

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2010, Legislative Day No. 4

Bill No. 10-10

Introduced by Mr. Middlebrooks, Chairman
(by request of the County Executive)

By the County Council, February 16, 2010

Introduced and first read on February 16, 2010

Public Hearing set for March 15, 2010

Bill Expires May 22, 2010

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning the creation of a special taxing district to be designated as
2 “Village South at Waugh Chapel Special Taxing District” located within the Village
3 South at Waugh Chapel Development District, a tax increment district within Anne
4 Arundel County, Maryland (the “County”); the creation of a special fund relating to such
5 special taxing district; providing for the levy of a special tax; providing for the financing
6 of certain infrastructure improvements relating to the Village South at Waugh Chapel
7 Special Taxing District and the Village South at Waugh Chapel Development District;
8 authorizing the issuance from time to time of special obligation bonds in an aggregate
9 principal amount not to exceed \$16,000,000 to be secured by taxes levied on the tax
10 increment in the Village South at Waugh Chapel Development District and by special
11 taxes; and determining certain terms and provisions in connection with the issuance, sale
12 and payment of such bonds.

13
14 FOR the purpose of providing for creation of the Village South at Waugh Chapel Special
15 Taxing District, located adjacent to the existing Village at Waugh Chapel commercial
16 development and within the boundaries of the County, pursuant to the provisions of
17 Section 9-1301 of Article 24 of the Annotated Code of Maryland (2005 Replacement
18 Volume and 2009 Supplement) and Sections 4-8-101 through 4-8-106 of the Anne
19 Arundel County Code (2005, as amended) (together, the “Special Taxing District Act”);
20 providing for the designation of a geographic area as a “special taxing district” as that
21 term is used in the Special Taxing District Act; providing for and determining the
22 various matters in connection with the creation of the Village South at Waugh Chapel
23 Special Taxing District; creating a special fund (the “Special Tax Fund”) to secure bonds
24 issued to finance infrastructure improvements permitted by the Special Taxing District
25 Act relating to the Village South at Waugh Chapel Special Taxing District and the
26 Village South at Waugh Chapel Development District, a tax increment development

1 district located within the County established pursuant to the provisions of Sections 12-
2 201 through 12-213 of the Economic Development Article of the Annotated Code of
3 Maryland (2008 Volume and 2009 Supplement) (the “Tax Increment Act”) and the
4 provisions of Resolution No. 13-10 adopted by the of the County Council (the “County
5 Council”) on _____, 2010 and approved by the County Executive (the
6 “County Executive”) on _____, 2010 (the “Development District Resolution”);
7 providing for the levy of a special tax in compliance with the Special Taxing District
8 Act; providing that special obligation bonds may be issued from time to time under the
9 provisions of this Ordinance, the Tax Increment Act, the Special Taxing District Act and
10 the Development District Resolution in an aggregate principal amount not to exceed
11 \$16,000,000 for the purpose of financing a portion of the infrastructure improvements;
12 providing for the creation of a debt service reserve fund, the funding of capitalized
13 interest and the payment of costs and expenses related to the issuance of the special
14 obligation bonds; making certain findings and determinations, among others, concerning
15 the public benefit and purpose of such special obligation bonds; providing that such
16 special obligation bonds shall be payable, first, from taxes levied on the tax increment in
17 the Village South at Waugh Chapel Development District and deposited in the Village
18 South at Waugh Chapel Development District Tax Increment Fund created pursuant to
19 the Development District Resolution (the “Development District Tax Increment Fund”),
20 and, secondly, to the extent the amount on deposit in the Development District Tax
21 Increment Fund and any other available funds are not sufficient to pay debt service on
22 such special obligation bonds and to pay certain expenses and fund certain reserves for
23 such special obligation bonds, from the special tax to be levied and deposited in the
24 Special Tax Fund, and that the special obligation bonds shall not constitute a general
25 obligation debt of the County or a pledge of the County’s full faith and credit or taxing
26 power other than the tax on the tax increment and the special tax levied hereunder;
27 authorizing the County Executive of the County to specify, prescribe, determine, provide
28 for and approve certain details, forms, documents and procedures in connection with
29 such special obligation bonds and any other matters necessary or desirable in connection
30 with the authorization, issuance, sale and payment of such special obligation bonds;
31 authorizing the County Executive to take certain actions, to execute documents and make
32 certain commitments on behalf of the County in connection with the issuance, sale and
33 delivery of such special obligation bonds; authorizing the execution and delivery of such
34 special obligation bonds and such other documents as may be necessary or desirable to
35 effectuate the financing of the infrastructure improvements and the issuance, sale and
36 delivery of such special obligation bonds; and generally providing for and determining
37 various matters in connection with the foregoing.

38
39 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
40 That pursuant to Section 9-1301 of Article 24 of the Annotated Code of Maryland (2005
41 Replacement Volume and 2009 Supplement) and Sections 4-8-101 through 4-8-106 of the
42 Anne Arundel County Code (2005, as amended) (together, the “Special Taxing District
43 Act”), it is hereby found and determined that the establishment by the County of a special
44 taxing district consisting of the area described on Exhibit A-1 attached hereto and made a
45 part hereof, an unincorporated area of the County, to be known as the “Village South at
46 Waugh Chapel Special Taxing District” (the “Special Taxing District,” as defined herein)
47 coincident with the Village South at Waugh Chapel Development District established
48 pursuant to Sections 12-201 through 12-213 of the Economic Development Article of the

1 Annotated Code of Maryland (2008 Volume and 2009 Supplement) (the “Tax Increment
2 Act”) and Resolution No. 13-10, adopted by the of the County Council on
3 _____, 2010 and approved by the County Executive on _____, 2010
4 (the “Development District Resolution”), with the exception of parcels and lots described in
5 Exhibit B, in accordance with a petition filed with the County by the owners of all of the
6 property within the Special Taxing District, the creation of a special fund as contemplated
7 by the Special Taxing District Act and the issuance of special obligation bonds pursuant to
8 the Special Taxing District Act and the Tax Increment Act for the purpose of providing
9 funds to finance a portion of the costs of certain public infrastructure improvements (the
10 “Improvements,” as defined herein) related to the development of retail, commercial and
11 office facilities and residential units within the Special Taxing District will accomplish the
12 public purposes of the Special Taxing District Act, the Tax Increment Act and the
13 Development District Resolution.

14
15 Notwithstanding the foregoing, if the County does not issue Bonds (defined herein)
16 within five years from the effective date of this Ordinance, the Village South at Waugh
17 Chapel Special Taxing District will no longer be a Special Taxing District on the fifth
18 anniversary date of the effective date of this Ordinance without further action of the County
19 Council. The Controller of the County will release the Village South at Waugh Chapel
20 Special Taxing District from declaration referenced in Section 6 at such time.

21
22 SECTION 2. *And be it further enacted*, That the Village South at Waugh Chapel Special
23 Taxing District (the “Special Taxing District”) is hereby created, which Special Taxing
24 District shall include the property listed in Exhibit A-1 attached hereto and made a part
25 hereof designated by tax lot listed in Exhibit A-2 to this Ordinance and all adjoining roads,
26 highways, alleys, rights of way and other similar property in order to form a contiguous area
27 as shown on the map submitted to the County Council together with this Ordinance and
28 shown in Exhibit A-3 to this Ordinance.

29
30 SECTION 3. *And be it further enacted*, That there is hereby established a special fund to
31 be designated the “Village South at Waugh Chapel Special Taxing District Fund” (the
32 “Special Tax Fund”). The County hereby pledges all special taxes received by the County
33 for any tax year commencing on or after July 1, 2010 representing the special tax levied in
34 accordance with this Ordinance to the Special Tax Fund in accordance with the provisions of
35 the Special Taxing District Act and all such special taxes shall be deposited therein.

36
37 SECTION 4. *And be it further enacted*, That pursuant to the Special Taxing District Act
38 and the Tax Increment Act, the County is hereby authorized to issue its special obligations
39 bonds from time to time in an aggregate principal amount not to exceed \$16,000,000 (the
40 “Bonds”) for the purpose of financing the public infrastructure improvements described in
41 Exhibit B attached hereto and made a part hereof, which improvements will be situated
42 within the Special Taxing District or will be reasonably related to other infrastructure
43 improvements within the Special Taxing District, are necessary for the development and
44 utilization of the land within the Special Taxing District and will be owned by the County or
45 another governmental unit (collectively, the “Improvements”). Proceeds of the Bonds shall
46 be used to finance costs (as defined in the Special Taxing District Act) of the Improvements
47 permitted to be financed under the Special Taxing District Act and the Tax Increment Act,
48 including interest prior to and during construction and for such limited period after

1 completion of construction as shall be deemed appropriate by the County Executive to pay
2 costs of issuing the Bonds and to fund a debt service reserve fund and other reserves as shall
3 be determined by the County Executive prior to the issuance of such Bonds in accordance
4 with Section 9. The Bonds shall be special obligations of the County, the principal of and
5 premium, if any, and interest on which shall be payable, to the extent not otherwise paid,
6 first, from the portion of the Taxes (as defined in the Development District Resolution) on
7 the Tax Increment (as defined in the Development District Resolution) received by the
8 County for any tax year commencing after the effective date of the Development District
9 Resolution that normally would be paid to the County deposited in the Village South at
10 Waugh Chapel Development District Tax Increment Fund created by the Development
11 District Resolution in accordance with the Tax Increment Act and the Development District
12 Resolution (the "Development District Tax Increment Fund") and, second, to the extent that
13 the Development District Tax Increment Fund does not contain sufficient money to pay the
14 principal of and premium, if any, and interest on the Bonds when due, from a special tax
15 (hereinafter defined) to be levied, collected and deposited in the Village South at Waugh
16 Chapel Special Taxing District Fund in accordance with the Special Taxing District Act and
17 this Ordinance. The Bonds will not constitute a general obligation debt of the County or a
18 pledge of the County's full faith and credit or taxing power other than the Tax Increment and
19 the Special Tax on property in the Village South at Waugh Chapel Special Taxing District.
20

21 SECTION 5. *And be it further enacted*, That there is hereby levied and imposed the
22 "Village South at Waugh Chapel District Special Tax" (the "Special Tax") upon all real and
23 personal property within the Special Taxing District, unless exempted by law or by the
24 provisions hereof, in rate and amount sufficient to provide for the payment of the principal of
25 and premium, if any, and interest on the Bonds and other purposes set forth in this Section,
26 to the extent and in the manner provided in Exhibit D attached hereto and made a part
27 hereof, through the application of the procedures provided in Exhibit D. As set forth in
28 Exhibit D, commencing with the first tax year following the issuance of Bonds and thereafter
29 until all of the Bonds have been paid or provision for the payment thereof shall have been
30 made in accordance with the terms of the Bonds, the Special Tax shall be levied in the event
31 that amounts on deposit in the Development District Tax Increment Fund and other available
32 funds are not sufficient to pay the principal of and premium, if any, and interest on the Bonds
33 when due, to replenish the debt service reserve funds for the Bonds and to pay the expenses
34 incurred in connection with the Bonds, including (without limitation) the fees and expenses
35 of any fiscal agent, trustee or other agent, the expenses of the County in carrying out its
36 duties with respect to the Bonds, such as costs of complying with arbitrage rebate
37 requirements and disclosure requirements under applicable federal and state securities law,
38 the costs of levying and collecting the Special Tax, advertising expenses of public notices
39 and costs of administering the Special Taxing District, including the costs of any employees
40 of the County and fees and expenses of any professionals retained by the County to provide
41 such services, and all other costs and expenses of the County incurred in connection with the
42 Bonds or the administration of the Special Taxing District. The County hereby covenants to
43 levy the Village South at Waugh Chapel Special Taxing District Special Tax in accordance
44 with and to provide for the payments set forth in this Section in rate and amount at least
45 sufficient to provide for such payments, to the extent that such payments are not otherwise
46 provided for. The Special Tax also may be levied with respect to refunding bonds issued
47 under the Special Taxing District Act pursuant to the provisions of an ordinance or
48 resolution enacted or adopted by the County in connection with the issuance of such

1 refunding bonds.

2
3 The County Council has been provided with documentation as to the methodology
4 utilized in apportioning the Village South at Waugh Chapel Special Taxing District Special
5 Tax among property owners within the Special Taxing District and, based on such
6 documentation, finds that the methodology is reasonable and results in fairly allocating the
7 cost of the Improvements as required by the Special Taxing District Act, conditioned on and
8 subject to certification by qualified experts as to the final methodology adopted in
9 apportioning the Special Tax among the property owners.

10
11 Pursuant to the provisions of the Tax Increment Act and the Development District
12 Resolution, the County hereby pledges that until all of the Bonds have been paid or provision
13 for the payment thereof shall have been made in accordance with the terms of the Bonds, the
14 County shall deposit into the Development District Tax Increment Fund, taxes received by
15 the County for any tax year commencing on or after July 1, 2010 in an amount equal to that
16 portion of the taxes on the Tax Increment that normally would be paid to the County.
17 Money in the Development District Tax Increment Fund is hereby pledged to the payment of
18 the outstanding Bonds, subject to the right of the County to use the money in the
19 Development District Tax Increment Fund for other purposes authorized by the Tax
20 Increment Act and the Development District Resolution, including (without limitation)
21 payment of the principal of and premium, if any, and interest on any additional bonds issued
22 in accordance with the Tax Increment Act or other statutory authority and to fund reserves
23 and pay expenses in connection therewith, free and clear of the lien of such pledge to the
24 extent permitted by documents and instruments executed and delivered in connection with
25 the Bonds.

26
27 SECTION 6. *And be it further enacted*, That each contract of sale for real property
28 located in the Special Taxing District and each property tax bill for property in the Special
29 Taxing District shall comply with the provisions of and in accordance with Section 9-
30 1301(c)(3) of the Special Taxing District Act and Section 8-104 of Article 4, Disclosure to
31 buyers, of the Anne Arundel County Code (2005, as amended) and a seller's failure to
32 provide such disclosure renders the contract voidable at the option of the buyer before the
33 date of settlement.

34
35 In addition, before the Bonds are issued, the Controller of the County shall record among
36 the Land Records of the County at the cost of the Special Taxing District a declaration
37 encumbering all real property located in the Special Taxing District except for property
38 exempt by law and designating that property as subject to the Special Taxing District. The
39 declaration shall terminate when the Controller of the County records a release stating that
40 all Bonds are fully repaid or provision for the payment of the Bonds shall have been made in
41 accordance with the terms of the Bonds.

42
43 No Special Tax shall accelerate by reason of a default on the Bonds and no increase in
44 the amount of the maximum Special Tax applicable to any individual property in the Special
45 Taxing District maximum Special Tax shall result from the delinquency in the payment of
46 the Special Tax by any other property owner.

47
48 SECTION 7. *And be it further enacted*, That a debt service reserve fund shall be

1 established for the Bonds in an amount equal to the least of (i) 10% of the proceeds of the
2 Bonds, (ii) 125% of the average annual debt service on the Bonds and (iii) the maximum
3 annual debt service on outstanding Bonds or, if recommended by a financial advisor or
4 underwriter at the time of issuance of the Bonds, in a larger amount. All sinking funds and
5 other reserves securing the Bonds that are available for the payment of debt service on the
6 Bonds shall constitute “debt service reserve fund” for purposes of this Section. Based on
7 customary current municipal market requirements, the County Council considers a debt
8 service reserve fund in such amount adequate for purposes of Section 9-1301(c)(3) of the
9 Special Taxing District Act and Section 8-103(a)(9)(vi) of Article 4 of the Anne Arundel
10 County Code (2005, as amended).

11
12 SECTION 8. *And be it further enacted*, That the Bonds shall be executed in the name of
13 the County and on its behalf by the manual or facsimile signature of the County Executive
14 and the corporate seal of the County or a facsimile thereof shall be impressed or otherwise
15 reproduced thereon and attested by the Secretary to the County Executive by manual or
16 facsimile signature and the Bonds shall be authenticated by the manual or facsimile signature
17 of the Chief Administrative Officer or his authorized deputy as may be required by law.

18
19 SECTION 9. *And be it further enacted*, That prior to the issuance of Bonds from time to
20 time, the County Executive by executive order, shall specify:

21
22 (a) the actual principal amount of the Bonds to be issued;

23
24 (b) the actual rate or rates of interest to be borne by such Bonds, which shall not
25 exceed a maximum rate of interest of ten percent (10%) per annum after giving effect to any
26 federal subsidy;

27
28 (c) the manner in which and terms upon which such Bonds are to be sold, which may
29 be at public or private (negotiated) sale at, above, or below the par amount of the Bonds;

30
31 (d) the manner in which and the times and places that interest on such Bonds is to be
32 paid;

33
34 (e) the time of execution, issuance and delivery of Bonds;

35
36 (f) the form and tenor of such Bonds, and denominations in which the Bonds may be
37 sold;

38
39 (g) the manner in which and the times and places that the principal of such Bonds is
40 to be paid;

41
42 (h) provisions pursuant to which any or all of such Bonds may be called for
43 redemption prior to their stated maturity dates; and

44
45 (i) such other matters in connection with the authorization, sale, issuance, delivery
46 and payment of and for such Bonds and the security for such Bonds not inconsistent with the
47 Special Taxing District Act, the Tax Increment Act or the Development District Resolution
48 as the County Executive shall deem necessary or appropriate.

1
2 Without limiting the generality of the foregoing the County Executive is hereby
3 authorized to appoint bond counsel, a financial advisor and any trustee, registrar, paying
4 agent or other fiscal agent for such Bonds and to enter into one or more agreements on behalf
5 of the County as the County Executive shall deem necessary or appropriate for the issuance,
6 sale, delivery or security of such Bonds, which may include (without limitation) (i) one or
7 more agreements providing for the construction of the Improvements and the acquisition
8 thereof by the County, (ii) underwriting, purchase or placement agreements for Bonds sold at
9 private (negotiated) sale; (iii) trust agreements with commercial banks or trust companies
10 providing for the issuance and security of such Bonds; (iv) dealer, remarketing or similar
11 agreements providing for the placement or remarketing of such Bonds; (v) agreements
12 providing for any credit or liquidity facilities supporting any Bonds; (vi) agreements with
13 commercial banks or trust companies providing for the deposit of proceeds of any Bonds;
14 and (vii) agreements with fiscal agents providing for the issuance of Bonds, their
15 authentication, registration or payment or other similar services. Each such agreement shall
16 be in such form as shall be determined by the County Executive by order. The execution and
17 delivery of each such agreement by the County Executive shall be conclusive evidence of the
18 approval of the form of such agreement on behalf of the County.

19
20 In connection with the sale of any Bonds, the County may prepare and distribute, in
21 conjunction with the underwriter for the Bonds, both a preliminary and a final official
22 statement or other similar offering document to the extent determined to be necessary or
23 desirable for the sale of the Bonds by the County Executive in form and content acceptable
24 to the County Executive.

25
26 The County Executive, the Chief Administrative Officer of the County (the “Chief
27 Administrative Officer”), the Controller of the County and other County officials are hereby
28 authorized to execute and deliver, for and on behalf of the County, any and all additional
29 certificates and documents or other papers and to do any and all things necessary or
30 appropriate in order to effect the issuance and sale of Bonds and to consummate and
31 otherwise implement the transactions contemplated by the Special Taxing District Act, the
32 Tax Increment Act, the Development District Resolution and this Ordinance, subject to the
33 limitations set forth in the Special Taxing District Act, the Tax Increment Act and this
34 Ordinance.

35
36 The delegation of authority to the County Executive in this Ordinance is subject in all
37 respects to the discretion of the County Executive and no Bonds shall be issued unless the
38 County Executive shall have approved all matters in connection with the authorization, sale,
39 issuance, delivery and payment of and for such Bonds and the security for such Bonds.
40 None of the County, the County Executive, the members of the County Council and the
41 officers, employees and agents of the County shall be subject to any liability.

42
43 SECTION 10. *And be it further enacted*, That the County Executive, on behalf of the
44 County, may make such covenants and agreements in connection with the issuance of Bonds
45 issued as tax-exempt bonds (“Tax-Exempt Obligations”) as he shall deem advisable in order
46 to assure owners of such Bonds that interest thereon shall be and remain excludable from
47 gross income for federal income tax purposes. The County Executive, on behalf of the
48 County, is further authorized to take any and all actions as may be necessary or desirable to

1 assure that any Bonds are allowed a tax credit, that the County is entitled to a subsidy from
2 the United States of America or any agency or instrumentality thereof with respect to such
3 Bonds or the interest payable thereon or that any such Bond or the interest thereon is entitled
4 to any other available benefits under the Internal Revenue Code pursuant to the American
5 Recovery and Reinvestment Act of 2009 or otherwise (any such Bonds being referred to
6 herein as “Tax Advantaged Obligations”). Without limiting the generality of the foregoing,
7 the County Executive is hereby authorized to make such covenants or agreements relating to
8 the investment of the proceeds of such Bonds, the payment of rebates (or payments in lieu of
9 rebate) to the United States, limitations on the times within which such proceeds may be
10 expended, the use of specified procedures for accounting for an segregating such proceeds,
11 any required or permitted elections or designations, any actions as shall be necessary to
12 permit any tax credit to be stripped and sold separately from the ownership interest in any
13 Tax Advantaged Obligation and to claim any cash subsidy with respect to any Tax
14 Advantaged Obligation. Such covenants or agreements shall be binding on the County so
15 long as the observance by the County of any such covenants or agreements is necessary in
16 connection with the maintenance of the exclusion of the interest on such Tax-Exempt
17 Obligations from gross income for federal income tax purposes or the entitlement of such
18 Tax Advantaged Obligations to such benefits, respectively.

19
20 SECTION 11. *And be it further enacted*, That in accordance with the provisions of
21 Article V, Section 504 of the Charter of the County, the County Executive is hereby
22 authorized to delegate to the Chief Administrative Officer the power and authority to take
23 any and all actions required or permitted to be taken by the County Executive pursuant to
24 this Ordinance.

25
26 SECTION 12. *And be it further enacted*, That by the enactment of this Ordinance, the
27 County has complied with the provisions of the Tax Increment Act and the Special Taxing
28 District Act, including but not limited to Sections 12-203, 12-208(c) and 12-208(d) of the
29 Tax Increment Act and subsection (f) of the Special Taxing District Act.

30
31 SECTION 13. *And be it further enacted*, That the authorization to issue Bonds pursuant
32 to this Ordinance shall not be exercised unless and until an appropriation shall have been
33 made for the expenditure of the proceeds of such Bonds for the Improvements and related
34 costs authorized to be financed hereunder to the extent required by law.

35
36 SECTION 14. *And be it further enacted*, That the enactment of this Ordinance shall not
37 be deemed to constitute the approval, authorization or consent of the County Council, the
38 County Executive or any department, office or agency of the County to any action or activity
39 within or required for the development of the Special Taxing District and the Village South
40 at Waugh Chapel Development District, including (without limitation) any land use
41 approval, requirements for the provision of public utilities or services or any administrative,
42 judicial, quasi-judicial, or legislative action that may be required therefor.

43
44 SECTION 15. *And be it further enacted*, That the provisions of this Ordinance are
45 severable, and if any provision, sentence, clause, section or part hereof is held or determined
46 to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such
47 illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of
48 the remaining provisions, sentences, clauses, sections or parts of this Ordinance or their

1 application to other persons or circumstances. It is hereby declared to be the legislative
2 intent that this Ordinance would have been adopted if such illegal, invalid, unconstitutional
3 or inapplicable provision, sentence, clause, section or part had not been included herein and
4 as if the person or circumstances to which this Ordinance or any part hereof are inapplicable
5 had been specifically exempted herefrom.

6

7 SECTION 16. *And be it further enacted*, That this Ordinance shall take effect 45 days
8 from the date of its enactment.