

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2004 Legislative Session

Resolution No. CR-25-2004

Proposed by The Chairman (by request – County Executive)

Introduced by Council Members Knotts, Hendershot, Harrington, Dean, Exum and Peters

Co-Sponsors _____

Date of Introduction May 27, 2004

RESOLUTION

1 A RESOLUTION concerning

2 National Harbor Development District and National Harbor 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 14-201 through 14-214,

5 inclusive of Article 41 of the Annotated Code of Maryland, as amended (2003 Replacement

6 Volume) (the "Tax Increment Act"), as well as for the purpose of designating a contiguous area

7 within the County that would be coincident with the development district as a "special taxing

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

9 (1999 Edition, 2002 Supplement) and as that term is used in Section 9-1301 of Article 24 of the

10 Annotated Code of Maryland, as amended (2001 Replacement Volume and 2003 Supplement)

11 (collectively, the "Special Taxing District Act") such development district and special taxing

12 district to be located in an unincorporated area of the County known as Oxon Hill, Maryland on

13 the shores of the Potomac River and to be known as the "National Harbor Development District"

14 and the "National Harbor Special Taxing District", respectively; providing for, and determining,

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

16 taxing district, creating a tax increment fund with respect to the development district and a

17 special fund with respect to the special taxing district, allocating certain property taxes and

18 certain County hotel occupancy taxes with respect to the development district to be paid over to

19 the tax increment fund as provided in the Tax Increment Act; providing for the levy of a special

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

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

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

1 uses of such funds; providing that special obligation bonds may be issued from time to time
2 pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment Act and
3 the Special Taxing District Act and secured by the tax increment fund and the special fund; and
4 generally relating to the National Harbor Development District and National Harbor Special
5 Taxing District.

6 WHEREAS, the Tax Increment Financing Act, Sections 14-201 through 14-214, inclusive,
7 of Article 41 of the Annotated Code of Maryland, as amended (2003 Replacement Volume) (the
8 “Tax Increment Act”) constitutes those provisions of Maryland law authorizing Prince George’s
9 County, Maryland (the “County”) to establish a “development district” (as that term is used in
10 the Tax Increment Act) and a tax increment fund into which the taxes representing the levy on
11 the Tax Increment, the Hotel Tax (both hereinafter defined) for the Development District
12 (hereinafter defined) and the National Harbor Convention Center Excess Development District
13 Taxes (hereinafter defined) are deposited; and

14 WHEREAS, Section 10-269 of the Prince George’s County Code, as amended (1999
15 Edition, 2002 Supplement) and Section 9-1301 of Article 24 of the Annotated Code of Maryland,
16 as amended (2001 Replacement Volume and 2003 Supplement) (collectively, the “Special
17 Taxing District Act”) constitute those provisions of Maryland law authorizing the County to
18 establish a “special taxing district” (as that term is used under the Special Taxing District Act)
19 and a special fund into which the Special Tax (hereinafter defined) for the Special Taxing
20 District (hereinafter defined) is deposited; and

21 WHEREAS, the owners of at least two-thirds of the assessed valuation of the real property
22 located within the proposed National Harbor Special Taxing District and at least two-thirds of
23 the owners of the real property located within the proposed National Harbor Special Taxing
24 District have petitioned the County to designate and create the National Harbor Special Taxing
25 District within a certain unincorporated area of the County as more specifically provided within
26 such petition; and

27 WHEREAS, the owners of the real property in the proposed National Harbor Special
28 Taxing District and the proposed National Harbor Development District plan to construct a
29 mixed use development including retail, commercial, and office facilities; and

30 WHEREAS, such development will further economic development within the County and
31 thus meet the public purposes contemplated by the Tax Increment Act and the Special Taxing

1 District Act; and

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

6 WHEREAS, the County has agreed to pledge its receipts from the Hotel Tax and the
7 National Harbor Convention Center Excess Development District Taxes and to deposit such
8 Hotel Tax and the National Harbor Convention Center Excess Development District Taxes into
9 the tax increment fund, as more specifically provided for herein; and

10 WHEREAS, the Tax Increment Act and the Special Taxing District Act authorize the
11 County to issue special obligation bonds from time to time for the purpose of providing funds to
12 be used to fulfill one or more of the purposes of said Acts; and

13 WHEREAS, the County expects to issue special obligation bonds in one or more series to
14 finance public infrastructure improvements; and

15 WHEREAS, if the County issues its special obligation bonds upon enactment of an
16 ordinance or ordinances such ordinance or ordinances will provide that the special obligation
17 bonds shall be secured by a pledge of (i) the taxes representing the levy on the Tax Increment,
18 (ii) the Hotel Tax, (iii) the National Harbor Convention Center Excess Development District
19 Taxes and (iv) the Special Tax (collectively, the "County Taxes") as more specifically provided
20 for herein.

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

25 (1) "Adjusted Assessable Base" means, for real property that qualifies for a farm or
26 agricultural use under Section 8-209 of the Tax-Property Article, the fair market value of the
27 property without regard to its agricultural use assessment as of January 1 of that year preceding
28 the effective date of the resolution creating the Development District under Section 14-206 of the
29 Tax Increment Act.

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

1 (3) “Assessment Ratio” means any real property tax assessment ratio, however
2 designated or calculated, which is used or applied under applicable general law in determining
3 the Assessable Base including the assessment percentage as provided under § 8-103(c) of the
4 Tax-Property Article.

5 (4) “Bonds” includes any revenue bonds or bond, note or notes, or other similar
6 instruments or instrument issued by the County pursuant to and in accordance with this
7 Resolution and the Tax Increment Act and the Special Taxing District Act.

8 (5) “Development District” means the contiguous area in the County designated in
9 Section 3 of this Resolution as a development district under the Tax Increment Act.

10 (6) “Hotel Tax” means the transient occupancy taxes levied and collected in each Tax
11 Year by the County pursuant to Subdivision 3, Subtitle 10 of the Prince George’s County Code,
12 as the same may be amended from time to time, on hotels located in the Development District
13 and the Special Taxing District.

14 (7) “National Harbor Convention Center Excess Development District Taxes” means
15 the excess tax revenues (determined at the end of each fiscal year of the County) not needed to
16 pay debt service on bonds issued by the County to finance a convention center within the
17 National Harbor Convention Center Development District and the National Harbor Convention
18 Center Special Taxing District consisting of an amount equal to the lesser of: (i) 50% of the
19 annual debt service on the Bonds; (ii) \$2,600,000 for each Bond year or (iii) the shortfall relating
20 to the debt service on the Bonds after application of the Tax Increment and the Hotel Tax.

21 (8) “Original Assessable Base” means the Assessable Base as of January 1 of the year
22 preceding the effective date of this Resolution which is January 1, 2003.

23 (9) “Original Full Cash Value” means the dollar amount which is determined by
24 dividing the Original Assessable Base by the Assessment Ratio used to determine the Original
25 Assessable Base.

26 (10) “Original Taxable Value” means, for any Tax Year, the dollar amount that is the
27 lesser of:

28 (a) The product of the Original Full Cash Value times the Assessment Ratio
29 applicable to that Tax Year;

30 (b) The Original Assessable Base; or

31 (c) If an Adjusted Assessable Base applies, then the Original Taxable Value is

1 the Adjusted Assessable Base.

2 (11) "Special Tax" means the special taxes levied and imposed by the County pursuant
3 to the Special Taxing District Act and the methodology described in Exhibit B to this Resolution
4 to pay, if necessary, the debt service on Bonds issued by the County in an aggregate principal
5 amount that does not exceed \$65,000,000 and to make other payments permitted under the Tax
6 Increment Act and the Special Taxing District Act.

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

9 (13) "Special Taxing District Fund" means the special taxing district fund established
10 in Section 7 of this Resolution.

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

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

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

18 SECTION 2. BE IT FURTHER RESOLVED, that acting pursuant to the Tax Increment
19 Act and Special Taxing District Act, it is hereby found and determined that the establishment of
20 the Development District and the Special Taxing District, the creation of the Tax Increment Fund
21 and the Special Taxing District Fund and the issuance of Bonds from time to time pursuant to the
22 Tax Increment Act and the Special Taxing District Act, all for the purpose of providing funds to
23 finance the costs of certain public infrastructure improvements accomplishes the public purposes
24 of the Tax Increment Act and the Special Taxing District Act and generally promotes the health,
25 welfare and safety of the residents of the State of Maryland and of the County.

26 SECTION 3. BE IT FURTHER RESOLVED, that a contiguous area of the County
27 consisting of the property set forth below is hereby designated as a "Development District" (to
28 be known as the "National Harbor Development District") pursuant to Section 14-206 of the Tax
29 Increment Act. The Development District shall consist of the property listed in Exhibit A of this
30 Resolution and all adjoining roads, highways, alleys, rights of way, parks and other similar
31 property in order to form a contiguous area as shown on the map submitted to the County

1 Council together with this Resolution. The boundaries of the Development District may be
2 modified prior to and after the issuance of the Bonds as provided in Section 5 of this Resolution.

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

12 SECTION 5. BE IT FURTHER RESOLVED, that prior to the issuance of the Bonds, the
13 County Executive may, by executive order, reduce or enlarge the boundaries of the Development
14 District and the Special Taxing District by not more than four acres. After the issuance of the
15 Bonds, the County Executive, by executive order, may enlarge the boundaries of the
16 Development District or the Special Taxing District but may not reduce the size of such District
17 so long as there are any Bonds outstanding pursuant to the Tax Increment Act and the Special
18 Taxing District Act and this Resolution, unless the ordinance with respect to such Bonds permits
19 the County to reduce the area constituting the Development District or the Special Taxing
20 District or the holders of the Bonds or a representative on their behalf consents to any such
21 reduction.

22 SECTION 6. BE IT FURTHER RESOLVED, that there is hereby established a special
23 fund to be designated the “National Harbor Development District Tax Increment Fund” (the
24 “Tax Increment Fund”) with respect to the National Harbor Development District and the
25 County Executive, Chief Administrative Officer and the Financial Officer of the County are
26 hereby directed and authorized to deposit in such Tax Increment Fund all taxes received by the
27 County for any Tax Year commencing after the effective date of this Resolution equal to that
28 portion of the taxes payable to the County (but not including any taxes payable to the State of
29 Maryland or to any other party) representing the levy on the Tax Increment that would normally
30 be paid to the County. The County shall also deposit the Hotel Tax and the National Harbor
31 Convention Center Excess Development District Taxes into such Fund. The County Executive,

1 the Chief Administrative Officer and the Financial Officer and other officers and employees of
2 the County, to the extent applicable, are hereby authorized to take all necessary steps in order to
3 establish a separate fund to be held by the County.

4 SECTION 7. BE IT FURTHER RESOLVED, that there is hereby established a special
5 fund to be designated the "National Harbor Special Taxing District Fund" (the "Special Taxing
6 District Fund") with respect to the National Harbor Special Taxing District and the County
7 Executive, Chief Administrative Officer and the Financial Officer of the County are hereby
8 directed and authorized to deposit in such Special Taxing District Fund all Special Taxes
9 received by the County. The County Executive, the Chief Administrative Officer and the
10 Financial Officer and other officers and employees of the County, to the extent applicable, are
11 hereby authorized to take all necessary steps in order to establish a separate fund to be held by
12 the County.

13 SECTION 8. BE IT FURTHER RESOLVED, that Bonds may be issued from time to time
14 pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment Act and
15 the Special Taxing District Act for the purpose of providing funds for the financing of public
16 infrastructure improvements. Such ordinance or ordinances shall specify, in general detail, the
17 proposed undertaking to be financed with the proceeds of the Bonds and shall otherwise conform
18 to the requirements of the Tax Increment Act, the Special Taxing District Act and this
19 Resolution.

20 SECTION 9. BE IT FURTHER RESOLVED, that the County hereby covenants and
21 pledges that if any Bonds issued under the Tax Increment Act with respect to the Development
22 District are outstanding, the property taxes on real property within the Development District shall
23 be divided so that (i) that portion of the taxes which would be produced by the rate at which
24 taxes levied each year by the County upon the Original Taxable Value shall be allocated to and
25 when collected paid into the funds of the County in the same manner as taxes by or for the
26 County on all other property are paid and (ii) that portion of the taxes representing the levy on
27 the Tax Increment that would normally be paid to the County (but not including any taxes
28 payable to the State of Maryland or to any other party) shall be paid into the Tax Increment Fund
29 established hereunder to be applied in accordance with the provisions of Section 14-208 of the
30 Tax Increment Act. The County acknowledges that neither the rate at which taxes are levied on
31 real property within the Development District nor the manner of assessment of the value of real

1 property within the Development District is to vary from the rate or manner of assessment that
2 otherwise would have applied if the Development District were not designated and the Tax
3 Increment Fund not created, except to the extent that a specific valuation adjustment is mandated
4 by the Tax Increment Act for real property that qualifies for farm or agricultural use.

5 SECTION 10. BE IT FURTHER RESOLVED, that there hereby is levied and imposed, if
6 necessary, a Special Tax upon all real and personal property within the Special Taxing District,
7 unless exempted by law or by the provisions hereof, for the purposes, to the extent and in the
8 manner provided in Exhibit B attached hereto and made a part hereof, through the application of
9 the procedures provided in Exhibit B. As set forth in Exhibit B, no Special Tax shall be levied to
10 pay debt service on any Bonds which are secured by both the Tax Increment Fund and the
11 Special Taxing District Fund unless the Tax Increment Fund does not contain monies in an
12 amount sufficient to pay such debt service on the Bonds, any other required payments as well as
13 the County's administrative expenses relating to the issuance of the Bonds and the creation of the
14 Development District and Special Taxing District. Further, the Special Tax levied and imposed
15 by this Resolution in the Special Taxing District shall take effect and be in force for the fiscal
16 year beginning July 1, 2004, provided that such Special Tax shall terminate when the Bonds are
17 no longer outstanding which, for purposes of this Resolution as it relates only to the Special Tax,
18 shall mean the Bonds have been fully repaid or defeased. The County hereby covenants to levy,
19 if necessary, the Special Tax in rate and amount at least sufficient in each year in which any of
20 the Bonds are outstanding to provide, if necessary, for the payment of the principal of and
21 interest on the Bonds to the extent of any deficiency in the Tax Increment Fund, to make any
22 other required payments and to provide for the payment of the County's administrative expenses.
23 The Special Tax also may be levied with respect to refunding bonds issued under the Special
24 Taxing District Act pursuant to the provisions of an ordinance or resolution enacted or adopted
25 by the County in connection with the issuance of such refunding bonds.

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

1 SECTION 11. BE IT FURTHER RESOLVED, that the provisions of this Resolution are
2 severable, and if any provision, sentence, clause, section or part hereof is held or determined to
3 be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such
4 illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the
5 remaining provisions, sentences, clauses, sections or parts of this Resolution or their application
6 to other persons or circumstances. It is hereby declared to be the legislative intent that this
7 Resolution would have been passed if such illegal, invalid, unconstitutional or inapplicable
8 provision, sentence, clause, section or part had not been included herein, and as if the person or
9 circumstances to which this Resolution or any part hereof are inapplicable had been specifically
10 exempted herefrom.

11 SECTION 12. BE IT FURTHER RESOLVED, that Resolution No. CR-62-2002 and any
12 other prior, inconsistent resolutions, or any parts thereof are hereby repealed.

13 SECTION 13. BE IT FURTHER RESOLVED, that this Resolution is administrative in
14 nature and shall take effect upon approval by the County Executive.

Adopted this 6th day of July, 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

Exhibit A available in hard copy only and as an Inclusion File in LIS

**PRINCE GEORGE'S COUNTY
NATIONAL HARBOR 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 National Harbor Special Taxing District (the "District") each Tax Year, beginning with the 2004-2005 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 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.

"Beltway Property" means property identified as the "Beltway Parcel" on the map of the District.

"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.

"Convention Center Revenues" has the meaning given to National Harbor Convention Center Excess Development District Taxes in CR-26-2004 adopted by the County Council.

"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 “National Harbor Development District,” created by CR-25-2004 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:

Beltway Property 1.0 per Net Acre
Waterfront Property 3.07 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-25-2004 adopted by the County Council.

“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 Beltway Property and Waterfront 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 (1999 Edition, 2002 Supplement) and Article 24, Section 9-1301 of the Annotated Code of Maryland, as amended (2001 Replacement Volume and 2003 Supplement).

“Supervisor” means the Supervisor of Assessments.

“Tax Increment” has the meaning given to it in CR-25-2004 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 Act” means Sections 14-201 through 14-214, inclusive of Article 41 of the

Annotated Code of Maryland (2003 Replacement Volume).

“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.

“Waterfront Property” means property within the District other than Beltway Property.

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, Hotel Taxes, and Convention Center Revenues
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, Hotel Taxes, and Convention Center Revenues
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, Hotel Taxes, and Convention Center 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 2004-2005 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, Hotel Taxes, Convention Center Revenues, 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.