

**FINAL**

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2018, Legislative Day No. 3

Bill No. 5-18

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

By the County Council, February 5, 2018

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Introduced and first read on February 5, 2018  
Public Hearing set for and held on March 5, 2018  
Bill Expires May 11, 2018

By Order: JoAnne Gray, Administrative Officer

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A BILL ENTITLED

1 AN ORDINANCE concerning: the issuance, sale and delivery of special obligation  
2 refunding bonds in an aggregate principal amount not to exceed \$16,000,000 in one or  
3 more series to be secured by taxes levied on the tax increment on property in the Village  
4 South at Waugh Chapel Development District, special taxes on property in the Village  
5 South at Waugh Chapel Special Taxing District and a guaranty provided by Anne  
6 Arundel County, Maryland to refund all or a portion of the outstanding Anne Arundel  
7 County, Maryland Special Obligation Bonds (Village South at Waugh Chapel Project),  
8 Series 2010 and determining certain terms and provisions in connection with the  
9 issuance, sale, delivery and payment of such bonds.

10  
11 FOR the purpose of authorizing the issuance, sale and delivery by Anne Arundel County,  
12 Maryland (the "County") of special obligation refunding bonds pursuant to Section 19-  
13 207 of the Local Government Article of the Annotated Code of Maryland (2013  
14 Replacement Volume and 2017 Supplement) (the "Refunding Act"), Sections 12-201  
15 through 12-213 of the Economic Development Article of the Annotated Code of  
16 Maryland (2008 Volume and 2017 Supplement) (the "Tax Increment Act"), and  
17 Subtitle 5 of Title 21 of the Local Government Article of the Annotated Code of  
18 Maryland (2013 Replacement Volume and 2017 Supplement) and Sections 4-8-101  
19 through 4-8-106 of the Anne Arundel County Code, as amended (together, the "Special  
20 Taxing District Act") in an aggregate principal amount not to exceed \$16,000,000 in  
21 one or more series to refund all or a portion of the outstanding Anne Arundel County,  
22 Maryland Special Obligation Bonds (Village South at Waugh Chapel Project), Series  
23 2010 dated November 18, 2010 (the "2010 Bonds") in order to achieve debt service  
24 savings for the County in each year on a direct comparison basis; providing that special  
25 obligation refunding bonds may be issued from time to time; providing for the payment  
26 of costs and expenses related to the issuance of such special obligation refunding bonds;  
27 finding and determining, among other things, that a debt service reserve fund is not  
28 required as a result of the County guaranty securing such special obligation bonds and

1 that refunding all or a portion of the outstanding 2010 Bonds to realize debt service  
2 savings accomplishes the public purpose of the Tax Increment Act and the Special  
3 Taxing District Act; providing that such special obligation refunding bonds authorized  
4 to be issued hereby shall be payable, first, from the amounts levied on the tax increment  
5 on the property in the Village South at Waugh Chapel Development District and  
6 deposited in the Village South at Waugh Chapel Development District Tax Increment  
7 Fund (the "Development District Special Fund") created pursuant to Resolution No.  
8 20-10 passed by the County Council of the County (the "County Council") on May 3,  
9 2010 and approved by the County Executive of the County (the "County Executive")  
10 on May 10, 2010, and, second, to the extent the Development District Special Fund  
11 does not contain money in an amount sufficient for payment of debt service on such  
12 special obligation refunding bonds and Administrative Expenses, as defined in the Rate  
13 and Method (defined herein), from the special tax levied on the property in the Village  
14 South at Waugh Chapel Special Taxing District and deposited in the Village South at  
15 Waugh Chapel Special Taxing District Fund (the "Special Tax Fund") created pursuant  
16 to Bill No. 19-10, passed by the County Council on May 3, 2010, approved by the  
17 County Executive and enacted on May 10, 2010; providing that such special obligation  
18 refunding bonds shall further be secured by a County guaranty of the timely payment  
19 of the principal of and interest on such special obligation refunding bonds; pledging  
20 the full faith and credit of the County, subject to the limitation on the tax levy set out  
21 in Section 710(d) of the County Charter, to the payments required under such guaranty  
22 in the event that sufficient funds for the timely payment of principal and interest on  
23 such special obligation refunding bonds when due are not available from the  
24 Development District Special Fund and the Special Tax Fund or otherwise;  
25 covenanting that, in each tax year during which any such payments of principal or  
26 interest on such special obligation refunding bonds are required to be paid under such  
27 guaranty, the County will appropriate sufficient funds in the Current Expense Budget  
28 to pay such principal and interest due in such tax year, and further covenanting that, to  
29 the extent any such appropriation is not offset by funds from other sources or revenues,  
30 the County will, subject to the limitation on the tax levy set out in Section 710(d) of the  
31 County Charter, fund any such appropriation by the levy of ad valorem taxes on real  
32 estate, tangible personal property and, in addition, on such intangible property as may  
33 be subject to taxation by the County within limitations prescribed by law; providing  
34 that such special obligation refunding bonds may be sold at private (negotiated) or  
35 competitive sale; providing that the County Executive may determine the manner in  
36 which the 2010 Bonds are to be redeemed or retired; authorizing the County Executive  
37 of the County to specify, prescribe, determine, provide for and approve certain details,  
38 forms, documents and procedures in connection with such special obligation refunding  
39 bonds and any other matters necessary or desirable in connection with the  
40 authorization, issuance, sale and payment of such special obligation refunding bonds  
41 and such other documents as may be necessary and desirable to effectuate the issuance,  
42 sale and delivery of such special obligation refunding bonds; and generally providing  
43 for, and determining various matters in connection with the issuance, sale, delivery and  
44 payment of such special obligation refunding bonds.

## RECITALS

1  
2  
3 Resolution No. 20-10 passed by the County Council of the County (the “County  
4 Council”) on May 3, 2010 and approved by the County Executive of the County (the  
5 “County Executive”) on May 10, 2010 (the “Development District Resolution” or  
6 “Resolution No. 20-10”) created the Village South at Waugh Chapel Development District  
7 (the “Development District”) and the special fund known as the “Village South at Waugh  
8 Chapel Development District Tax Increment Fund” (the “Development District Special  
9 Fund”).

10  
11 Bill No. 19-10, passed by the County Council on May 3, 2010, approved by the County  
12 Executive and enacted on May 10, 2010 (“Bill No. 19-10” and, together with Resolution  
13 No. 20-10, the “Prior Authorizations”), established the Village South at Waugh Chapel  
14 Special Taxing District Fund (the “Special Tax Fund”) and authorized the levy and  
15 imposition of a special tax to be known as the “Village South at Waugh Chapel District  
16 Special Tax” (the “Special Tax”) upon all real and personal property within the Village  
17 South at Waugh Chapel Special Taxing District (the “Special Taxing District”) in the  
18 manner and through the application of the Rate and Method of Apportionment Special  
19 Taxes (the “Rate and Method”), attached as Exhibit D to Bill No. 19-10 and made apart  
20 thereof. The Development District and the Special Taxing District are geographically  
21 coincident, except for certain excluded property set forth in Bill No. 19-10.

22  
23 The County issued its \$16,000,000 Anne Arundel County, Maryland Special  
24 Obligation Bonds (Village South at Waugh Chapel Project), Series 2010 dated November  
25 18, 2010 (the “2010 Bonds”) pursuant to (i) Sections 12-201 through 12-213 of the  
26 Economic Development Article of the Annotated Code of Maryland, as amended (the “Tax  
27 Increment Act”), (ii) Subtitle 5 of Title 21 of the Local Government Article of the  
28 Annotated Code of Maryland, as amended (the “State Special Taxing District Act”), (iii)  
29 Sections 4-8-101 through 4-8-106 of the Anne Arundel County Code, as amended (the  
30 “County Special Taxing District Act” and together with the State Special Taxing District  
31 Act, the “Special Taxing District Act”), (iv) the Prior Authorizations, and (v) the Indenture  
32 of Trust by and between the County and Manufacturers and Traders Trust Company, as  
33 trustee, dated as of November 1, 2010 (the “2010 Indenture”).

34  
35 The proceeds of the 2010 Bonds were used to finance a portion of the costs of certain  
36 public infrastructure improvements benefiting the development of retail, commercial and  
37 office facilities and residential units related to the Special Taxing District as described in  
38 Exhibit C to Bill No. 19-10.

39  
40 The 2010 Bonds are secured by the proceeds of tax collections arising from the taxation  
41 of the increase, if any, in the appraised value of real property located in the Development  
42 District since January 1, 2009 and, to the extent the revenues from the tax increment are  
43 insufficient, from the Village South at Waugh Chapel District Special Tax to be levied on  
44 the taxable parcels within the Special Taxing District.

45  
46 The County has determined that refunding all or a portion of the outstanding 2010  
47 Bonds in the manner provided for in this Ordinance will realize debt service savings for  
48 the County. The County has therefore determined to authorize the issuance of special  
49 obligation refunding bonds the proceeds of which will be used to refund all or a portion of

1 the outstanding 2010 Bonds to achieve savings on a direct comparison basis. The County  
2 also has determined to provide for repayment of such special obligation refunding bonds  
3 from the proceeds of tax collections arising from the taxation of the increase, if any, in the  
4 appraised value of real property located in the Development District since January 1, 2009  
5 and, to the extent the revenues from the tax increment are insufficient, from the Village  
6 South at Waugh Chapel District Special Tax to be levied on the taxable parcels within the  
7 Special Taxing District. In addition, the County has determined to further secure repayment  
8 by guaranteeing repayment of the principal of and interest on such special obligation  
9 refunding bonds, as further provided in this Ordinance in order to achieve additional debt  
10 service savings.

11  
12 SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland,  
13 That:

14  
15 (1) Defined terms used in this Ordinance shall have the meanings given such words in  
16 the Recitals set forth above or elsewhere herein, unless the context clearly requires a  
17 contrary meaning.

18  
19 In addition, the following words shall have the meanings specified:

20  
21 A. "Assessable Base" shall have the meaning set forth in Section 12-201(c) of the  
22 Tax Increment Act;

23  
24 B. "Assessment Ratio" shall have the meaning set forth in Section 12-201(d) of the  
25 Tax Increment Act;

26  
27 C. "Bonds" means the 2010 Bonds and the Refunding Bonds;

28  
29 D. "Original Taxable Value" shall have the meaning set forth in Section 12-201(n)  
30 of the Tax Increment Act;

31  
32 E. "Principal Amount" means the bona fide offering price of the Refunding Bonds  
33 to the public;

34  
35 F. "Refunding Act" shall mean Section 19-207 of Local Government Article of the  
36 Annotated Code of Maryland, as amended (2013 Replacement Volume and 2017  
37 Supplement);

38  
39 G. "Refunding Bonds" shall mean the special obligation refunding bonds  
40 authorized in Section 2 of this Ordinance;

41  
42 H. "Tax Increment" shall have the meaning set forth in Section 12-201(s) of the  
43 Tax Increment Act and means for any Tax Year the amount by which the Assessable Base  
44 as of January 1 of the preceding Tax Year exceeds the Original Taxable Value divided by  
45 the Assessment Ratio used to determine the Original Taxable Value; and

46  
47 I. "Tax Year" shall have the meaning set forth in Section 12-201(t) of the Tax  
48 Increment Act.

1 The Tax Increment shall be determined and the proceeds of the levy on the Tax Increment  
2 shall be applied to the payment of the Refunding Bonds in accordance with the Tax  
3 Increment Act as in effect on the date of enactment of this Ordinance. The provisions of  
4 this Ordinance shall govern in the event of any inconsistency between this Ordinance and  
5 any previously adopted or enacted resolution or ordinance.  
6

7 (2) Acting pursuant to the Refunding Act, the Tax Increment Act and the Special  
8 Taxing District Act, it is hereby found and determined that the issuance of Refunding  
9 Bonds for the purpose of refunding all or a portion of the outstanding 2010 Bonds to realize  
10 debt service savings on a direct comparison basis, accomplishes the public purposes of the  
11 Refunding Act and is in furtherance of the purposes of the Tax Increment Act and the  
12 Special Taxing District Act. For the purposes of this Ordinance, the issuance of Refunding  
13 Bonds shall be deemed to realize debt service savings on a direct comparison basis when  
14 the debt service in each Tax Year for the Refunding Bonds together with the debt service  
15 on any 2010 Bonds not refunded, defeased or otherwise retired in connection with the  
16 issuance of the Refunding Bonds is, in the aggregate, less than the debt service on the 2010  
17 Bonds in each Tax Year determined immediately before the issuance of the Refunding  
18 Bonds.  
19

20 (3) Each contract of sale for real property located in the Special Taxing District and  
21 each property tax bill for property in the Special Taxing District shall comply with the  
22 provisions of the County Special Taxing District Act, Section 4-8-104 "Disclosure to  
23 Buyers".  
24

25 (4) Based on certifications provided to the County Council regarding customary  
26 municipal market requirements for a financing of this nature involving the guaranty  
27 provided by the County in connection with the issuance of the Refunding Bonds, the  
28 County Council determines that a debt service reserve fund is not required or advisable in  
29 connection with the issuance of the Refunding Bonds and the requirement of the Special  
30 Taxing District Act that an adequate debt service reserve be maintained is satisfied by  
31 virtue of such guaranty.  
32

33 (5) The Special Tax shall not accelerate by reason of a default on the Bonds.  
34

35 (6) No increase in the amount of the Special Tax levied shall result in a levy that  
36 exceeds the Maximum Special Tax (as defined in the Rate and Method) applicable to any  
37 individual property in the Special Taxing District if any other property owner becomes  
38 delinquent in the payment of its Special Tax.  
39

40 (7) The Rate and Method defines "Bonds" as any bonds or other debt, including  
41 refunding bonds, whether in one or more series, issued by the County pursuant to the  
42 Special Taxing District Act to fund public improvements benefiting the Special Taxing  
43 District. The Rate and Method is hereby confirmed, ratified, adopted and incorporated by  
44 reference and made a part of this Ordinance and the applicability of the Rate and Method  
45 to the Refunding Bonds is hereby confirmed. It is hereby acknowledged and confirmed  
46 that there is levied and imposed a special tax to be known as the "Village South at Waugh  
47 Chapel District Special Tax" upon all real and personal property within the Special Taxing  
48 District, unless exempted by law or by the provisions of Bill No. 19-10 or this Ordinance,  
49 for the purposes, to the extent and in the manner provided in the Rate and Method. As set

1 forth in the Rate and Method, no Special Tax shall be levied to pay debt service on the  
2 Bonds, including the Refunding Bonds, unless the Development District Special Fund does  
3 not contain money in an amount sufficient to pay such debt service on the Bonds, including  
4 the Refunding Bonds. Further, the Special Tax originally levied and imposed by Bill No.  
5 19-10 and confirmed, ratified and adopted by this Ordinance in the Special Taxing District  
6 took effect and shall be in force for the Tax Year beginning July 1, 2010 and each Tax Year  
7 thereafter through and including June 30, 2040, provided that such Special Tax shall  
8 terminate when no "Bonds" as defined in the Rate and Method, including the 2010 Bonds  
9 and the Refunding Bonds, are outstanding which, for purposes of this Ordinance as it  
10 relates to the 2010 Bonds and the Refunding Bonds, shall mean the Bonds, including the  
11 Refunding Bonds, have been fully repaid or defeased pursuant to the terms of the indenture  
12 under which they are issued with bonds that are not secured by the Special Tax. The Special  
13 Tax shall be levied in an amount sufficient to also pay County expenses, which, for  
14 purposes of this paragraph, shall include the fees and expenses of any fiscal agent or trustee  
15 employed by the County; the expenses of the County in carrying out its duties under the  
16 indenture under which the Bonds, including the Refunding Bonds, have been or will be  
17 issued, including, but not limited to, levying and collecting the Special Tax and complying  
18 with arbitrage rebate requirements and obligated persons disclosure requirements  
19 associated with applicable federal and state securities law, including the costs of any  
20 employees of the County and fees of any professionals retained by the County to provide  
21 services for such purposes; and all other costs and expenses of the County incurred in  
22 connection with the discharge of its duties under such indenture, including legal expenses  
23 associated with such duties, and, in any way related to the administration of the Special  
24 Taxing District. The amount of the Special Tax required to be levied in any Tax Year to  
25 provide for the payment of County expenses may be reduced to the extent that amounts are  
26 held under the indenture pursuant to which the Bonds, including the Refunding Bonds, are  
27 issued, or amounts are otherwise made available to the County, and such amounts are  
28 available for the payment of County expenses in such Tax Year.

29  
30 (8) The County hereby ratifies and confirms that it covenants to levy the Special Tax  
31 at a rate and in an amount at least sufficient in each year in which any of the Bonds,  
32 including Refunding Bonds, are outstanding to provide for the payment of the principal of  
33 and interest on the Bonds, including Refunding Bonds, to the extent of any deficiency in  
34 the Development District Special Fund and to provide for the payment of County expenses,  
35 to the extent such expenses are not otherwise provided for, as aforesaid. The Special Tax  
36 also may be levied with respect to refunding bonds issued under the Special Taxing District  
37 Act pursuant to the provisions of an ordinance or resolution enacted or adopted by the  
38 County in connection with the issuance of such refunding bonds.

39  
40 (9) Pursuant to the provisions of the Development District Resolution and in  
41 accordance with the Tax Increment Act, so long as the Bonds, including Refunding Bonds,  
42 remain outstanding, the County shall deposit into the Development District Special Fund  
43 all real property taxes received by the County for any Tax Year after the effective date of  
44 the Development District Resolution equal to that portion of the taxes payable to the  
45 County representing the levy on the Tax Increment that would normally be paid to the  
46 County. Notwithstanding the preceding sentence, the County Council, pursuant to an  
47 ordinance, may provide for the use of certain money in the Development District Special  
48 Fund in compliance with Section 7 of the Development District Resolution and the related  
49 provisions of the Tax Increment Act. Money in the Development District Special Fund

1 shall be pledged to the payment of the Bonds, including the Refunding Bonds, other than  
2 those amounts withdrawn as permitted by the preceding sentence; provided, however, that  
3 the money in the Development District Special Fund may also be pledged by the County  
4 for the payment of additional bonds issued by the County under the Tax Increment Act and  
5 other authority, if applicable, relating to the public infrastructure improvements financed  
6 by bonds of the State or other projects subject to the provisions of the indenture under  
7 which the Bonds, including the Refunding Bonds, will be issued. The County hereby  
8 covenants to comply with Section 8 of the Development District Resolution while any  
9 Bonds, including Refunding Bonds, remain outstanding.

10  
11 (10) In accordance with Section 19-103 of the Local Government Article of the  
12 Annotated Code of Maryland (2013 Replacement Volume and 2017 Supplement) and other  
13 applicable provisions of law, the Refunding Bonds shall be further secured by a guaranty  
14 by the County (the "Guaranty") to timely pay the principal of and interest on the Refunding  
15 Bonds in the event that sufficient funds for the timely payment of principal and interest on  
16 the Refunding Bonds are not available from the Development District Special Fund and  
17 the Special Tax Fund or otherwise. The obligation of the County to make such payments  
18 of principal and interest pursuant to the Guaranty shall be deemed and shall constitute an  
19 unconditional general obligation of the County, to the payment of which, both principal  
20 and interest, its full faith and credit are pledged, subject to the limitation on the tax levy set  
21 out in Section 710(d) of the County Charter. The County hereby covenants that, in each  
22 Tax Year during which any principal of or interest on the Refunding Bonds is required to  
23 be paid under the Guaranty, it will appropriate sufficient funds in each Current Expense  
24 Budget to pay the principal of and interest on the Refunding Bonds due in such Tax Year.  
25 The County hereby further covenants that, to the extent any such appropriation is not offset  
26 by funds from other sources or revenues, it will, subject to the limitation on the tax levy set  
27 out in Section 710(d) of the County Charter, fund any such appropriation by the levy of ad  
28 valorem taxes on real estate, tangible personal property and, in addition, on such intangible  
29 property as may be subject to taxation by the County within limitations prescribed by law.

30  
31 SECTION 2. And be it further enacted, That acting pursuant to the Refunding Act,  
32 the Tax Increment Act and the Special Taxing District Act, the issuance and sale of the  
33 Refunding Bonds in an aggregate Principal Amount not to exceed \$16,000,000 is hereby  
34 authorized for the purpose of refunding all or a portion of the outstanding 2010 Bonds to  
35 realize debt service savings on a direct comparison basis, as specified in Section 1(2)  
36 above. The proceeds of the Refunding Bonds will be utilized solely to refund all or a  
37 portion of the outstanding 2010 Bonds, and to pay costs and expenses related to the  
38 issuance of the Refunding Bonds as permitted pursuant to the provisions of the Refunding  
39 Act and this Ordinance. The Refunding Bonds may be issued pursuant to the provisions of  
40 an indenture at any time or from time to time in one or more issues or series, and each issue  
41 or series of the Refunding Bonds shall be identified by the year of issue or by some other  
42 or additional appropriate designation. The Refunding Bonds will be payable, first, from the  
43 amounts levied and deposited in the Development District Special Fund created by the  
44 Development District Resolution and secondly, to the extent the Development District  
45 Special Fund does not contain money in an amount sufficient for payment of debt service  
46 on such Refunding Bonds and Administrative Expenses (as defined in the Rate and  
47 Method), from the Special Tax to be levied and deposited in the Special Tax Fund. In  
48 addition, the Refunding Bonds shall be further secured by the Guaranty by the County to  
49 timely pay the principal of and interest on the Refunding Bonds in the event that sufficient

1 funds for the timely payment of principal and interest on the Refunding Bonds are not  
2 available from the Development District Special Fund and the Special Tax Fund or  
3 otherwise, as further described in Section 1(10) above.  
4

5 The aggregate Principal Amount of Refunding Bonds issued from time to time  
6 hereunder to refund 2010 Bonds shall not exceed 120% of the principal amount of 2010  
7 Bonds so refunded.  
8

9 Prior to the issuance of Refunding Bonds, the County Executive shall execute and  
10 deliver a certification establishing that the issuance of the Refunding Bonds will realize  
11 debt service savings on a direct comparison basis as specified on Section 1(2) above. In  
12 making this certification, the County Executive may rely on the advice of the County's  
13 financial advisor regarding such determination.  
14

15 SECTION 3. And be it further enacted, That, the Refunding Bonds shall be executed  
16 in the name of the County and on its behalf by the County Executive, by manual or  
17 facsimile signature, and the corporate seal of the County or a facsimile thereof shall be  
18 impressed or otherwise reproduced thereon and attested by the Administrative Officer to  
19 the County Council or other official authorized by law by manual or facsimile signature  
20 and the Refunding Bonds shall be authenticated by the manual or facsimile signature of the  
21 Chief Administrative Officer or his authorized deputy as may be required by law. The  
22 Guaranty shall be executed in the name of the County and on its behalf by the County  
23 Executive by manual signature, and the corporate seal of the County or a facsimile thereof  
24 shall be impressed or otherwise reproduced thereon and attested by the Administrative  
25 Officer to the County Council or other official authorized by law by manual signature. The  
26 Guaranty shall be appended to each Refunding Bond. The Indenture (defined herein) and,  
27 where applicable, all other documents as the County Executive deems necessary to  
28 effectuate the issuance, sale and delivery of the Refunding Bonds of any series, shall be  
29 executed in the name of the County and on its behalf by the County Executive by manual  
30 signature, and the corporate seal of the County or a facsimile thereof shall be impressed or  
31 otherwise reproduced thereon and attested by the Administrative Officer to the County  
32 Council or other official authorized by law by manual signature. If any officer whose  
33 signature or countersignature or a facsimile of whose signature or countersignature appears  
34 on the Refunding Bonds of any series or any of the aforesaid documents ceases to be such  
35 officer before the delivery of the Refunding Bonds of such series or any of the other  
36 aforesaid documents, such signature or countersignature or such facsimile shall  
37 nevertheless be valid and sufficient for all purposes, the same as if such officer had  
38 remained in office until delivery. The County Executive, the Administrative Officer to the  
39 County Council and other officials of the County are hereby authorized and empowered to  
40 do all such acts and things and execute such documents and certificates as the County  
41 Executive may determine to be necessary or desirable to carry out and comply with the  
42 provisions of this Ordinance, subject to the limitations set forth in the Refunding Act, the  
43 Special Taxing District Act, the Tax Increment Act and this Ordinance.  
44

45 SECTION 4. And be it further enacted, That (1) the Refunding Bonds shall be sold at  
46 private (negotiated) sale, and such procedure is hereby determined to be in the public  
47 interest. Notwithstanding the foregoing, if the County Executive, or the Chief  
48 Administrative Officer of the County if authorized by the County Executive, subsequently  
49 determines that it is in the best interests of the County to sell any or all of the Refunding



1 Bonds after first soliciting competitive bids at public sale, then the County Executive or  
2 the Chief Administrative Officer of the County, as the case may be, may sell such  
3 Refunding Bonds in such manner in accordance with such procedures as he shall deem  
4 appropriate; provided, however, that such procedures shall be substantially similar to  
5 procedures for the competitive sale of County general obligation bonds set forth in Section  
6 5 of Bill No. 60-17 passed by the County Council on July 17, 2017, approved by the County  
7 Executive on July 24, 2017, and effective September 7, 2017.

8  
9 (2) The Refunding Bonds issued hereunder are hereby specifically exempted from the  
10 provisions of Sections 19-205 and 19-206 of the Local Government Article of the  
11 Annotated Code of Maryland (2013 Replacement Volume and 2017 Supplement).

12  
13 SECTION 5. And be it further enacted, That, subject to the provisions of this  
14 Ordinance, the County Executive by executive order:

15  
16 (1) shall prescribe the form, tenor, terms and conditions of and security for the  
17 Refunding Bonds;

18  
19 (2) shall prescribe the principal amounts, rate or rates of interest, which shall not exceed  
20 five percent (5%) per annum, premiums and discounts, if any, denominations, date,  
21 maturity or maturities (within the limits prescribed in the Refunding Act, the Tax Increment  
22 Act, the Special Taxing District Act and this Ordinance), and the time and place or places  
23 of payment of the Refunding Bonds, and the terms and conditions and details under which  
24 the Refunding Bonds may be called for redemption prior to their stated maturities;

25  
26 (3) may appoint bond counsel, a verification agent, an escrow deposit agent and a  
27 financial advisor and, if necessary, may appoint a trustee, a bond registrar and a paying  
28 agent or agents for the Refunding Bonds;

29  
30 (4) as applicable, may appoint a bank or other financial institution to act as escrow  
31 deposit agent under an escrow deposit agreement;

32  
33 (5) as applicable, may determine the redemption dates of the 2010 Bonds and the  
34 manner of investment of the proceeds of the Refunding Bonds and other funds to provide  
35 for the payment and defeasance of the 2010 Bonds;

36  
37 (6) as applicable, shall approve the form and contents of, and execute and deliver  
38 (where applicable), an escrow deposit agreement providing for the payment and refunding  
39 of the 2010 Bonds;

40  
41 (7) shall approve the form and contents of, and execute and deliver (where applicable),  
42 any indenture of trust between the County and a corporate trustee (which may be in the  
43 form of a supplement to the 2010 Indenture) (the "Indenture"), the Guaranty and such other  
44 documents to which the County is a party that may be necessary or desirable to effectuate  
45 the issuance, sale and delivery of the Refunding Bonds;

46  
47 (8) may select an investment bank or banks or other financial institution to purchase  
48 and underwrite the sale of the Refunding Bonds;

1 (9) may prepare and distribute both a preliminary and a final official statement or other  
2 offering document in connection with the sale of the Refunding Bonds, if such preliminary  
3 official statement and final official statement or other offering document are determined to  
4 be necessary or desirable for the sale of the Refunding Bonds;

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

9  
10 (11) shall determine the time of execution, issuance, sale and delivery of the Refunding  
11 Bonds and prescribe any and all other details of the Refunding Bonds;

12  
13 (12) shall provide for the direct or indirect payment of all costs, fees and expenses  
14 incurred by or on behalf of the County in connection with the issuance, sale and delivery  
15 of the Refunding Bonds, including (without limitation) costs of printing (if any) and issuing  
16 the Refunding Bonds, legal expenses (including the fees and expenses of bond counsel)  
17 and compensation to any person performing services by or on behalf of the County in  
18 connection therewith; and

19  
20 (13) shall do any and all things necessary, proper or expedient in connection with the  
21 issuance, sale and delivery of the Refunding Bonds in order to accomplish the legislative  
22 policy of the Refunding Act, the Tax Increment Act and the Special Taxing District Act,  
23 and the public purposes of this Ordinance, subject to the limitations set forth in the  
24 Refunding Act, the Tax Increment Act and the Special Taxing District Act, and any  
25 limitations prescribed by this Ordinance.

26  
27 This delegation of authority to the County Executive is subject to his discretion and to  
28 the extent he does not exercise such discretion pursuant to the provisions of this Ordinance,  
29 neither such officer nor the County shall be subject to any liability.

30  
31 SECTION 6. And be it further enacted, That, the provisions hereinafter set forth in  
32 Paragraphs (1), (2), (3), (4) and (5) of this Section shall be applicable with respect to the  
33 Refunding Bonds issued and sold hereunder on the basis that the interest on the Refunding  
34 Bonds will be excludable from gross income for federal income tax purposes.

35  
36 (1) The County Executive shall be the officer of the County responsible for the issuance  
37 of any Refunding Bonds hereunder within the meaning of the Arbitrage Regulations  
38 (defined herein). The County Executive shall also be the officer of the County responsible  
39 for the execution and delivery (on the date of issuance of the Refunding Bonds) of a  
40 certificate of the County (the "Section 148 Certificate") that complies with the  
41 requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section  
42 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such  
43 official is hereby directed to execute the Section 148 Certificate and to deliver the same to  
44 bond counsel on the date of the issuance of the Refunding Bonds.

45  
46 (2) The County shall set forth in the Section 148 Certificate its reasonable expectations  
47 as to relevant facts, estimates and circumstances relating to the use of the proceeds of the  
48 Refunding Bonds, or of any money, securities or other obligations to the credit of any  
49 account of the County that may be deemed to be proceeds of the Refunding Bonds pursuant

1 to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The County  
2 covenants that the facts, estimates and circumstances set forth in the Section 148 Certificate  
3 will be based on the County's reasonable expectations on the date of issuance of the  
4 Refunding Bonds and will be, to the best of the certifying officials, knowledge, true and  
5 correct as of that date.

6  
7 (3) The County covenants and agrees with each of the holders of any of the Refunding  
8 Bonds that it will not make, or (to the extent that it exercises control or direction) permit  
9 to be made, any use of the Bond Proceeds which would cause the Refunding Bonds to be  
10 "arbitrage bonds" within the meaning of Section 148 and the Arbitrage Regulations that  
11 are applicable to the Refunding Bonds on the date of issuance of the Refunding Bonds and  
12 that may subsequently lawfully be made applicable to the Refunding Bonds.

13  
14 (4) The County further covenants that it shall make such use of the Bond Proceeds,  
15 regulate the investment of the Bond Proceeds, and take other and further actions as may be  
16 required to maintain the excludability from gross income for federal income tax purposes  
17 of interest on the Refunding Bonds. All officers, employees and agents of the County are  
18 hereby authorized and directed to take such actions, and to provide such certifications of  
19 facts and estimates regarding the amount and use of the Bond Proceeds, as may be  
20 necessary or appropriate from time to time to comply with, or to evidence the County's  
21 compliance with, the covenants set forth in this Section.

22  
23 (5) The County Executive, on behalf of the County, may make such covenants or  
24 agreements in connection with the issuance of Refunding Bonds issued hereunder as he  
25 shall deem advisable in order to assure the registered owners of such Refunding Bonds that  
26 interest thereon shall be and remain excludable from gross income for federal income tax  
27 purposes, and such covenants or agreements shall be binding on the County so long as the  
28 observance by the County of any such covenants or agreements is necessary in connection  
29 with the maintenance of the exclusion of the interest on such Refunding Bonds from gross  
30 income for federal income tax purposes. The foregoing covenants and agreements may  
31 include such covenants or agreements on behalf of the County regarding compliance with  
32 the provisions of the Internal Revenue Code of 1986, as amended, as the County Executive  
33 shall deem advisable in order to assure the registered owners of such Refunding Bonds that  
34 the interest thereon shall be and remain excludable from gross income for federal income  
35 tax purposes, including (without limitation) covenants or agreements relating to the  
36 investment of the Bond Proceeds, the payment of rebates (or payments in lieu of rebate) to  
37 the United States, limitations on the times within which, and the purpose for which, Bond  
38 Proceeds may be expended, or the use of specified procedures for accounting for and  
39 segregating such proceeds.

40  
41 (6) Notwithstanding anything in this Ordinance to the contrary, Refunding Bonds  
42 issued and sold hereunder may be issued and sold on the basis that the interest on such  
43 Refunding Bonds will not be excludable from gross income for federal income tax  
44 purposes.

45  
46 SECTION 7. And be it further enacted, That, following the execution and delivery of  
47 any series of Refunding Bonds, the County Executive, or the Controller of the County, if  
48 authorized by the County Executive, shall report the terms thereof in writing at the next  
49 meeting of the County Council.


1 SECTION 8. And be it further enacted, That, the provisions of this Ordinance are  
2 severable, and if any provision, sentence, clause, paragraph or part hereof is held or  
3 determined to be illegal, invalid or unconstitutional or inapplicable to any person or  
4 circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not  
5 affect or impair any of the remaining provisions, sentences, clauses, paragraphs or parts of  
6 this Ordinance or their application to other persons or circumstances. It is hereby declared  
7 to be the legislative intent that this Ordinance would have been passed if such illegal,  
8 invalid, unconstitutional or inapplicable provision, sentence, clause, paragraph or part had  
9 not been included herein, and if the person or circumstances to which this Ordinance or  
10 any part hereof are inapplicable had been specifically exempted herefrom. Without  
11 limiting the foregoing, it is hereby further declared to be the legislative intent that the  
12 Guaranty shall be a fully enforceable obligation of the County notwithstanding any  
13 illegality, invalidity or other defect relating to the levy, collection or application of the  
14 Special Tax or the levy on the Tax Increment to provide for the payment of the Refunding  
15 Bonds.

16  
17 SECTION 9. And be it further enacted, That by the enactment of this Ordinance, the  
18 County has complied with the provisions of the Tax Increment Act and the Special Taxing  
19 District Act, including but not limited to Sections 12-203, 12-208(c) and 12-208(d) of the  
20 Tax Increment Act and Section 21-507 of the Special Taxing District Act.

21  
22 SECTION 10. And be it further enacted, That, this Ordinance shall take effect 45 days  
23 from the date it becomes law.

READ AND PASSED this 5<sup>th</sup> day of March, 2018

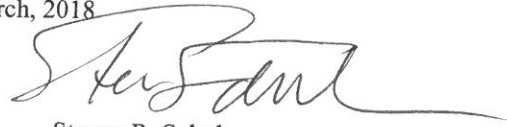
By Order:

  
JoAnne Gray  
Administrative Officer

PRESENTED to the County Executive for his approval this 6<sup>th</sup> day of March, 2018

  
JoAnne Gray  
Administrative Officer

APPROVED AND ENACTED this 12<sup>th</sup> day of March, 2018

  
Steven R. Schuh  
County Executive

EFFECTIVE DATE: April 26, 2018

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.  
5-18 THE ORIGINAL OF WHICH IS RETAINED IN THE FILES  
OF THE COUNTY COUNCIL.

A handwritten signature in cursive script that reads "JoAnne Gray".

JoAnne Gray  
Administrative Officer