

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2010, Legislative Day No. 28

Bill No. 61-10

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

By the County Council, July 6, 2010

Introduced and first read on July 6, 2010
Public Hearing set for August 2, 2010
Bill Expires October 9, 2010

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning the creation of a special taxing district to be
2 designated as “Cedar Hill Special Taxing District” located within Anne Arundel County,
3 Maryland (the “County”); the creation of a special fund relating to such special taxing
4 district; providing for the levy of a special tax; providing for the financing of certain
5 infrastructure improvements relating to the Cedar Hill Special Taxing District;
6 authorizing the issuance from time to time of special obligation bonds in an aggregate
7 principal amount not to exceed \$24,000,000 to be secured by special taxes; and
8 determining certain terms and provisions in connection with the issuance, sale and
9 payment of such bonds.

10
11 FOR the purpose of providing for the creation of the Cedar Hill Special Taxing
12 District, located East of Route 2, West of Pennington Avenue, North of Route 695 and
13 South of Cedar Lane and within the boundaries of the County, pursuant to the provisions
14 of Section 9-1301 of Article 24 of the Annotated Code of Maryland (2005 Replacement
15 Volume and 2009 Supplement) and Sections 4-8-101 through 4-8-106 of the Anne
16 Arundel County Code (2005, as amended) (together, the “Special Taxing District Act”);
17 providing for the designation of a geographic area as a “special taxing district” as that
18 term is used in the Special Taxing District Act; providing for and determining the various
19 matters in connection with the creation of the Cedar Hill Special Taxing District; creating
20 a special fund (the “Special Tax Fund”) to secure bonds issued to finance infrastructure
21 improvements permitted by the Special Taxing District Act relating to the Cedar Hill
22 Special Taxing District; providing for the levy of a special tax in compliance with the
23 Special Taxing District Act; providing that special obligation bonds may be issued from
24 time to time under the provisions of this Ordinance and the Special Taxing District Act in
25 an aggregate principal amount not to exceed \$24,000,000 for the purpose of financing a
26 portion of the infrastructure improvements; providing for the creation of a debt service
27 reserve fund, the funding of capitalized interest and the payment of costs and expenses

1 related to the issuance of the special obligation bonds; making certain findings and
2 determinations, among others, concerning the public benefit and purpose of such special
3 obligation bonds; providing that such special obligation bonds shall be payable from the
4 special tax to be levied and deposited in the Special Tax Fund, and that the special
5 obligation bonds shall not constitute a general obligation debt of the County or a pledge
6 of the County's full faith and credit or taxing power other than the special tax levied
7 hereunder; authorizing the County Executive of the County to specify, prescribe,
8 determine, provide for and approve certain details, forms, documents and procedures in
9 connection with such special obligation bonds and any other matters necessary or
10 desirable in connection with the authorization, issuance, sale and payment of such special
11 obligation bonds; authorizing the County Executive to take certain actions, execute
12 documents and make certain commitments on behalf of the County in connection with
13 the issuance, sale and delivery of such special obligation bonds; authorizing the execution
14 and delivery of such special obligation bonds and such other documents as may be
15 necessary or desirable to effectuate the financing of the infrastructure improvements and
16 the issuance, sale and delivery of such special obligation bonds; and generally providing
17 for and determining various matters in connection with the foregoing.

18
19 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
20 *Maryland,* That pursuant to Section 9-1301 of Article 24 of the Annotated Code of
21 Maryland (2005 Replacement Volume and 2009 Supplement) and Sections 4-8-101
22 through 4-8-106 of the Anne Arundel County Code (2005, as amended) (together, the
23 "Special Taxing District Act"), it is hereby found and determined that the establishment
24 by Anne Arundel County, Maryland (the "County") of a special taxing district consisting
25 of the area described on Exhibit A-1 attached hereto and made a part hereof, an
26 unincorporated area of the County, to be known as the "Cedar Hill Special Taxing
27 District" (the "Special Taxing District," as further defined herein), in accordance with a
28 petition filed with the County by the owners of all of the property within the Special
29 Taxing District, the creation of a special fund as contemplated by the Special Taxing
30 District Act and the issuance of special obligation bonds pursuant to the Special Taxing
31 District Act for the purpose of providing funds to finance a portion of the costs of certain
32 public infrastructure improvements (the "Improvements," as defined herein) related to the
33 development of retail, commercial and office facilities and residential units within the
34 Special Taxing District that will accomplish the public purposes of the Special Taxing
35 District Act.

36
37 Notwithstanding the foregoing, if the County does not issue Bonds (defined
38 herein) within five years from the effective date of this Ordinance, the Special Taxing
39 District will no longer be a special taxing district on the fifth anniversary date of the
40 effective date of this Ordinance without further action of the County Council. The
41 Controller of the County (the "Controller") will release the Special Taxing District from
42 declaration referenced in Section 6 hereof at such time.

43
44 SECTION 2. *And be it further enacted,* That the Cedar Hill Special Taxing
45 District (the "Special Taxing District") is hereby created, which Special Taxing District
46 shall include the property listed in Exhibit A-1 attached hereto and made a part hereof
47 designated by tax lots listed in Exhibit A-2 to this Ordinance and all adjoining roads,
48 highways, alleys, rights of way and other similar property in order to form a contiguous

1 area as shown on the map submitted to the County Council together with this Ordinance
2 and shown in Exhibit A-3 to this Ordinance.
3

4 SECTION 3. *And be it further enacted*, That there is hereby established a special
5 fund to be designated the “Cedar Hill Special Taxing District Fund” (the “Special Tax
6 Fund”). The County hereby pledges all special taxes received by the County for any tax
7 year commencing with the first tax year following the issuance of the Bonds representing
8 the special tax levied in accordance with this Ordinance to the Special Tax Fund in
9 accordance with the provisions of the Special Taxing District Act and all such special
10 taxes shall be deposited therein.
11

12 SECTION 4. *And be it further enacted*, That pursuant to the Special Taxing
13 District Act, the County is hereby authorized to issue its special obligations bonds from
14 time to time in an aggregate principal amount not to exceed \$24,000,000 (the “Bonds”)
15 for the purpose of financing the public infrastructure improvements described in Exhibit
16 B attached hereto and made a part hereof, which improvements will be situated within the
17 Special Taxing District or will be reasonably related to other infrastructure improvements
18 within the Special Taxing District, are necessary for the development and utilization of
19 the land within the Special Taxing District and will be owned by the County or another
20 governmental unit (collectively, the “Improvements”). The County is hereby authorized
21 to issue up to \$11,000,000 aggregate principal amount of the Bonds as bonds designated
22 as “recovery zone economic development bonds,” as defined in Section 1400U-2(b)(1) of
23 the Internal Revenue Code of 1986, as amended. Proceeds of the Bonds shall be used to
24 finance costs (as defined in the Special Taxing District Act) of the Improvements
25 permitted to be financed under the Special Taxing District Act, including interest prior to
26 and during construction and for such limited period after completion of construction as
27 shall be deemed appropriate by the County Executive of the County (the “County
28 Executive”), to pay costs of issuing the Bonds (including fees to the County for the
29 issuance of the Bonds) and to fund a debt service reserve fund and other reserves as shall
30 be determined by the County Executive prior to the issuance of such Bonds in accordance
31 with Section 9 hereof. In addition to any other fees that the County shall receive, on the
32 date of the issuance of the Bonds, the County shall be paid a fee in an amount equal to a
33 yield of 0.125% per year on the principal amount of the issued and outstanding Bonds
34 designated as “recovery zone economic development bonds,” as defined in Section
35 1400U-2(b)(1) of the Internal Revenue Code of 1986, as amended. The Bonds shall be
36 special obligations of the County, the principal of and premium, if any, and interest on
37 which shall be payable from a special tax (hereinafter defined) to be levied, collected and
38 deposited in the Special Tax Fund in accordance with the Special Taxing District Act and
39 this Ordinance. The Bonds will not constitute a general obligation debt of the County or
40 a pledge of the County’s full faith and credit or taxing power other than the Special Tax
41 on property in the Special Taxing District.
42

43 SECTION 5. *And be it further enacted*, That there is hereby levied and imposed
44 the “Cedar Hill Special Tax” (the “Special Tax”) upon all real and personal property
45 within the Special Taxing District, unless exempted by law or by the provisions hereof, in
46 rate and amount sufficient to provide for the payment of the principal of and premium, if
47 any, and interest on the Bonds and other purposes set forth in this Section, to the extent
48 and in the manner provided in Exhibit C attached hereto and made a part hereof, through
49 the application of the procedures provided in Exhibit C. As set forth in Exhibit C,

1 commencing with the first tax year following the issuance of Bonds and thereafter until
2 all of the Bonds have been paid or provision for the payment thereof shall have been
3 made in accordance with the terms of the Bonds, the Special Tax shall be levied in the
4 event that amounts on deposit in the Special Tax Fund and other available funds are not
5 sufficient to pay the principal of and premium, if any, and interest on the Bonds when
6 due, to replenish the debt service reserve funds for the Bonds and to pay the expenses
7 incurred in connection with the Bonds, including (without limitation) the fees and
8 expenses of any fiscal agent, trustee or other agent, the expenses of the County in
9 carrying out its duties with respect to the Bonds, such as costs of complying with
10 arbitrage rebate requirements and disclosure requirements under applicable federal and
11 state securities law, the costs of levying and collecting the Special Tax, advertising
12 expenses of public notices and costs of administering the Special Taxing District,
13 including the costs of any employees of the County and fees and expenses of any
14 professionals retained by the County to provide such services, and all other costs and
15 expenses of the County incurred in connection with the Bonds or the administration of
16 the Special Taxing District. The County hereby covenants to levy the Special Tax in
17 accordance with and to provide for the payments set forth in this Section in rate and
18 amount at least sufficient to provide for such payments, to the extent that such payments
19 are not otherwise provided for. The Special Tax also may be levied with respect to
20 refunding bonds issued under the Special Taxing District Act pursuant to the provisions
21 of an ordinance or resolution enacted or adopted by the County in connection with the
22 issuance of such refunding bonds.

23
24 The County Council has been provided with documentation as to the
25 methodology utilized in apportioning the Special Tax among property owners within the
26 Special Taxing District and, based on such documentation, finds that the methodology is
27 reasonable and results in fairly allocating the cost of the Improvements as required by the
28 Special Taxing District Act, conditioned on and subject to certification by qualified
29 experts as to the final methodology adopted in apportioning the Special Tax among the
30 property owners.

31
32 SECTION 6. *And be it further enacted,* That each contract of sale for real
33 property located in the Special Taxing District and each property tax bill for property in
34 the Special Taxing District shall comply with the provisions of and be in accordance with
35 Section 9-1301(c)(3) of Article 24 of the Annotated Code of Maryland and Section 4-8-
36 104 of the Anne Arundel County Code and a seller's failure to provide the disclosure
37 required by law renders the contract voidable at the option of the buyer before the date of
38 settlement.

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

47
48 No Special Tax shall accelerate by reason of a default on the Bonds and no
49 increase in the amount of the maximum Special Tax applicable to any individual property

1 in the Special Taxing District shall result from the delinquency in the payment of the
2 Special Tax by any other property owner.

3
4 SECTION 7. *And be it further enacted*, That a debt service reserve fund shall be
5 established for the Bonds in an amount equal to the least of (i) 10% of the proceeds of the
6 Bonds, (ii) 125% of the average annual debt service on the Bonds and (iii) the maximum
7 annual debt service on outstanding Bonds or, if recommended by a financial advisor or
8 underwriter at the time of issuance of the Bonds, in a larger amount. All sinking funds
9 and other reserves securing the Bonds that are available for the payment of debt service
10 on the Bonds shall constitute the “debt service reserve fund” for purposes of this Section.
11 Based on customary current municipal market requirements, the County Council
12 considers a debt service reserve fund in such amount adequate for purposes of Section 9-
13 1301(c)(3) of Article 24 of the Annotated Code of Maryland and Section 4-8-
14 103(a)(9)(vi) of the Anne Arundel County Code.

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

23
24 SECTION 9. *And be it further enacted*, That prior to the issuance of Bonds from
25 time to time, the County Executive by executive order, shall specify:

26
27 (a) the actual principal amount of the Bonds to be issued;

28
29 (b) the actual rate or rates of interest to be borne by such Bonds, which shall
30 not exceed a maximum rate of interest of ten percent (10%) per annum after giving effect
31 to any federal subsidy;

32
33 (c) the manner in which and terms upon which such Bonds are to be sold,
34 which may be at public or private (negotiated) sale at, above, or below the par amount of
35 the Bonds;

36
37 (d) the manner in which and the times and places that interest on such Bonds
38 is to be paid;

39
40 (e) the time of execution, issuance and delivery of the Bonds;

41
42 (f) the form and tenor of such Bonds, and denominations in which the Bonds
43 may be sold;

44
45 (g) the manner in which and the times and places that the principal of such
46 Bonds is to be paid;

47
48 (h) provisions pursuant to which any or all of such Bonds may be called for
49 redemption prior to their stated maturity dates;

1
2 (i) the maturity date of such Bonds, which shall not exceed 30 years from the
3 date of issuance of such Bonds; and

4
5 (j) such other matters in connection with the authorization, sale, issuance,
6 delivery and payment of and for such Bonds and the security for such Bonds not
7 inconsistent with the Special Taxing District Act as the County Executive shall deem
8 necessary or appropriate.

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

28
29 In connection with the sale of any Bonds, the County may prepare and distribute
30 both a preliminary and a final official statement or other similar offering document to the
31 extent determined to be necessary or desirable for the sale of the Bonds by the County
32 Executive in form and content acceptable to the County Executive.

33
34 The County Executive, the Chief Administrative Officer, the Controller and other
35 County officials are hereby authorized to execute and deliver, for and on behalf of the
36 County, any and all additional certificates and documents or other papers and to do any
37 and all things necessary or appropriate in order to effect the issuance and sale of Bonds
38 and to consummate and otherwise implement the transactions contemplated by the
39 Special Taxing District Act and this Ordinance, subject to the limitations set forth in the
40 Special Taxing District Act and this Ordinance.

41
42 The delegation of authority to the County Executive in this Ordinance is subject
43 in all respects to the discretion of the County Executive and no Bonds shall be issued
44 unless the County Executive shall have approved all matters in connection with the
45 authorization, sale, issuance, delivery and payment of and for such Bonds and the
46 security for such Bonds. None of the County, the County Executive, the members of the
47 County Council and the officers, employees and agents of the County shall be subject to
48 any liability.

1 SECTION 10. *And be it further enacted*, That the County Executive, on behalf of
2 the County, may make such covenants and agreements in connection with the issuance of
3 Bonds issued as tax-exempt bonds (“Tax-Exempt Obligations”) as he shall deem
4 advisable in order to assure owners of such Bonds that interest thereon shall be and
5 remain excludable from gross income for federal income tax purposes. The County
6 Executive, on behalf of the County, is further authorized to take any and all actions as
7 may be necessary or desirable to assure that any Bonds are allowed a tax credit, that the
8 County is entitled to a subsidy from the United States of America or any agency or
9 instrumentality thereof with respect to such Bonds or the interest payable thereon or that
10 any such Bond or the interest thereon is entitled to any other available benefits under the
11 Internal Revenue Code of 1986, as amended, pursuant to the American Recovery and
12 Reinvestment Act of 2009 or otherwise (any such Bonds being referred to herein as “Tax
13 Advantaged Obligations”). Without limiting the generality of the foregoing, the County
14 Executive is hereby authorized to make such covenants or agreements relating to the
15 investment of the proceeds of such Bonds, the payment of rebates (or payments in lieu of
16 rebate) to the United States, limitations on the times within which such proceeds may be
17 expended, the use of specified procedures for accounting for segregating such proceeds,
18 any required or permitted elections or designations, any actions as shall be necessary to
19 permit any tax credit to be stripped and sold separately from the ownership interest in any
20 Tax Advantaged Obligation and to claim any cash subsidy with respect to any Tax
21 Advantaged Obligation. The County may pledge such subsidy or other funds received
22 with respect to any Tax Advantaged Obligation towards the payment of the principal of
23 and the interest on the Bonds. The County may agree to pay County funds to the debt
24 service reserve fund or any other fund agreed to by the County in order to replenish the
25 debt service reserve fund for any deficiency resulting from any amount offset by the
26 federal government against any such subsidy or other funds payable by the federal
27 government with respect to the Bonds if (a) the County Executive determines that the
28 offset results from an action or failure to act or other circumstance unrelated to the Bonds
29 and (b) either (i) the County Executive determines that the County is liable for the
30 amount offset or it shall be finally determined by a court of competent jurisdiction from
31 which no further appeal exists that the County is liable for such amount or (ii) such
32 payment obligation is specifically authorized by annual appropriation by the County
33 Council and is not a general obligation of the County to which the full faith and credit of
34 the County are pledged. The County Executive may agree, to the extent permitted by law
35 and subject to applicable public policy, to use best efforts to obtain the authorization for
36 appropriation of such funds. Such covenants or agreements shall be binding on the
37 County so long as the observance by the County of any such covenants or agreements is
38 necessary in connection with the maintenance of the exclusion of the interest on such
39 Tax-Exempt Obligations from gross income for federal income tax purposes or the
40 entitlement of such Tax Advantaged Obligations to such benefits, respectively.

41
42 SECTION 11. *And be it further enacted*, That in accordance with the provisions
43 of Article V, Section 504 of the Charter of the County, the County Executive is hereby
44 authorized to delegate to the Chief Administrative Officer the power and authority to take
45 any and all actions required or permitted to be taken by the County Executive pursuant to
46 this Ordinance.

47 SECTION 12. *And be it further enacted*, That by the enactment of this Ordinance,
48 the County has complied with the provisions of the Special Taxing District Act, including

1 but not limited to and Section 9-1301(f) of Article 24 of the Annotated Code of
2 Maryland.

3
4 SECTION 13. *And be it further enacted*, That the authorization to issue Bonds
5 pursuant to this Ordinance shall not be exercised unless and until an appropriation shall
6 have been made for the expenditure of the proceeds of such Bonds for the Improvements
7 and related costs authorized to be financed hereunder to the extent required by law.

8
9 SECTION 14. *And be it further enacted*, That the enactment of this Ordinance
10 shall not be deemed to constitute the approval, authorization or consent of the County
11 Council, the County Executive or any department, office or agency of the County to any
12 action or activity within or required for the development of the Special Taxing District,
13 including (without limitation) any land use approval, requirements for the provision of
14 public utilities or services or any administrative, judicial, quasi-judicial, or legislative
15 action that may be required therefor.

16 SECTION 15. *And be it further enacted*, That the provisions of this Ordinance are
17 severable, and if any provision, sentence, clause, section or part hereof is held or
18 determined to be illegal, invalid or unconstitutional or inapplicable to any person or
19 circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not
20 affect or impair any of the remaining provisions, sentences, clauses, sections or parts of
21 this Ordinance or their application to other persons or circumstances. It is hereby
22 declared to be the legislative intent that this Ordinance would have been adopted if such
23 illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or
24 part had not been included herein and as if the person or circumstances to which this
25 Ordinance or any part hereof are inapplicable had been specifically exempted herefrom.

26
27 SECTION 16. *And be it further enacted*, That this Ordinance shall take effect 45
28 days from the date of its enactment.