COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2023 Legislative Session

Bill No. CB-095-2023

Chapter No. 72

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

Introduced by Council Members Dernoga, Ivey, Blegay, Franklin, Watson, Olson and Fisher

Date of Introduction October 23, 2023

BILL

AN ACT concerning

The Issuance of Special Obligation Bonds

for the Largo Town Center Metro Development District

For the purpose of providing that special obligation tax increment financing bonds may be issued from time to time under the provisions of this Act and Sections 12-201 through 12-213, inclusive, of the Economic Development Article of the Annotated Code of Maryland, as amended (the "Tax Increment Financing Act"), and consistent with the provisions of CR-92-2014, adopted by the County Council of Prince George's County, Maryland (the "County Council") on November 12, 2014, as amended by CB-14-2020 (the "Formation Resolution"), in an amount not to exceed the aggregate principal amount of Nine Million Dollars ($9,000,000), in order for Prince George's County, Maryland (the "County") to finance or reimburse, in accordance with the Tax Increment Financing Act, costs related to the construction and installation of certain infrastructure improvements, as more particularly described herein, and to pay certain costs of issuing such bonds; ratifying and confirming the designation of the Largo Town Center Metro Development District; making certain findings and determinations, among others, concerning the public benefit and purpose of such bonds, including that prior to the issuance of such bonds certain criteria set forth in CR-21-2019 (irrespective of any provision of CR-21-2019 to the contrary) and the provisions of CB-51-2022 will apply, including but not limited to the "But-For Test," the "Trigger Mechanism/Look Back Provision," a determination of impact on the County credit/bond rating, and the delivery and approval of a Supplier Diversity and Equity Plan have been satisfied;

providing that such bonds authorized to be issued hereby shall be payable from certain amounts levied and deposited in the Tax Increment Fund (as defined in the Formation Resolution) and that such bonds shall not constitute a general obligation debt of the County or a pledge of the County's full faith and credit or taxing power other than the County's pledge of the taxes representing the levy on the Tax Increment (as defined in the Formation Resolution); specifying certain terms and conditions with respect to the issuance of the bonds and the financing or reimbursement of certain infrastructure improvements; authorizing the County Executive of the County (the "County Executive") to specify, prescribe, determine, provide for and approve certain details, forms, documents or procedures in connection with such bonds issued hereunder and any other matters necessary or desirable in connection with the authorization, issuance, delivery and payment of such bonds; authorizing the County Executive to take certain actions, execute documents and make certain commitments on behalf of the County in connection with the issuance and delivery of such bonds consistent with the provisions of this Act; authorizing the execution and delivery of such bonds and such other documents as may be necessary and desirable to effectuate the financing of certain infrastructure improvements described herein and the issuance and delivery of such bonds; and generally providing for, and determining various matters in connection with, the issuance, delivery and payment of such bonds.

WHEREAS, in the *Plan Prince George's 2035 Adopted General Plan* (the "General Plan"), the County found (i) that building attractive, urban environments centered around the County's transit hubs will help the County retain its recent graduates and high-skilled workforce and expand and diversify its tax base; (ii) that developing transit-oriented, vibrant places, providing the right type of housing, establishing a County brand and responding to quality of life concerns are all critical to attracting new employers and workers; and (iii) that robust economic growth in the region cannot be guaranteed unless the housing preferences of its workforce have been met, recommending that a majority of new housing be located in compact developments with convenient access to jobs and transportation options to meet the workforce's growing demand for mixed-use, walkable, transit-accessible communities; and

WHEREAS, to further the goals described above and to spur transit-oriented development for County residents, the General Plan designated five Metro stations, including the Largo Town Center Metro station, as "Priority Investment Districts," which are targeted areas best suited to develop into regional economic engines, grow the County's commercial tax base and stimulate job

growth, transforming the Metro station into a vibrant, walkable, regional-serving center with a robust economic and employment base, varied housing stock and diverse, mixed-income communities; and

WHEREAS, in the *2013 Largo Town Center Sector Plan and Sectional Map Amendment* (the "Largo Town Center Sector Plan"), the County defined long-range land use and transit-oriented development policies for the Largo Town Center area in the County; and

WHEREAS, the Largo Town Center Sector Plan envisions the Largo Town Center Metro Station as an anchor for a vibrant, sustainable, walkable and transit-oriented "live, work and play" community; and

WHEREAS, the Largo Town Center Sector Plan proposes goals, standards, policies, incentives and strategies to create a network of mixed-use, compact, medium- to high-density urban neighborhoods that maximize transit ridership, revitalize the area through economic development while maintaining its socioeconomic diversity and initiate a sustainable development pattern, including (i) encouraging more intense, high-quality housing options within walking distance of a metro station, (ii) expanding tree cover through the increased planting of trees and landscaping, (iii) promoting transit-supporting, pedestrian- and bicycle-friendly development and redevelopment, (iv) increasing commercial retail and restaurant opportunities and (v) expanding publicly- and privately-owned open space for recreation and passive enjoyment; and

WHEREAS, in furtherance of the goals outlined in the Largo Town Center Sector Plan and to incentivize investment into the Largo area and the development of walkable, mixed-use, transit accessible communities around the Largo Town Center Metro Station, the County Council, through the Formation Resolution, designated a contiguous area within the County known as the "Largo Town Center Metro Development District" (the "Development District") as a "development district" as that term is used in the Tax Increment Financing Act and established the "Largo Town Center Metro Development District Tax Increment Fund" (the "Tax Increment Fund"); and

WHEREAS, the County has the power under the Formation Resolution to provide funds to finance public infrastructure improvements as permitted under the Tax Increment Financing Act through the issuance and delivery from time to time of special obligation bonds, secured by the Tax Increment Fund, to support the development of real property in the Development District, including commercial, retail and residential mixed-use development and ancillary facilities; and

WHEREAS, on July 19, 2023, pursuant to the Tax Increment Act, the Formation Resolution and CB-14-2020, enacted by the County Council on July 21, 2020, the County issued its (Amore Apollo Project) Special Obligation Developer Note, Series 2023 (Federally Taxable) in the principal amount of $5,750,000, which is secured by the tax increment revenues on deposit in the Tax Increment Fund; and

WHEREAS, Largo QOZB JV, LLC, a Delaware limited liability company (the "Developer"), the owner of certain real property within the Development District, plans to develop and construct a transit-oriented, pedestrian-friendly, mixed-use development in the vicinity of Largo Town Center Metro Station, which includes residential development, currently referred to as "Parcel O," and to construct and install the public infrastructure improvements described in Exhibit A attached hereto and made a part hereof (the "Improvements") to serve Parcel O, pursuant to the Largo Town Center Sector Plan requirements and the Formation Resolution; and

WHEREAS, the proposed Improvements will be situated within or will directly benefit the Development District; and

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

WHEREAS, the issuance of the Bonds to support the development of Parcel O supports the County's transit-oriented land use goals outlined in the General Plan and fulfils the central vision of the Largo Town Center Sector Plan; and

WHEREAS, the Bonds will be issued and secured pursuant to the provisions of the Tax Increment Financing Act, the Formation Resolution, this Act, and a development agreement or similar agreement(s) hereinafter authorized; and

WHEREAS, the Bonds will initially be delivered to the Developer or an affiliate to pay or reimburse the Developer for costs of the Improvements permitted by the Tax Increment Financing Act that are being incurred by the Developer in connection with its construction of the Improvements. The Bonds are to be delivered and the Improvements will be provided in accordance with the terms and the requirements set forth in a development agreement (the "Development Agreement") or similar document between the County and the Developer, including the obligation of the Developer to commence construction of the Improvements; and

WHEREAS, to the extent that the taxes representing the levy on the Tax Increment in any given Tax Year (as defined in the Formation Resolution) of the County exceed any payment required to be satisfied by the taxes representing the levy on the Tax Increment for administrative costs related to the Bonds and the debt service payable on the Bonds, as well as any other payment required to be satisfied by the Tax Increment under the Development Agreement, such excess will be paid over at the end of each such Tax Year to the County for deposit in its general fund in such amounts and for such uses as set forth herein; and

WHEREAS, if the debt service payable on the Bonds in any Tax Year exceeds the taxes representing the levy on the Tax Increment, such debt service payments shall be deferred and paid from future available amounts from the levy on the Tax Increment as more specifically provided for herein; and

WHEREAS, as contemplated by CR-21-2019, following a comprehensive review of the County's tax increment financing ("TIF") policy and the County's broader policies for County-subsidized development, CB-51-2022 was enacted on October 24, 2022 to provide updated requirements for County-subsidized projects which include the delivery of a Supplier Diversity and Equity Plan to address construction activity and equity participation requirements; and

WHEREAS, the construction and installation of the Improvements serving Parcel O will further economic development within the County and thus meet the public purposes contemplated by the Tax Increment Financing Act and the Formation Resolution and will satisfy the criteria set forth in CR-21-2019 (to the extent specified herein) and CB-51-2022, including but not limited to the following: the "But-For Test," the "Trigger Mechanism/Look Back Provision," and the impact on the County credit/bond rating; and

WHEREAS, prior to the Bonds being issued or sold, the Developer or its assigns, the County Executive and bond counsel shall certify that the provisions of CR-21-2019 (to the extent specified herein) have been complied with and the Supplier Diversity and Equity Plan as required under CB-51-2022 shall have been approved by the Compliance Manager; and

WHEREAS, prior to the issuance and delivery of the Bonds, the County Council must review the TIF Proposal and certifications and approve the same by Resolution; now therefore,

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

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

B. The provisions of CB-51-2022 shall apply to the issuance of Bonds authorized under this Act. Certain provisions of CR-21-2019, not addressed in any way by the requirements of a Supplier Diversity and Equity Plan under CB-51-2022, shall apply to the issuance of Bonds authorized under this Act.

C. The listed requirement of CR-21-2019 which shall not apply to the issuance of the Bonds to finance improvements for Parcel O are requirement 6) (relating to equity participation and ownership) and requirement 7) (relating to the delivery of a Minority Business Enterprise Plan). The remaining provisions of CR-21-2019 shall apply to the Bonds authorized under this Act irrespective of any provision contained in CR-21-2019 or CB-51-2022 to the contrary, as further provided under this Act.

D. The Formation Resolution (as amended) and the designation therein of the Largo Town Center Metro Development District are hereby ratified and confirmed.

E. Acting pursuant to the Tax Increment Financing Act and the Formation Resolution, it is hereby found and determined that the issuance of the Bonds, as further described herein, for delivery to the Developer for the purpose of financing or reimbursing the costs of constructing and installing the Improvements related to the development of Parcel O accomplishes the public purposes of the Tax Increment Financing Act and the Formation Resolution and fulfils the vision of the Largo Town Center Sector Plan.

F. The types of Improvements to be financed as permitted by the Tax Increment Financing Act in connection with the Development District are set forth in Exhibit A attached hereto and made a part hereof, including costs related to such Improvements which are intended to be funded with the issuance of the Bonds. The Improvements are contained within the geographic boundaries of the Development District.

G. In accordance with Section 12-204(b)(2)(i) of the Tax Increment Financing Act, it is hereby found that the County Council has complied with the provisions of Sections 12-203 and 12-208(c) and (d) of the Tax Increment Financing Act by designating the Largo Town Center

Metro Development District and receiving a certification of the Supervisor of Assessments, pledging the division of property taxes.

H. Consistent with the provisions of the Formation Resolution and in accordance with the Tax Increment Financing Act, so long as the Bonds remain outstanding, the County shall continue to deposit into the Tax Increment Fund all real property taxes with respect to the Development District received by the County for any Tax Year after the effective date of the Formation Resolution equal to that portion of the taxes payable to the County (but not including any taxes payable to the State of Maryland or to any other party) representing the levy on the Tax Increment that would normally be paid to the County. Monies in the Tax Increment Fund are pledged to the payment of the Bonds and shall also be used to pay the administrative costs of the County related to the Bonds and the Development District, provided that monies in the Tax Increment Fund will only be permitted to be withdrawn to the extent, and only to the extent, that the monies in the Tax Increment Fund at the end of any Tax Year exceed the amount needed to pay debt service on the Bonds or to pay administrative costs of the County related to the Development District and the issuance of the Bonds. The balance remaining in the Tax Increment Fund at the end of any Tax Year of the County after such payments or withdrawals shall be transferred to the general fund of the County.

I. The special obligation bonds, notes or similar instruments authorized to be issued under the Formation Resolution may be issued in one or more series (which may be draw-down bonds) in an aggregate principal amount not to exceed Nine Million Dollars ($9,000,000) and shall not bear interest (the "Bonds"). The proceeds of the Bonds shall be utilized solely to finance or reimburse all or part of the costs of the Improvements described in Exhibit A attached hereto and made a part hereof. The Bonds shall be delivered by the County to the Developer in consideration of the Developer's construction of the Improvements, as permitted pursuant to the provisions of the Tax Increment Financing Act. The Bonds, as well as the County administrative expenses related to the Development District, will be payable solely from the amounts levied and deposited in the Tax Increment Fund. In addition to the payment of debt service on the Bonds, monies in the Tax Increment Fund may be used to replenish any debt service reserve fund securing the Bonds as well as to pay administrative expenses of the County related to the Development District, to the extent such replenishments and expenses are not otherwise provided for.

To the extent the debt service payable on the Bonds in any Tax Year exceeds the amounts on deposit in the Tax Increment Fund, such debt service payments shall be deferred and paid from future available amounts on deposit in the Tax Increment Fund; provided, that if and when amounts on deposit in the Tax Increment Fund are available to make deferred payments, such deferred payments shall be made without any penalty interest or premium; and provided further, that, if there is insufficient funds to make payment of all amounts due and owing on the final maturity date of the Bonds, the obligation with respect to such Bonds shall be forgiven. In addition, the Bonds may be secured through the establishment of additional sinking funds or the pledge of other assets and revenues toward the payment of the principal and interest on the Bonds, if applicable.

The Bonds issued hereunder are a special obligation of the County and do not constitute a general obligation debt of the County or a pledge of the County's full faith and credit or taxing power except for the taxes representing the levy on the Tax Increment as set forth in the Formation Resolution. In addition, Bonds issued hereunder may be refunded by bonds issued under the Tax Increment Financing Act.

J. The Bonds shall be executed in the name of the County and on its behalf by the County Executive, by manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the County Council or the Chief Administrative Officer, by manual or facsimile signature.

The Development Agreement to be entered into between the County and the Developer to provide for the construction by the Developer of the Improvements referred to in Exhibit A and, where applicable, all other documents as the County Executive deems necessary to effectuate the issuance, delivery, security and payment of the Bonds of any series, shall be executed in the name of the County and on its behalf by the County Executive, by manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the Clerk of the County Council or the Chief Administrative Officer, by manual or facsimile signature.

If any officer whose signature or countersignature or a facsimile of whose signature or countersignature appears on the Bonds of any series or on any of the aforesaid documents ceases to be such officer before the delivery of the Bonds of such series or any of the other aforesaid documents, such signature or countersignature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The County Executive, the Clerk of the County Council, the Chief Administrative Officer, the Director of Finance and other officials of the County are hereby authorized and empowered to do all such acts and things and execute such documents and certificates as the County Executive may determine to be necessary to carry out and comply with the provisions of this Act, subject to the limitations set forth in the Tax Increment Financing Act and this Act.

K. Prior to the issuance of the Bonds, (i) the Developer, the County Executive and bond counsel to the County shall certify to the County Council that the provisions of CR-21-2019 to the extent required by subsection C have been complied with and (ii) a Supplier Diversity and Equity Plan for Parcel O shall be approved by the County MBE Compliance Manager as required by CB-51-2022.

L. The Bonds shall be issued and delivered to the Developer, within the limitations and requirements of the Tax Increment Financing Act and this Act, upon such terms and conditions as the County Executive shall approve. The County Council authorizes the County Executive to approve the terms of the issuance and delivery of the Bonds within the limitations and requirements of the Tax Increment Financing Act and this Act.

M. Subject to the provisions of this Act, the County Executive by executive order and/or by the Development Agreement, which shall be approved by executive order:

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

(2) shall specify the principal amount of the Bonds not to exceed Nine Million Dollars ($9,000,000), premiums, if any, denominations, date, maturity or maturities (within the limits prescribed in the Tax Increment Financing Act), time and place or places of payment of the Bonds and terms and conditions and details under which the Bonds may be called for redemption prior to their stated maturities;

(3) shall specify that the Bonds shall not bear interest;

(4) shall specify that the stated maturity date of any series of Bonds shall not be more than 17 years from the date of issuance of such series;

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

(6) shall approve the forms and contents of, and execute and deliver (where applicable), the Development Agreement or similar agreement, an indenture of trust, if necessary,

and such other contracts and documents to which the County is a party and which may be necessary to effectuate the issuance and delivery of the Bonds and the financing or reimbursement of the Improvements and apply the Tax Increment Fund as set forth herein;

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

(8) shall approve the manner and terms of the delivery of the Bonds, as provided in Paragraph L hereof;

(9) shall approve the form and contents of the TIF Proposal and such other documents to which the County is a party and which may be necessary to effectuate the issuance and delivery of the Bonds and the financing or reimbursement of the Improvements;

(10) 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, delivery, security and payment of the Bonds and the construction and installation of the Improvements, 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

(11) shall do any and all things necessary, proper or expedient in connection with the issuance and delivery of the Bonds and the financing or reimbursement of the Improvements in order to accomplish the legislative policies of the Tax Increment Financing Act and the public purposes of this Act, subject to the limitations set forth in the Tax Increment Financing Act and any limitations prescribed by this Act.

This delegation of authority to the County Executive is subject to her discretion and to the extent she 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 Improvements for which said Bonds are authorized and issued are not deemed to be construction, monetary contributions or procurement for purposes of Subtitle 10A of the Prince George's County Code and Improvements funded in whole or part by said Bonds are specifically exempted from the provisions of Subtitle 10A, provided, however, that Section 10A-121 and Sections 2-247 through 2-253.05, of the Prince George's County Code shall apply.

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

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

Adopted this 21st day of November , 2023.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

_____
Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

EXHIBIT A

DESCRIPTION OF THE INFRASTRUCTURE IMPROVEMENTS

The infrastructure improvements include, but are not limited to, parking facilities and such other related infrastructure improvements associated with the development and construction of a multi-family residential building and related retail facilities within the Development District as may be authorized by the Tax Increment Financing Act.