

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**2004 Legislative Session**Bill No. CB-23-2004Chapter No. 19Proposed and Presented by The Chairman (by request – County Executive)Introduced by Council Members Hendershot and Knotts

Co-Sponsors _____

Date of Introduction June 15, 2004**BILL**

1 AN ACT concerning

2 The Issuance and Sale of Special Obligation Bonds

3 For the purpose of providing that special obligation bonds may be issued from time to time under
4 the provisions of this Act, Article 41, Sections 14-201 through 14-214 of the Annotated Code of
5 Maryland, as amended (2003 Replacement Volume) (the “Tax Increment Act”), Section 10-269
6 of the Prince George’s County Code, as amended (1999 Edition, 2002 Supplement) and Section
7 9-1301 of Article 24 of the Annotated Code of Maryland, as amended (2001 Replacement
8 Volume and 2003 Supplement) (collectively, the “Special Taxing District Act”) and CR-25-2004
9 of the County Council of Prince George’s County, Maryland (the “Formation Resolution”) in an
10 amount not to exceed the aggregate principal amount of Sixty-five Million Dollars (\$65,000,000)
11 in order for the County to finance the construction of the public infrastructure improvements as
12 more particularly described herein; making certain findings and determinations, among others,
13 concerning the public benefit and purpose of such special obligation bonds; providing that such
14 special obligation bonds authorized to be issued hereby shall be payable, first, from the amounts
15 levied and deposited in the Tax Increment Fund (as defined in the Formation Resolution)
16 including certain County hotel occupancy taxes and other tax revenues and, secondly, to the
17 extent the Tax Increment Fund does not contain monies in an amount sufficient for payment of
18 debt service on such special obligation bonds and to the extent amounts are required for deposit
19 in funds and accounts created within the indenture providing for the issuance of the special
20 obligation bonds to replenish deficiencies therein and to pay the administrative expenses of the
21 County, from the special tax to be levied and deposited in the Special Taxing District Fund (as

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

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

20 WHEREAS, the owners of the real property in the National Harbor Development District
21 and the National Harbor Special Taxing District plan to develop retail, commercial and office
22 facilities which shall be served by the public infrastructure improvements; and

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

26 WHEREAS, the Formation Resolution has heretofore designated a contiguous area within
27 the County to be known as the "National Harbor Development District" as a "development
28 district" as that term is used in the Tax Increment Act and has also designated a coincident
29 contiguous area within the County to be known as the "National Harbor Special Taxing District"
30 as a "special taxing district" as that term is used in the Special Taxing District Act the boundaries
31 of which may be reduced as provided herein; and

1 WHEREAS, the proposed infrastructure improvements will be situated both within the
 2 National Harbor Special Taxing District and outside of the National Harbor Special Taxing
 3 District and all such proposed infrastructure improvements shall be reasonably related to one
 4 another as required by the Special Taxing District Act; and

5 WHEREAS, the special obligation bonds will be issued and secured pursuant to the
 6 provisions of the Tax Increment Act, the Special Taxing District Act and the Formation
 7 Resolution; and

8 WHEREAS, to the extent that the taxes representing the levy on the Tax Increment and the
 9 Hotel Tax in any given fiscal year of the County exceeds the debt service payable on the special
 10 obligation bonds in any such fiscal year, as well as any other payment required to be satisfied by
 11 the Tax Increment and the Hotel Tax, such excess will be paid over at the end of each such fiscal
 12 year to the owners of the real property in the National Harbor Development District or their
 13 respective designees in such amounts and for such uses as set forth herein; and

14 WHEREAS, the public infrastructure improvements to be financed will be owned by the
 15 County but maintained by the owners of the real property located within the National Harbor
 16 Development District and the National Harbor Special Taxing District pursuant to an agreement
 17 with the County; now, therefore,

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

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

24 B. Acting pursuant to the Tax Increment Act, the Special Taxing District Act and the
 25 Formation Resolution, it is hereby found and determined that the issuance of the Bonds, as
 26 hereinafter defined, for delivery to the original purchaser in connection with a public offering or
 27 private placement for the purpose of providing funds for the financing of the infrastructure
 28 improvements related to the development of the National Harbor Development District and the
 29 National Harbor Special Taxing District, accomplish the public purposes of the Tax Increment
 30 Act, the Special Taxing District Act and the Formation Resolution and pursuant to the Formation
 31 Resolution and this Act, the County has complied with Section 14-206 of the Tax Increment Act,

1 Section 10-269 of the Prince George's County Code and Section 9-1301(f) of Article 24 of the
2 Annotated Code of Maryland.

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

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

25 E. Pursuant to the provisions of the Formation Resolution and in accordance with the Tax
26 Increment Act, so long as the Bonds remain outstanding, the County shall deposit into the Tax
27 Increment Fund all real property taxes received by the County for any Tax Year after the
28 effective date of the Formation Resolution equal to that portion of the taxes payable to the
29 County representing the levy on the Tax Increment that would normally be paid to the County as
30 well as the Hotel Tax and the National Harbor Convention Center Excess Development District
31 Taxes collected by the County. Monies in the Tax Increment Fund are pledged to the payment of

1 the Bonds, provided that amounts may be withdrawn by the County Executive in accordance
2 with the provisions of the indenture pursuant to which the Bonds are being issued at the end of
3 any fiscal year of the County for remittance to the owners of real property in the National Harbor
4 Development District or their respective designees for use by such owners and designees for
5 promotion and marketing of the mixed use development and the maintenance of the public
6 infrastructure improvements financed in an amount equal to ten percent (10%) of the amount
7 remaining in the Tax Increment Fund derived from the taxes representing the levy on the Tax
8 Increment and Hotel Tax, provided that such monies in the Tax Increment Fund will only be
9 permitted to be withdrawn to the extent, and only to the extent, that the monies in the Tax
10 Increment Fund at the end of any fiscal year exceed the amount needed to pay debt service on the
11 Bonds, to replenish any debt service reserve fund securing such Bonds and to pay administrative
12 costs of the County related to the National Harbor Development District, the National Harbor
13 Special Taxing District and the issuance of the Bonds. The balance remaining in the Tax
14 Increment Fund at the end of any fiscal year of the County after such payments and withdrawals
15 shall be transferred to the general fund of the County.

16 The pledge of the Hotel Tax and the National Harbor Convention Center Excess
17 Development District Taxes shall be released at the time the Bonds are paid in full or defeased.

18 The County hereby covenants to levy the Special Tax in rate and amount at least sufficient
19 in each year in which any of the Bonds are outstanding to provide for the payment of the
20 principal of and interest on the Bonds to the extent of any deficiency in the Tax Increment Fund
21 and to provide for replenishment of any debt service reserve fund securing the Bonds as well as
22 for the payment of County administrative expenses, to the extent such replenishments and
23 expenses are not otherwise provided for, as aforesaid. The Special Tax also may be levied with
24 respect to refunding bonds issued under the Special Taxing District Act pursuant to the
25 provisions of an ordinance or resolution enacted or adopted by the County in connection with the
26 issuance of such refunding bonds. Monies in the Special Taxing District Fund are pledged to the
27 payment of the Bonds. A Special Tax will be levied and imposed upon all real and personal
28 property within the National Harbor Special Taxing District, unless exempted by law or by the
29 provisions hereof, for the purposes, to the extent and in the manner provided in Exhibit B to the
30 Formation Resolution through the application of the procedures provided therein. As set forth in
31 Exhibit B to the Formation Resolution and as provided in Paragraph F, no Special Tax shall be

1 levied to pay debt service on the Bonds unless the Tax Increment Fund does not contain monies
 2 in an amount sufficient to pay such debt service on the Bonds, to replenish the debt service
 3 reserve fund securing the Bonds and to pay any administrative expenses of the County. Further,
 4 the Special Tax levied and imposed by the Formation Resolution in the National Harbor Special
 5 Taxing District shall take effect and be in force for the fiscal year beginning July 1, 2004,
 6 provided that such Special Tax shall terminate when the Bonds are no longer outstanding which,
 7 for purposes of this Act as it relates only to the Special Tax, shall mean the Bonds have been
 8 fully repaid or defeased.

9 F. The special obligations bonds may be issued in one or more series in an aggregate principal
 10 amount not to exceed Sixty-five Million Dollars (\$65,000,000) (the "Bonds"). The proceeds of
 11 the Bonds will be utilized solely to finance all or part of the costs of the improvements described
 12 in Exhibit A attached hereto and made a part hereof through the issuance of such Bonds for
 13 delivery to the original purchaser in connection with a public offering or private placement as
 14 permitted pursuant to the provisions of the Special Taxing District Act and the Tax Increment
 15 Act. The Bonds will be payable, first, from the amounts levied and deposited in the Tax
 16 Increment Fund created by the Formation Resolution including the Hotel Tax and the National
 17 Harbor Convention Center Excess Development District Taxes, and, secondly, to the extent the
 18 Tax Increment Fund does not contain monies in an amount sufficient for payment of debt service
 19 on such Bonds and to the extent amounts are required for deposit in the debt service reserve fund
 20 securing the Bonds to replenish deficiencies therein, and to pay County administrative expenses
 21 related to the National Harbor Development District and the National Harbor Special Taxing
 22 District from the Special Tax to be levied and deposited in the Special Taxing District Fund.
 23 Provisions may be made for municipal bond insurance or any other type of financial guaranty of
 24 the Bonds, if applicable. In addition, the Bonds may be secured through the establishment of
 25 additional sinking funds or the pledge of other assets and revenues toward the payment of the
 26 principal and interest on the Bonds, if applicable. The Bonds issued hereunder are a special
 27 obligation of the County and do not constitute a general obligation debt of the County or a
 28 pledge of the County's full faith and credit or taxing power except for the Special Tax, the Hotel
 29 Tax, the National Harbor Convention Center Excess Development District Taxes and the taxes
 30 representing the levy on the Tax Increment as set forth in the Formation Resolution. In addition,
 31 Bonds issued hereunder may be refunded by bonds issued under the Tax Increment Act and/or

1 the Special Taxing District Act.

2 G. The Bonds shall be executed in the name of the County and on its behalf by the County
3 Executive, by manual or facsimile signature, the corporate seal of the County or a facsimile
4 thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the
5 County Council or the Chief Administrative Officer by manual or facsimile signature. The
6 acquisition or development agreement(s) to be entered into among the County, any other
7 governmental entity, if necessary, and the developer of the National Harbor Development
8 District and the National Harbor Special Taxing District to provide for the construction by the
9 developer and the acquisition by the County of the public improvements related to the National
10 Harbor Development District and the National Harbor Special Taxing District (the "Acquisition
11 Agreement") and, where applicable, all other documents as the County Executive deems
12 necessary to effectuate the issuance, sale and delivery of the Bonds of any series, shall be
13 executed in the name of the County and on its behalf by the County Executive by manual
14 signature, and the corporate seal of the County or a facsimile thereof shall be impressed or
15 otherwise reproduced thereon and attested by the Clerk of the County Council or the Chief
16 Administrative Officer by manual signature. If any officer whose signature or countersignature
17 or a facsimile of whose signature or countersignature appears on the Bonds of any series or on
18 any of the aforesaid documents ceases to be such officer before the delivery of the Bonds of such
19 series or any of the other aforesaid documents, such signature or countersignature or such
20 facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer
21 had remained in office until delivery. The County Executive, the Clerk of the County Council
22 and other officials of the County are hereby authorized and empowered to do all such acts and
23 things and execute such documents and certificates as the County Executive may determine to be
24 necessary to carry out and comply with the provisions of this Act, subject to the limitations set
25 forth in the Special Taxing District Act, the Tax Increment Act and this Act.

26 H. The Bonds shall be delivered to the original purchaser in connection with a public offering
27 or private placement upon such terms and conditions as the County Executive shall approve.
28 The County Council deems it to be in the best interest of the County to authorize the County
29 Executive to approve the terms of the sale and delivery of the Bonds, within the limitations of the
30 Special Taxing District Act, the Tax Increment Act and this Act.

31 I. Subject to the provisions of this Act, the County Executive by executive order:

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

(2) shall prescribe the principal amounts, rate or rates of interest which shall not exceed nine percent (9%) per annum, premiums, if any, denominations, date, maturity or maturities (within the limits prescribed in the Special Taxing District Act and in the Tax Increment Act), and the time and place or places of payment of the Bonds, and the terms and conditions and details under which the Bonds may be called for redemption prior to their stated maturities;

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

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

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

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

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

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

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

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

SECTION 2. BE IT FURTHER ENACTED, that the Bonds being authorized herein and the construction costs of the public improvements for which said Bonds are authorized and issued

1 are not deemed to be construction, monetary contributions or procurement for purposes of
2 Subtitle 10A of the Prince George's County Code and public improvements funded in whole or
3 part by said Bonds are specifically exempted from the provisions of Subtitle 10A, provided,
4 however, that Section 10A-121 and Sections 2-247 through 2-253.05, of the Prince George's
5 County Code shall apply.

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

15 SECTION 4. BE IT FURTHER ENACTED, that Bill No. CB-80-2002 and any other, prior
16 inconsistent acts or ordinances, or parts thereof are hereby repealed.

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

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