

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2018 Legislative Session

Bill No. CB-74-2018

Chapter No. 63

Proposed and Presented by The Chair (by request – County Executive)

Introduced by Council Members Glaros, Davis, Turner, Taveras and Franklin

Co-Sponsors _____

Date of Introduction September 11, 2018

BILL

1 AN ACT concerning

2 The Issuance and Sale of Special Obligation Bonds

3 for the Karington Development District and the Karington Special Taxing District

4 For the purpose of providing that special obligation bonds may be issued from time to time under
5 the provisions of this Act, Sections 12-201 through 12-213 of the Economic Development
6 Article of the Annotated Code of Maryland, as amended (the “Tax Increment Act”), Section 10-
7 269 of Prince George’s County Code, as amended, and Sections 21-501 through 21-523 of the
8 Local Government Article of the Annotated Code of Maryland, as amended (collectively, the
9 “Special Tax Act”), CR-73-2016 and CR-57-2018, each of the County Council of Prince
10 George’s County, Maryland, in an amount not to exceed the aggregate principal amount of
11 Thirty-Three Million Dollars (\$33,000,000) in order for the County to finance or reimburse, in
12 accordance with the Tax Increment Act and the Special Tax Act (together, the “Acts”), costs
13 related to the construction and installation of certain of the public infrastructure improvements as
14 more particularly described herein; making certain findings and determinations, among others,
15 concerning the public benefit and purpose of such special obligation bonds, including that prior
16 to the issuance of such bonds the criteria set forth in CR-38-2011, including but not limited to the
17 “But-For Test,” the “Trigger Mechanism/Look Back Provision,” LMBE participation and the
18 impact of the County credit/bond rating, have been satisfied; providing for the modification of
19 certain requirements of CR-73-2016 related to Hotel Taxes; providing that the special obligation
20 bonds authorized to be issued hereby shall be payable, from the amounts levied and deposited in
21 the Tax Increment Fund (as defined in the Development District Formation Resolution) and the

1 Special Taxing District Fund (as defined in the Special Taxing District Formation Resolution)
 2 and that the special obligation bonds shall not constitute a general obligation debt of the County
 3 or a pledge of the County’s full faith and credit or taxing power other than the taxes representing
 4 the levy on the Tax Increment (as defined in the Development District Formation Resolution)
 5 and the Special Tax (as defined in the Special Taxing District Formation Resolution);
 6 authorizing the County Executive of the County to specify, prescribe, determine, provide for and
 7 approve certain details, forms, documents or procedures in connection with such special
 8 obligation bonds issued hereunder and any other matters necessary or desirable in connection
 9 with the authorization, issuance, sale and payment of such special obligation bonds; authorizing
 10 the County Executive to take certain actions, to execute documents and make certain
 11 commitments on behalf of the County in connection with the issuance, sale and delivery of such
 12 special obligation bonds; authorizing the execution and delivery of such special obligation bonds
 13 and such other documents as may be necessary and desirable to effectuate the financing of the
 14 infrastructure improvements and the issuance, sale and delivery of such special obligation bonds;
 15 and generally providing for, and determining various matters in connection with, the issuance,
 16 sale, delivery and payment of such special obligation bonds.

17 WHEREAS, the County Council, through the adoption of CR-11-2006, approved the 2006
 18 Master Plan and Sectional Map Amendment for Bowie and its vicinity (the “Bowie Plan”) on
 19 February 7, 2006, defining long range land use and development policies for Bowie and the
 20 surrounding area in the county.

21 WHEREAS, in the Bowie Plan, the Planning Commission found that within the
 22 Development Tier, four mixed-use activity centers to promote development of a mix of
 23 residential, commercial, retail office, civic, recreational and open space land uses should be
 24 encouraged in the evolution of each area into successful places where residents and citizens want
 25 to live, shop, work, and recreate; and

26 WHEREAS, to further the goals described above, the Pointer Ridge Mixed-Use Activity
 27 Center was established to provide Pointer Ridge and surrounding sites, including South Lake
 28 (formerly known as Karington), an opportunity to serve the retail, employment, residential and
 29 civic needs of the community; and

30 WHEREAS, in developing the Pointer Ridge Mixed-Use Activity Center, the Planning
 31 Commission established the goals of (i) reinforcing the Pointer Ridge Mixed-Use Activity Center

1 as a community focal point; (ii) prioritizing traffic concerns in determining how to provide
2 vehicular access to development sites; and (iii) promoting high-quality, pedestrian-friendly,
3 mixed-use development; and

4 WHEREAS, in addition to these goals, the Bowie Plan established a policy of providing
5 roadway improvements that are fully integrated with land use to achieve development goals; and

6 WHEREAS, the Bowie Plan proposes goals, standards, policies, incentives and strategies to
7 achieve its goals, including development of the proposed South Lake development and
8 construction of road improvements to Route 301 and Route 214; and

9 WHEREAS, in furtherance of the goals outlined in the Bowie Plan and to incentivize
10 investment into South Lake and the development of a mixed-use town center with adequate
11 transportation and public facilities, the County Council by (1) CR-73-2016 (the “Development
12 District Formation Resolution”) designated a contiguous area within the County known as the
13 “Karrington Development District” (the “Development District”) as a “development district” as
14 that term is used in the Tax Increment Act and established the “Karrington Development District
15 Tax Increment Fund” (the “Tax Increment Fund”), into which the County directed that the Tax
16 Increment (as defined in the Development District Formation Resolution) be deposited and (2)
17 CR-57-2018 (the “Special Taxing District Formation Resolution” and, together with the
18 Development District Formation Resolution, the “Formation Resolutions”) designated a
19 contiguous area within the County known as the Karrington Special Taxing District (the “Special
20 Taxing District”) as a “special taxing district” as that term is used in the Special Tax Act and
21 established the “Karrington Special Taxing District Fund” (the “Special Taxing District Fund”)
22 into which the County directed that the Special Taxes (as defined in the Special Taxing District
23 Formation Resolution) be deposited; and

24 WHEREAS, the County has the power to provide funds to finance public infrastructure
25 improvements as permitted under the Acts through the issuance and delivery from time to time
26 of special obligation bonds, secured by the Tax Increment Fund and the Special Taxing District
27 Fund, to support the development of real property in the Development District and the Special
28 Taxing District (together, the “Districts”), including commercial, retail, hotel and residential
29 mixed-use development and ancillary facilities; and

30 WHEREAS, The Michael Companies, Inc. and Chesapeake Realty Partners, or one of their
31 subsidiaries or affiliates (the “Developers”), will manage the development of the property on

1 behalf of Karington, LLC, who is the owner of real property within the Districts, and plans to
2 cause to be constructed a pedestrian-friendly, mixed-use development in South Lake, including
3 but not limited to construction of retail, commercial, residential and office facilities and hotels
4 and to construct and install the public infrastructure improvements described in Exhibit A
5 attached hereto and made a part hereof (the “Improvements”) to serve the Districts, pursuant to
6 the Bowie Plan requirements and the Formation Resolutions; and

7 WHEREAS, the proposed infrastructure improvements will be situated both within the and
8 outside of the Districts and all such proposed infrastructure improvements shall be reasonably
9 related to one another as required by the Acts; and

10 WHEREAS, in order to assist in facilitating the financing for the Improvements, the County
11 desires to issue its special obligation bonds (as hereinafter defined and further described, the
12 “Bonds”) to fund such Improvements; and

13 WHEREAS, the issuance of the Bonds to support the development of South Lake supports
14 the County’s land use goals outlined in the Bowie Plan; and

15 WHEREAS, the Bonds will be issued and secured pursuant to the provisions of the Acts,
16 the Formation Resolutions, this Act, CR-38-2011, the trust indenture and the development
17 agreement or similar agreement(s) hereinafter authorized; and

18 WHEREAS, the Bonds will be delivered and the Improvements will be provided in
19 accordance with the terms and the requirements set forth in a development agreement or similar
20 document between the County and the Developers, including the obligation of the Developers to
21 construct the Improvements; and

22 WHEREAS, the proceeds of the Bonds may be used to reimburse the Developers for costs
23 permitted by the Acts that are being or have been incurred by the Developers in connection with
24 its construction of the Improvements; and

25 WHEREAS, the County has determined to amend certain provisions of the Development
26 District Formation Resolution to provide that there shall be no deposit of Hotel Taxes into the
27 Tax Increment Fund and that the taxes representing the levy on the Hotel Taxes shall not be used
28 to secure bonds issued under this Ordinance; and

29 WHEREAS, to the extent that the taxes representing the levy on the Tax Increment in any
30 given Tax Year (as defined in the Development District Formation Resolution) of the County
31 exceed any payment required to be satisfied by the taxes representing the levy on the Tax

1 Increment for administrative costs related to the Bonds and the debt service payable on the
2 Bonds, as well as any other payment required to be satisfied by the Tax Increment under a
3 development agreement, such excess will be paid over at the end of each such Tax Year to the
4 County for deposit in its general fund in such amounts and for such uses as set forth herein; and

5 WHEREAS, if the debt service payable on the Bonds in any tax year exceeds the taxes
6 representing the levy on the Tax Increment, such debt service payments shall be paid by a special
7 tax to be levied and collected pursuant to the Special Taxing District Formation Resolution; and

8 WHEREAS, the Developers have requested that the City of Bowie, Maryland approve the
9 designation of the Districts and authorize the entering into of a contribution agreement with the
10 County pursuant to which the City of Bowie will pledge the taxes representing the levy on the
11 Tax Increment in any given Tax Year of the City of Bowie related to the Development District to
12 secure the Bonds; and

13 WHEREAS, the construction and installation of the Improvements serving the Districts will
14 further economic development within the County and thus meet the public purposes
15 contemplated by the Acts and the Formation Resolutions and will satisfy the criteria set forth in
16 the CR-38-2011, including but not limited to the following: the “But-For Test,” the “Trigger
17 Mechanism/Look Back Provision,” LMBE participation and the impact of the County
18 credit/bond rating; and

19 WHEREAS, prior to the Bonds being issued or sold, the Developers or their assigns, the
20 County Executive and bond counsel shall certify that the provisions of CR-38-2011 have been
21 complied with and that the Minority Business Enterprise Plan (the “MBE Plan”) has been
22 approved by the County’s Compliance Manager; and

23 WHEREAS, prior to the issuance and delivery of the Bonds, the County Council must
24 review the TIF Proposal and certifications and approve the same by resolution; and

25 WHEREAS, the special obligation bonds will be issued and secured pursuant to the
26 provisions of the Acts and the Formation Resolutions; and

27 WHEREAS, the Improvements to be financed will be owned or dedicated to a
28 governmental entity including, but not limited to, the County, the City of Bowie or the State of
29 Maryland; now, therefore,

30 SECTION 1. BE IT ENACTED by the County Council of Prince George’s County,
31 Maryland that the words and terms used in this Act that are defined in the Acts or the Formation

1 Resolutions shall have the meanings indicated in the Acts and Formation Resolutions, as the case
 2 may be, unless the context clearly requires a contrary meaning.

3 SECTION 2. BE IT FURTHER ENACTED, that the following amendments are hereby
 4 made to the Development District Formation Resolution:

5 A. The first “WHEREAS” clause shall be deleted in its entirety and the following shall be
 6 inserted in lieu thereof: “WHEREAS, the Tax Increment Financing Act constitutes those
 7 provisions of Maryland law authorizing the County to establish a “development district” (as that
 8 term is used in the Tax Increment Financing Act) and a tax increment fund into which the taxes
 9 representing the levy on the Tax Increment (hereinafter defined) for the Development District
 10 (hereinafter defined) are deposited as provided for herein; and”

11 B. The sixth “WHEREAS” clause shall be deleted in its entirety and the following shall
 12 be inserted in lieu thereof: “WHEREAS, if the County issues its special obligation bonds upon
 13 enactment of an ordinance or ordinances, such ordinance or ordinances will provide that the
 14 special obligation bonds shall be secured by a pledge of the taxes representing the County’s levy
 15 on the Tax Increment (the “County Taxes”) as more specifically provided for therein.”

16 C. Section 1(6) shall be deleted in its entirety, and in lieu thereof “[RESERVED]” shall be
 17 inserted in lieu thereof.

18 D. The second sentence of Section 5 shall be deleted.

19 SECTION 3. BE IT FURTHER ENACTED, as follows:

20 A. Acting pursuant to the Acts and the Formation Resolutions, it is hereby found and
 21 determined that the issuance of the Bonds, as hereinafter defined, for delivery to the original
 22 purchaser in connection with a public offering or private placement for the purpose of providing
 23 funds for the financing of the infrastructure improvements related to the development of the
 24 Districts, accomplish the public purposes of the Acts and the Formation Resolutions, and
 25 pursuant to the Formation Resolutions and this Act, the County has complied with (1) Sections
 26 12-203 and 12-208(c) and (d) of the Tax Increment Act, (2) Section 10-269(e) of the Prince
 27 George’s County Code and (3) Sections 21-506 and 21-508 of the Special Tax Act.

28 B. The types of infrastructure improvements to be financed as permitted by the Acts in
 29 connection with the Districts are set forth in Exhibit A attached hereto and made a part hereof
 30 (the “Improvements”), including costs related to such Improvements which are intended to be
 31 funded with the issuance of the Bonds. It is recognized that the total costs shown as to be

1 financed with the issuance of the Bonds are estimated and that the specific items to be funded
2 and the amount of funding for each item shall be as further specified in documentation approved
3 by the County at the time of the issuance of the Bonds. The Improvements are either contained
4 within the geographic boundaries of the Districts or outside the Districts and to the extent located
5 outside the Districts are reasonably related to other Improvements located within the Districts.

6 C. Prior to the issuance of the Bonds, the County and the City of Bowie will enter into a
7 contribution agreement regarding the levy on the Tax Increment of the City pursuant to Section
8 12-210 of the Tax Increment Act.

9 D. Prior to the issuance of the Bonds, the Financial Officer of the County shall record
10 among the Land Records of the County, at the cost of the Special Taxing District, a declaration
11 encumbering all real property located in the Special Taxing District, except for property exempt
12 by law, and designating that property as subject to a special tax. The declaration shall terminate
13 when the Financial Officer records a release stating that all Bonds are fully repaid or have been
14 defeased.

15 E. Pursuant to the provisions of the Development District Formation Resolution and in
16 accordance with the Tax Increment Act, so long as the Bonds remain outstanding, the County
17 shall deposit into the Tax Increment Fund all real property taxes and transient occupancy taxes
18 received by the County for any Tax Year after the effective date of the Formation Resolution
19 equal to that portion of the taxes payable to the County representing the levy on the Tax
20 Increment that would normally be paid to the County. Monies in the Tax Increment Fund are
21 pledged to the payment of the Bonds.

22 F. Pursuant to the provisions of the Special Taxing District Formation Resolution and in
23 accordance with the Special Tax Act, the County hereby covenants to levy the Special Tax in
24 rate and amount at least sufficient in each year in which any of the Bonds are outstanding to
25 provide for the payment of the principal of and interest on the Bonds to the extent of any
26 deficiency in the Tax Increment Fund and to provide for replenishment of any debt service
27 reserve fund securing the Bonds as well as for the payment of County administrative expenses, to
28 the extent such replenishments and expenses are not otherwise provided for, as aforesaid. The
29 Special Tax also may be levied with respect to refunding bonds issued under the Special Tax Act
30 pursuant to the provisions of an ordinance or resolution enacted or adopted by the County in
31 connection with the issuance of such refunding bonds. Monies in the Special Taxing District

1 Fund are pledged to the payment of the Bonds.

2 G. The special obligations bonds may be issued in one or more series from time to time in
3 an aggregate principal amount not to exceed Thirty-Three Million Dollars (\$33,000,000) (the
4 “Bonds”). The proceeds of the Bonds will be utilized solely to finance all or part of the costs of
5 the Improvements, a debt service reserve fund, if one is established, capitalized interest with
6 respect to the Bonds, administrative expenses and costs of issuance, through the issuance of such
7 Bonds for delivery to the original purchaser in connection with a public offering or private
8 placement as permitted pursuant to the provisions of the Acts. The Bonds will be payable,
9 FIRST, from the amounts levied and deposited in the Tax Increment Fund created by the
10 Development District Formation Resolution, including revenues paid to the County under a
11 contribution agreement entered into with the City of Bowie, and, SECOND, to the extent the Tax
12 Increment Fund does not contain monies in an amount sufficient for payment of debt service on
13 such Bonds, and to the extent amounts are required for deposit in the debt service reserve fund, if
14 established to secure the Bonds, to replenish deficiencies therein, and to pay County
15 administrative expenses related to the Districts, from the Special Tax to be levied and deposited
16 in the Special Taxing District Fund created by the Special Taxing District Formation Resolution.
17 Provisions may be made for municipal bond insurance or any other type of financial guaranty of
18 the Bonds, if applicable. In addition, the Bonds may be secured through the establishment of
19 additional sinking funds or the pledge of other assets and revenues toward the payment of the
20 principal and interest on the Bonds, if applicable. The Bonds issued hereunder are a special
21 obligation of the County and do not constitute a general obligation debt of the County or a
22 pledge of the County’s full faith and credit or taxing power except for the Special Tax and the
23 taxes representing the levy on the Tax Increment as set forth in the Formation Resolutions. In
24 addition, Bonds issued hereunder may be refunded by bonds issued under the Acts.

25 H. The Bonds shall be executed in the name of the County and on its behalf by the County
26 Executive, by manual or facsimile signature, the corporate seal of the County or a facsimile
27 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the
28 County Council or the Chief Administrative Officer by manual or facsimile signature. Any
29 development agreement and trust indenture to which the County will be a party to provide for the
30 construction by the Developers and the acquisition by the County of the Improvements related to
31 the Districts, and where applicable, all other documents as the County Executive deems

1 necessary to effectuate the issuance, sale and delivery of the Bonds of any series, shall be
2 executed in the name of the County and on its behalf by the County Executive by manual
3 signature, and the corporate seal of the County or a facsimile thereof shall be impressed or
4 otherwise reproduced thereon and attested by the Clerk of the County Council or the Chief
5 Administrative Officer by manual signature. If any officer whose signature or countersignature
6 or a facsimile of whose signature or countersignature appears on the Bonds of any series or on
7 any of the aforesaid documents ceases to be such officer before the delivery of the Bonds of such
8 series or any of the other aforesaid documents, such signature or countersignature or such
9 facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer
10 had remained in office until delivery. The County Executive, the Clerk of the County Council
11 and other officials of the County are hereby authorized and empowered to do all such acts and
12 things and execute such documents and certificates as the County Executive may determine to be
13 necessary to carry out and comply with the provisions of this Act, subject to the limitations set
14 forth in the Acts and this Act.

15 I. The Bonds shall be delivered to the original purchaser in connection with a public
16 offering or private placement upon such terms and conditions as the County Executive shall
17 approve. The County Council deems it to be in the best interest of the County to authorize the
18 County Executive to approve the terms of the sale and delivery of the Bonds, within the
19 limitations of Acts and this Act.

20 J. Subject to the provisions of this Act, the County Executive by executive order:

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

22 (2) shall prescribe the principal amounts, rate or rates of interest which shall not exceed
23 twelve percent (12%) per annum, premiums, if any, denominations, date, maturity or maturities
24 (within the limits prescribed in the Acts), and the time and place or places of payment of the
25 Bonds, and the terms and conditions and details under which the Bonds may be called for
26 redemption prior to their stated maturities;

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

29 (4) shall approve the form and contents of, and execute and deliver (where applicable), a
30 City of Bowie contribution agreement and any trust indenture, development agreement and such
31 other documents to which the County is a party and which may be necessary to effectuate the

1 issuance, sale and delivery of the Bonds;

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

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

6 (7) shall approve the terms of the sale of the Bonds, as provided herein;

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

12 (9) shall do any and all things necessary, proper or expedient in connection with the
13 issuance, sale and delivery of the Bonds in order to accomplish the legislative policy of the Acts
14 and the public purposes of this Act, subject to the limitations set forth in the Acts and any
15 limitations prescribed by this Act.

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

19 SECTION 4. BE IT FURTHER ENACTED, that the Bonds being authorized herein and the
20 construction costs of the Improvements for which said Bonds are authorized and issued are not
21 deemed to be construction, monetary contributions or procurement for purposes of Subtitle 10A
22 of the Prince George's County Code and the Improvements funded in whole or part by said
23 Bonds are specifically exempted from the provisions of Subtitle 10A, provided, however, that
24 Section 10A-121 and Sections 2-247 through 2-253.05, of the Prince George's County Code
25 shall apply.

26 SECTION 5. BE IT FURTHER ENACTED, that the provisions of this Act are severable,
27 and if any provision, sentence, clause, section or part hereof is held or determined to be illegal,
28 invalid or unconstitutional or inapplicable to any person or circumstances, such illegality,
29 invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining
30 provisions, sentences, clauses, sections or parts of this Act or their application to other persons or
31 circumstances. It is hereby declared to be the legislative intent that this Act would have been

1 passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause,
2 section or part had not been included herein, and as if the person or circumstances to which this
3 Act or any part hereof are inapplicable had been specifically exempted herefrom.

4 SECTION 6. BE IT FURTHER ENACTED, that this Act shall take effect 45 days from the
5 date it becomes law.

Adopted this 9th day of October, 2018.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Dannielle M. Glaros
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

Exhibit A**Description of Improvements**

The improvements include, but are not limited to, road improvements to, from and in the Districts, including improvements to Route 214, Old Central Avenue, Route 301, arterial boulevard entrance roads, circulatory loop roads and entrance improvements along Route 214 and Route 301; public utilities; park facilities, including a public lake; stormwater management facilities; and related infrastructure improvements within the Districts to the extent authorized by the Acts.