increment Fund and the
2 Special Taxing District Fund unless the Tax Increment Fund does not contain monies in an
3 amount sufficient to pay such debt service on the Bonds, any other required payments as well as
4 the County's administrative expenses relating to the issuance of the Bonds and the creation of the
5 Development District and Special Taxing District. Further, the Special Tax levied and imposed
6 by this Resolution in the Special Taxing District shall take effect and be in force for the fiscal
7 year beginning July 1, 2011, provided that such Special Tax shall terminate when the Bonds are
8 no longer outstanding which, for purposes of this Resolution as it relates only to the Special Tax,
9 shall mean the Bonds have been fully repaid or defeased. The County hereby covenants to levy,
10 if necessary, the Special Tax in rate and amount at least sufficient in each year in which any of
11 the Bonds are outstanding to provide, if necessary, for the payment of the principal of and
12 interest on the Bonds to the extent of any deficiency in the Tax Increment Fund, to make any
13 other required payments and to provide for the payment of the County's administrative expenses.
14 The Special Tax also may be levied with respect to refunding bonds issued under the Special
15 Taxing District Act pursuant to the provisions of an ordinance or resolution enacted or adopted
16 by the County in connection with the issuance of such refunding bonds.

17 The County Council has been provided with documentation as to the methodology utilized
18 in apportioning the Special Tax among property owners within the Special Taxing District and
19 based on such documentation finds that the methodology is reasonable and results in fairly
20 allocating the cost of the improvements as required by the Special Taxing District Act,
21 conditioned on and subject to certification by qualified experts as to the final methodology
22 adopted in apportioning the Special Tax among the property owners.

23 SECTION 11. BE IT FURTHER RESOLVED, that the provisions of this Resolution are
24 severable, and if any provision, sentence, clause, section or part hereof is held or determined to
25 be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such
26 illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the
27 remaining provisions, sentences, clauses, sections or parts of this Resolution or their application
28 to other persons or circumstances. It is hereby declared to be the legislative intent that this
29 Resolution would have been passed if such illegal, invalid, unconstitutional or inapplicable
30 provision, sentence, clause, section or part had not been included herein, and as if the person or
31 circumstances to which this Resolution or any part hereof are inapplicable had been specifically

1 | exempted herefrom.

2 | SECTION 12. BE IT FURTHER RESOLVED, that this Resolution is administrative in
3 | nature and shall take effect upon approval by the County Executive.

Adopted this 13th day of July, 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

EXHIBIT A

DESCRIPTION OF THE PARCEL

Being Parcel D&E as shown on the Plat (attachment hereto as Exhibit A) entitled “Lots 6, 7, and 8, Block “H” Resubdivision of Parcel “D” Hampton Mall”, and Lots 4 and 5, Block H, Hampton Park, recorded among the land records of Prince George’s County Maryland in Plat Book VJ171 Plat No. 50 recorded January 4, 1995.

Tax Parcel ID – Parcel D: #2925774

Tax Parcel ID – Parcel E: #1448661

PLAT

PLAT AVAILABLE AS AN INCLUSION FILE IN LIS

Exhibit B

PRINCE GEORGE'S COUNTY
KINGDOM SQUARE SPECIAL TAXING DISTRICT
RATE AND METHOD OF APPORTIONMENT
OF SPECIAL TAXES

A Special Tax shall be levied and collected in the Prince George's County Kingdom Square Special Taxing District (the "District") each Tax Year, beginning with the 2011-2012 Tax Year, in an amount determined by the County Executive (or the Administrator, as designated by the County Executive) through the application of the procedures described below. All of the real and personal property in the District, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms used herein shall have the following meanings:

"Act" means the Special Taxing District Act and the Tax Increment Financing Act.

"Administrative Expenses" means any or all of the following: the fees and expenses of the Trustee and Administrator employed by the County in connection with the Bonds; the expenses of the County in carrying out its duties under the Trust Indenture with respect to such Bonds, including, but not limited to, levying and collecting the Special Tax, complying with arbitrage rebate requirements and obligated persons disclosure requirements associated with applicable federal and state securities law, including the costs of any employees of the County and the fees of any professionals retained by the County to provide services for such purposes, and all other costs and expenses of the County, Administrator, or Trustee incurred in connection with the discharge of their respective duties herein or under the Trust Indenture with respect to the Bonds, including legal expenses associated with such duties, and, in the case of the County, in any way related to the administration of the District.

"Administrator" means the designee of the County Executive for purposes of making the calculations required herein and other services as designated by the County Executive.

"Bonds" means any bonds or other debt, including refunding bonds, whether in one or more series, issued by the County relating to the District pursuant to the Act and to be repaid in whole or part by the Special Tax.

"County Council" means the County Council of Prince George's County, Maryland.

"County" means Prince George's County, Maryland.

"County Executive" means the official of the County who is the chief executive officer of the County.

"Development District" means any property within the "Kingdom Square Development

District,” created by CR- -2010 adopted by the County Council.

“Equivalent Acre” means each Net Acre within each Property Class multiplied by the Equivalent Acre Factor per Net Acre for that Property Class.

“Equivalent Acre Factor” means the following for each Property Class:

Kingdom Square Property: 1.0 per Net Acre

“Exempt Property” means any Parcel within the boundaries of the District that is not subject to real property taxes levied by the County.

“Hotel Tax” has the meaning given to it in CR- -2010 adopted by the County Council.

“Kingdom Square Property” means property identified as the “Kingdom Square Parcel” on the map of the District.

“Net Acreage” means the estimated usable acreage of Taxable Property, taking into consideration the development legally permissible, the proposed or planned development, easements, and other areas on which development may not occur and excluding existing or intended Public Property and Owner Association Property.

“Parcel” means a parcel within the District with a parcel number assigned by the Supervisor.

“Personal Property Tax Rate” means a tax rate equal to \$0 per \$100 of Assessed Value.

“Property Class” means Kingdom Square Property.

“Special Tax” means the Special Tax that may be levied by the County on property within the District each Tax Year to fund the Special Tax Requirement.

“Special Tax Requirement” means the amount calculated pursuant to Section C.1.

“Special Taxing District Act” means Section 10-269 of the Prince George’s County Code, as amended, and Article 24, Section 9-1301 of the Annotated Code of Maryland, as amended.

“Supervisor” means the Supervisor of Assessments.

“Tax Increment” has the meaning given to it in CR- -2010 adopted by the County Council.

“Tax Increment Revenues” means any Tax Increment paid on any property within the Development District and available to apply to the Special Tax Requirement.

“Tax Increment Financing Act” means Sections 12-201 through 12-213, inclusive of Economic Development Article of the Annotated Code of Maryland, as amended.

“Taxable Property” means any Parcel that is not Exempt Property.

“Tax Year” means the period starting any July 1 and ending on the following June 30.

"Trustee" means the trustee, fiscal agent, or paying agent appointed by the County to carry out the duties of the trustee, fiscal agent, or paying agent specified in the Trust Indenture.

"Trust Indenture" means the indenture or fiscal agent agreement relating to the Bonds, as modified, amended and/or supplemented from time to time.

B. SPECIAL TAX RATES

1. Maximum Special Tax Rate Per Equivalent Acre

The Maximum Special Tax Rate per Equivalent Acre each Tax Year shall be determined according to the following formula:

$$A = (B + C) \div D$$

Where the terms have the following meaning:

- A = The Maximum Special Tax Rate for a Tax Year
- B = The Special Tax Requirement for the Tax Year
- C = Tax Increment Revenues and Hotel Taxes available to apply to the Special Tax Requirement for that Tax Year
- D = The Equivalent Acres of Taxable Property.

2. Maximum Special Tax Per Parcel

The Maximum Special Tax on each Parcel of Taxable Property shall be equal to the following:

$$A = (B \times C) - D$$

Where the terms have the following meaning:

- A = The Maximum Special Tax for a Parcel
- B = The Equivalent Acres of a Parcel
- C = The Special Tax Rate per Equivalent Acre as set forth in Section B.1.
- D = Tax Increment Revenues and Hotel Taxes produced by the Parcel and available to apply to the Special Tax Requirement for that Tax Year

The Maximum Special Tax on each Parcel of Exempt Property shall be zero.

C. LEVY OF THE SPECIAL TAX

1. Special Tax Requirement

The Special Tax Requirement for any Tax Year shall be an amount equal to (A) the amount required in any Tax Year to pay: (1) debt service and other periodic costs (including deposits to any sinking funds) on the Bonds to be paid from the Special Taxes collected in such Tax Year, (2) Administrative Expenses to be incurred in the Tax Year or incurred in any previous Tax Year and not paid by the District, (3) amounts required to replenish any reserve fund established in association with any Bonds, (4) an amount equal to the estimated delinquencies expected in payment of the Special Tax, and (5) the costs of remarketing, credit enhancement, bond insurance, and liquidity facility fees (including such fees for instruments that serve as the basis of a reserve fund related to any indebtedness in lieu of cash); however, items (3) and (4) above shall not exceed ten percent of item (1) above; less (B) (1) Tax Increment Revenues, and Hotel Tax revenues available to apply to the Special Tax Requirement for that Tax Year as provided for in the Trust Indenture, (2) any credits available pursuant to the Trust Indenture, such as capitalized interest and investment earnings on any account balances, and (3) any other revenues available to the apply to the Special Tax Requirement.

2. Levy of the Special Tax

Commencing with the 2011-2012 Tax Year and for each following Tax Year, the County Executive shall provide for the levy of the Special Tax on each Parcel of Taxable Property in an amount determined by the following formula:

$$A = (B \div C) \times D$$

Where the terms have the following meaning:

- A = The Special Tax levied on a Parcel
- B = The Special Tax Requirement as set forth in Section C.1.
- C = The total of the Maximum Special Tax for all of the Parcels calculated pursuant to Section B.2.
- D = The Maximum Special Tax for the Parcel calculated pursuant to Section B.2.

Special Taxes shall be levied on all Parcels of Taxable Property in an aggregate amount equal to the Special Tax Requirement.

3. Circumstances Under Which the Special Tax May be Increased as a Result of a Default

The circumstances under which the Special Tax levied on any Parcel may be increased as a result of a default in the payment of the Special Tax levied on any other Parcel are based on the provisions of Section C. 1. Special Taxes are levied in an amount equal to the Special Tax Requirement. The Special Tax Requirement includes an amount required to replenish any reserve fund established in association with any Bonds and an amount equal to the estimated delinquencies expected in payment of the Special Tax not otherwise taken into account in an amount up to ten percent of annual debt service.

D. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary real property taxes; provided, however, that Special Taxes may be collected at a different time or in a different manner as determined by the County Executive.

E. TERMINATION OF SPECIAL TAX

Except for any delinquent Special Taxes and related penalties and interest, Special Taxes shall not be levied after the earlier of the repayment or defeasance of the Bonds or as provided for in the Trust Indenture. After such time, and the collection of any delinquent Special Taxes, penalties and interest, the County Executive shall cause a document evidencing such termination of the levy and collection of the Special Tax to be recorded in the land records of the County.

F. PREPAYMENT OF THE SPECIAL TAX

The Special Tax will be levied only in the event Tax Increment Revenues and Hotel Taxes, and other revenues available pursuant to the Trust Indenture are not sufficient to fund the Special Tax Requirement. Accordingly, no provisions are made for the prepayment of the Special Tax.

G. APPEALS OF THE LEVY OF THE SPECIAL TAX

Any property owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal and refund to that effect with the Administrator not later than one calendar year after the due date of the Special Tax that is disputed. The Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the decision of the Administrator requires the Special Tax to be modified or changed in favor of the property owner, except in the last year Special Taxes may be levied, in-lieu of a cash refund, an adjustment shall be made to the next Special Tax levy, unless the Administrator is able to determine that the Trustee has collected sufficient Special Taxes to meet the Special Tax Requirement and the excess Special Taxes are available pursuant to the Trust Indenture to pay the refund. The decision of the Administrator may be appealed to the County Executive. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

H. AMENDMENTS

This Rate and Method of Apportionment of Special Taxes may be amended by the County Executive and, to the maximum extent permitted by the Special Taxing District Act, such amendments may be made without further notice under the Special Taxing District Act and without notice to owners of Taxable Property within the District in order to (i) clarify or correct minor inconsistencies in the matters set forth herein, (ii) provide for lawful procedures for the collection and enforcement of the Special Tax so as to assure the efficient collection of the Special Tax for the benefit of the owners of the Bonds, and (iii) otherwise improve the ability to fulfill the obligations under the Trust Indenture to impose and collect the Special Tax and to make it available for the payment of the Bonds and Administrative Expenses. No such amendment shall be approved by the County Executive unless and until it has (i) found and determined that the amendment is necessary and appropriate and does not materially adversely

affect the rights of the owners of the Bonds and (ii) received an opinion of a nationally recognized bond counsel to the effect that the amendment is authorized pursuant to the terms of the Special Taxing District Act and the Trust Indenture.

I. INTERPRETATION OF PROVISIONS

The County Executive or the designee of the County Executive shall make all interpretations and determinations related to the application of this Rate and Method of Apportionment of Special Taxes, unless stated otherwise herein or in the Trust Indenture, and as long as there is a rational basis for any such determination, the determination shall be conclusive.