

MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney
Glenn Orlin, Deputy Council Staff Director
Marlene Michaelson, Senior Legislative Analyst

SUBJECT: **Public Hearing:**
Special appropriation to the FY11 Capital Budget and amendment to the FY11-16 Capital Improvements Program (CIP): \$385,000 for White Flint District West
Resolution to approve White Flint Development Tax District transportation infrastructure improvements
Bill 50-10, Special Taxing District – White Flint – Creation

Executive package On October 5 the Council President introduced on behalf of the County Executive a White Flint infrastructure financing package, consisting of:

- Bill 50-10, Special Taxing District – White Flint – Creation (see ©8-17);
- a Capital Improvements Program amendment and appropriation request (see ©29-33); and
- a resolution (see ©18-19) to approve a list of transportation infrastructure improvements to be funded by a White Flint Special Taxing District. This resolution also would articulate non-binding County goals regarding the tax rates to be applied in the district.

Bill 50-10 would establish a White Flint Special Taxing District. The Bill would also authorize the levy of an additional ad valorem property tax to fund transportation infrastructure improvements that are specified in an implementing resolution and authorize the issuance of a certain type of bond to finance those transportation infrastructure improvements. Council staff added more general language to the Bill's long title (purpose clause) to give the Council added leeway to restructure the financing mechanism or otherwise amend the Bill as it sees necessary. The Executive's detailed memo on ©1-7 explains the background of and reasons for the proposals in this Bill and the related resolution and appropriation request.

State legislation Bill 50-10 is based on recent state law amendments (2010 Maryland Laws, Chapter 617, reprinted on ©24-28). County bond counsel had questioned whether added state authority was needed to assure that the County can use special obligation bonds, which don't count against County debt capacity, to pay debt service other than in a development district created under County Code Chapter 14. This new state law answers that question, at least with respect to transportation facilities. It also exempts any tax used to fund a special taxing district

created to pay for certain transportation improvements from the County Charter's limit on property tax revenue.

Next steps Joint Management and Fiscal Policy Committee/Planning, Housing and Economic Development Committee worksessions on Bill 50-10 and the infrastructure list/tax policy resolution are scheduled for October 28 at 2 p.m. and November 9 and 16 at 9:30 a.m. A Transportation, Infrastructure, Energy, and Environment Committee worksession on the Capital Improvements Program amendment and appropriation request was held on October 21. Council action on the entire package is tentatively scheduled for November 23.

"Buckets" The most recent list of proposed infrastructure items in the White Flint Sector Plan area, to be funded respectively by the White Flint special taxing district, the County itself, and the developers as necessary to move their projects forward, are shown on ©20-22. These lists are commonly called the White Flint "buckets". The numbers in these tables are highly preliminary cost estimates and cannot be relied on for anything more than order-of-magnitude projections.

As projected, the special taxing district "bucket" (see ©20) is estimated at \$208 million, or about 23% of the overall White Flint infrastructure needed. The County/State "bucket" (see ©21) is estimated at about \$414 million, about 47% of the total. Many observers would not count its biggest item, the replacement bus depot (\$130.5 million) in the White Flint infrastructure package. Eliminating it would lower the County/State "bucket" to about \$283 million, closer in size to the district "bucket". However, the County "bucket" includes a placeholder line, without a cost estimate, for the "CLATR intersections outside of district"; these costs cannot be estimated yet because the Planning Board has not done the required CLATR (comprehensive local area transportation review) analysis that will define which intersections will be most affected by development in the Sector and require some capacity-adding improvements. Finally, the developer "bucket" (items each developer must provide to receive its Planning Board approvals) is estimated at \$403 million, or just under 30% of the unrevised total.

The challenge: balancing the risks Broadly defined, the challenge facing the County in adopting a White Flint financing plan is how to balance the costs and risks among the various stakeholders: County government and its taxpayers; property owners in the White Flint area, including those who expect to redevelop their property and those who may not do so; and residents of the area.

The costs and risks that will need to be balanced are:

- the **overall share of costs** assumed by each "bucket";
- the **projected funding gap** in the special taxing district "bucket" between the estimates of infrastructure costs and property tax add-on revenues; and
- the extent of **cost overruns** in each bucket.

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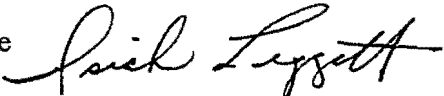
OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 27, 2010

TO: Nancy Floreen, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: White Flint Development Tax District:
Legislation; Legislative Report Form; Fiscal Impact Analysis
Amendment (\$9.835 M) to the FY11-16 Capital Improvements Program and
Special Appropriation #4-E11-CMCG-3 to the FY11 Capital Budget
Montgomery County Government
Department of Transportation
White Flint District West: Transportation (No. 501116), \$385,000

I am pleased to transmit for introduction a package of legislative items necessary for the County to commence implementation of the transformational White Flint Sector Plan. This sector plan, a model for smart growth, will be a platform for exciting new redevelopments that will make the White Flint area more pedestrian and bicycle friendly as well as inviting for residents and businesses.

Enclosed for introduction is legislation creating the new White Flint Development Tax District which will implement the financing vehicle envisioned by the recently adopted White Flint Sector Plan. If implemented this district will help fund some of the extensive public infrastructure called for in the Sector Plan. A resolution accompanies the draft legislation. The resolution identifies the specific list of transportation infrastructure to be funded by the White Flint Development Tax District and includes a district funding and rate setting policy statement.

With the legislation and the resolution, I am transmitting an amendment to the FY11-16 Capital Improvements Program and a supplemental appropriation in the amount of \$385,000 to the FY 11 Capital Budget for the new White Flint District West: Transportation project (No. 501116) to enable design to begin on infrastructure to be paid for from White Flint Development Tax District funds. This work is critically important to refine the assumptions relative to the district for roadway improvements in the first stage of the recently approved White Flint Sector Plan. This project is needed to accelerate the preliminary engineering for one new, one relocated and three existing roads, and one new bikeway, so that more accurate designs and cost estimates can be established. Funds to pay for analysis and studies necessary to implement

the district are also included. The recommended amendment is consistent with the criteria for amending the CIP in that this project supports significant economic development initiatives, which in turn will strengthen the long term fiscal capacity of the County government. The new growth planned for the White Flint area in accordance with the recently approved Sector Plan will revitalize the region and strengthen the County as a whole. These road and bikeway improvements will greatly aid and expedite the planned development for the area.

Other specific Capital Improvements Projects for development district infrastructure will be transmitted with the FY12 amendments in January. To address transportation impact taxes in White Flint, I intend to send a second bill to the Council that will modify the transportation impact tax as it relates to the White Flint Sector Plan Area. The modifications that I will be recommending are to retain the 50 percent metro station policy area rate that applies throughout the district, but require that the tax be applied only for infrastructure within or related to the development within the White Flint Sector Plan. This would include intersections identified through the comprehensive local area transportation review that require improvement due to development within the district. I believe that the opportunity to pay this tax over time rather than as a lump sum payment up front should be available provided that property owners who are benefitting provide a first lien to the County.

The packet that is transmitted with this memorandum reflects many months of meeting with stakeholders and interested parties. Executive staff has held a series of meetings with developer and resident stakeholders, along with Planning Board and County Council staff, to develop the list of improvements that will be funded by the special district tax and the key elements of the district enabling legislation. While the attached draft legislation does not necessarily reflect a consensus of the stakeholders, it does reflect significant input from *all* of the interests represented.

To assist the Council in its deliberations and to facilitate the public discussion regarding this package, I am providing the Council with some of the key considerations that went into the funding plan that is reflected in the attached package.

The Special Tax District

One of the underpinnings of the White Flint Sector Plan is that there be a new funding mechanism to pay for some of the significant transportation infrastructure that is called for in the plan, including the creation of workarounds, street grids, streetscaping and bike lanes. With the limitations of Charter Section 305, it is important that the new tax be structured so that it does not use up fiscal capacity within that limitation and thus preclude the availability of these funds for other important projects in the County.

The development tax district is simple, straightforward and can be easily implemented – all important considerations for the timely realization of the redevelopment of White Flint. The development tax district also provides for certainty of revenues and spreads the burden equally over the entire plan area – except for existing residential which is to be outside of the

district. The legislation, which is to be adopted under recently enacted Senate Bill 828, gives bond counsel, and the bond market greater certainty in the County's authority to implement the district and impose an ad valorem tax on all properties except for existing developed residential. In addition, under this special authority, the bonds can be issued as special obligation bonds, the debt service of which will not compete for capacity with other County debt. The development district tax is intended to be implemented in time for the FY12 tax bill.

The development district tax provides substantial benefits to property owners within the plan area while protecting the County taxpayer from the greater fiscal burden. The County has historically required that development pay for itself. With development density doubling throughout the sector plan area, the special tax district provides a means of assessing properties to ensure the government's lower rate of financing for infrastructure that would historically have been required of developers to meet transportation capacity requirements. The County's financing rates are less than rates that the private sector could obtain. In addition to the near doubling of development density, the *quid pro quo* for this additional tax is that properties that are being redeveloped will not be required to go through the transportation capacity reviews that are generally required to satisfy adequate public facilities review. With the steady flow of tax revenues, there is better certainty that the district roads will be built rather than relying on piecemeal development to drive the delivery of needed improvements and capacity. This certainty benefits the property owners as well as the residents and businesses of Montgomery County who must navigate the area. Another benefit of the special district tax is that it is simply fairer. The entire sector plan area picks up the expenses rather than those that are first-in with a development application being charged disproportionately.

Other tax mechanisms were considered but all in all, for the certainty, reliability, ease of implementation and fairness, the special tax district is the better way to go for the White Flint Sector Plan area. Some of the other revenue raising mechanisms that were evaluated but rejected in favor of the recommended funding plan included:

Tax Increment Financing (TIF). This was an approach that had been initially suggested by some in the development community and was discussed by Planning Board staff. This mechanism has been rejected for a number of reasons. As a funding source it has issues of reliability, constraints on fiscal management and equity concerns. Tax increment financing pledges increases in tax revenues to pay for infrastructure. As evidenced by recent history, the development cycle and reliability of projections can be difficult to predict and sometimes wrong. TIFs are dependent upon development moving forward on a predictable schedule. If redevelopment does not occur, the remainder of the County – and in this case the general fund – would have to pick up the fiscal obligations of the debt. This particular funding approach is more typically used in blighted areas and is better suited to large tracts of land that will be redeveloped rather than piecemeal property ownerships reflected in the White Flint Sector Plan area. The lack of assurance of a critical mass of redevelopment occurring is challenging for the issuance of debt, particularly in the context of the sector plan where improvements and capacity are critical to the implementation and staging of the plan.

It is also worth pointing out that a TIF would use tax revenues that are subject to Charter Section 305 limits and would therefore force the funding for these roads to compete with schools, libraries, fire stations, community centers, etc. throughout the County. A TIF also raises fundamental equity issues. Developers would be paying increased taxes based on increases in assessments if they redevelop. They would not be paying for infrastructure as has been historically and is currently required throughout the County. This would be a departure from the general and longstanding policy that development must pay for itself. While the rest of the county would bear the overall total expenses from redevelopment and the risk of carrying up to the full load of that funding if development did not take place as represented, there would be little risk to the development community and their revenues would be pledged to bettering White Flint only, rather than other areas of the County. Further, the County would lose significant flexibility as it manages through difficult fiscal years. Pledging revenues right off the top, while retaining the burden of providing the infrastructure is ill-advised, particularly given recent experiences with our economy.

Some within the development community have proposed *both* a TIF and a special tax district with the special tax district being a back up only if the taxable base for the TIF fails to increase as projected when the debt is issued. For a number of reasons, such an approach is unworkable and impractical and will create financial uncertainty. Implicit in the suggestion is the fact that the TIF is in itself risky. The district tax would by necessity have to be higher up front because it would be bailing out a failed TIF pursuant to which debt had already been incurred. This would be a significant hardship for the residents and businesses that moved to White Flint under the expectation of a TIF only and then find themselves facing a district tax that would need to be set high enough to bail out the failed TIF. The simplicity of the straight development district tax that I am recommending is a far better approach as it can be set at the outset before new development proceeds in White Flint and revenues can begin to be generated before any debt is issued. It provides greater stability and certainty to the County taxpayer, the residents and property owners.

Special Assessments: This was rejected because under current law it is based upon front footage and would be an extremely inequitable way of funding the needed infrastructure.

Chapter 14 Development District: This form of district funding is more cumbersome and requires multiple council actions. It inherently has points following creation where controversy can arise and create uncertainty. It is dependent upon the votes of participants and by design would capture less than the entire district, reducing the equity of the district and increasing the likelihood of the rate increasing to ensure the revenues to be generated. In sum, it would be more difficult to put in place, and is better suited to large tracts of land that will be redeveloped rather than piecemeal property ownerships reflected in the White Flint Sector Plan area. It will also be significantly more time consuming to implement, calling into question timelines that are assumed or necessary to begin implementation of the White Flint Sector Plan. History calls into question whether the district would ever be realized.

Excise Tax: Excise taxes were also evaluated. It was concluded that an excise tax would be more difficult to implement as the targeted stakeholders may have concerns about fairness of taxation and the bond markets would need to understand the nuances of a newly developed excise tax. Additionally, the taxing of an activity that would occur in other locations within the County could generate interest and concerns on the part of similar enterprises. The County's recent experience with a proposed tax on surface parking lots illustrates the concern.

Issues Discussed

Seven primary areas of concerns were raised by the stakeholders in worksessions: 1) the tax is to be spent only in the White Flint Sector Plan area; 2) the tax is to be for a defined list of infrastructure; 3) the period of time during which the tax is to be collected is to be finite; 4) the tax should not exceed 10 percent of the current rate; 5) existing residential should not be charged; 6) the tax should replace transportation impact taxes; and 7) if the tax is insufficient to fund all of the infrastructure in the list during any stage of the plan, the County should commit to funding the difference.

I am not recommending everything that was raised by all of the stakeholders; I am however recommending much of what was raised. I very much appreciate the commitment, level of effort, and forthright and informed discussions and support provided by developers, residents, and staffs of the Planning Board, the Council and the Executive Branch throughout the stakeholder worksessions over the spring and summer. These efforts have resulted in a funding plan that can be readily implemented and have helped to focus the issues that will likely be raised for discussion at the County Council.

The bill that I am sending to you requires that the tax be spent only in the White Flint Sector Plan and only for the list of infrastructure in the accompanying resolution. It is also for a finite period of time and will expire when sufficient revenues have been raised to pay for all of the infrastructure items on the list. The boundaries of the district have been set to exclude existing residential properties. I am not recommending a cap on the tax rate in the bill, but I have recommended a stated policy in the resolution that the tax rate should not exceed 10 percent of the total tax rate not including the development tax. The reason I have not included a cap in the legislation is that I am concerned that doing so will result in a less favorable rating on any bonds that are issued, which in turn would result in a higher interest rate on the bonds. This would make the infrastructure more expensive to the tax payers. I believe that concerns over the level of the tax rate can be addressed through the implementation process and adherence to a 10 percent policy goal.

The two areas I am not prepared to recommend at this time are that the transportation impact tax not apply and that the County commit to fund any gap if the district revenues are not adequate to cover the projected costs for the development tax district infrastructure. The cost projections that are identified for the district infrastructure are estimates. The County's estimates and the White Flint Partnership's (a group of White Flint developers) are fairly consistent, and both include many assumptions which if not borne out will result in changes to the projected

costs for the infrastructure. One key area where this can occur is in the area of the costs of right-of-way for the many roads provided for in the plan. These roads carve through properties and the White Flint Sector Plan is predicated on an optimistic assumption that the grid of roads as they cut through properties will result in new blocks of properties that can serve as the basis for exchanges of lands.

It is also assumed that there will be extensive dedications of rights-of-way for these roads. If these assumptions are wrong, the risk of potential gaps in cost versus revenue generation will be greatly increase and the County could be at risk for a substantial sum of money. Likewise, these assumptions reflect current construction prices, which may be more favorable than in a recovered economy. Another area that impacts costs is how the Planning Board views the state of some of the existing roads. As part of the stakeholder worksessions Planning Board staff, a representative of the White Flint Partnership and representatives from the Department of Transportation and the Department of General Services walked some of the existing Sector Plan roads to get a sense of what is needed to complete streetscaping along these roads for purposes of authorizing moving from one stage of the plan to the next. This collaborative effort resulted in conclusions that some roads are satisfactorily completed for that purpose and the costs could therefore be removed from the development tax district.

Significant staff and stakeholder effort was spent developing an understanding of the above described assumptions and any potential gap between the costs of the infrastructure and the revenues projected to be generated by the district. It has been suggested that the County commit up front to cover any "gap." Among other problems, this request is for an as yet undefined amount of money in an as yet undefined CIP budget. I cannot commit an undisclosed amount of money for future years, nor can the Council. I also believe that it would be ill advised to commit to fund an amount of money that may or may not be needed – particularly given the many important needs throughout the County that must compete for that same money.

As for the transportation impact tax, I weigh the fact that development density in the White Flint Sector Plan area was just doubled or nearly doubled for a majority of properties; that development is relieved of the need for transportation capacity review; and that the entire plan area is a Metro station policy area which translates into an already reduced rate of 50 percent of the transportation impact tax rate. I believe that, at least at this point in time, it would be imprudent to recommend elimination of the tax. However, I am recommending that those tax revenues be committed to being spent within the White Flint Sector Plan area or for improvements needed due to the increased development recently authorized for this area. I recognize that we are in the throes of – and hopefully emerging from – a significant recession and that the private financing realm will be different – particularly at the outset. Therefore, I do think that it makes sense to allow developers the opportunity to pay the tax over a period of time (perhaps 10 years to get to project stabilization) if they are able to provide the County with a first lien to assure the payment of the deferred transportation impact tax.

I recommend that the County Council approve the legislation, resolution and amendment to the FY11-16 Capital Improvements Program and special appropriation in the

Nancy Floreen, Council President
September 27, 2010
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amount of \$385,000 and specify the source of funds as Current Revenue General with repayment in FY12 from White Flint Development District tax funds. These efforts will allow us to implement the White Flint Sector Plan which, as I mentioned at the outset, will be transformational, smart growth of which we can all be extremely proud.

I appreciate your prompt consideration of these actions.

IL:ad

Attachments: Legislation to create the White Flint Development Tax; Infrastructure and Policy Resolution; Amendment to the FY11-16 Capital Improvements Program and Special Appropriation #4-E11-CMCG-3; Fiscal Impact Analysis

cc: Jennifer Barrett, Director, Department of Finance
Joe Beach, Director, Department of Management and Budget
Kathleen Boucher, Assistant Chief Administrative Officer
Mike Faden, Senior Legislative Attorney, County Council
Marc Hansen, Acting County Attorney
Ken Hartman, Director, BCC Regional Service Center
Art Holmes, Director, Department of Transportation
Diane Schwartz Jones, Assistant Chief Administrative Officer

Bill No. 50-10
Concerning: Special Taxing District -
White Flint - Creation
Revised: 10-1-10 Draft No. 2
Introduced: October 5, 2010
Expires: April 5, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

- (1) establish a White Flint Special Taxing District;
- (2) authorize the levy of an *ad valorem* property tax to fund certain transportation infrastructure improvements;
- (3) authorize the issuance of a certain type of bond to finance certain transportation infrastructure improvements;
- (4) generally authorize a White Flint Special Taxing District; and
- (5) generally amend or supplement the laws governing the use of infrastructure financing districts and similar funding mechanisms.

By adding

Montgomery County Code
Chapter 68C, White Flint Special Taxing District

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Chapter 68C is added as follows:**

2 **Chapter 68C. White Flint Special Taxing District.**

3 **68C-1. Definitions.**

4 For purposes of this Chapter, the following terms have the meanings indicated:

5 Bond means a special obligation or revenue bond, note or other similar
 6 instrument issued by the County that will be repaid from revenue
 7 generated by ad valorem taxes levied under this Chapter.

8 Cost means the cost of:

- 9 (1) the construction, reconstruction, and renovation of any
 10 transportation infrastructure improvement, including the
 11 acquisition of any land, structure, real or personal property, right,
 12 right-of-way, franchise, or easement, to provide a transportation
 13 infrastructure improvement for the District;
- 14 (2) all machinery and equipment needed to expand or enhance a
 15 transportation infrastructure improvement for the District;
- 16 (3) financing charges and debt service related to a transportation
 17 infrastructure improvement for the District, whether the charge or
 18 debt service is incurred before, during, or after construction of the
 19 transportation infrastructure improvement, including the cost of
 20 issuance, redemption premium (if any), and replenishment of
 21 debt service reserve funds for any bond that finances a
 22 transportation infrastructure improvement for the District;
- 23 (4) reserves for principal and interest, the cost of bond insurance, and
 24 any other type of financial guarantee, including any credit or
 25 liquidity enhancement, related to a transportation infrastructure
 26 improvement for the District;

- (5) architectural, engineering, financial, and legal services related to providing a transportation infrastructure improvement for the District;
- (6) any plan, specification, study, survey, or estimate of costs and revenues related to providing a transportation infrastructure improvement for the District;
- (7) any administrative expense incurred by the County necessary or incident to determining whether to finance or implement a transportation infrastructure improvement for the District; and
- (8) any other expense incurred by the County necessary or incident to building, acquiring, or financing a transportation infrastructure improvement for the District.

District means the White Flint Special Taxing District created under Section 68C-2.

Transportation infrastructure improvement means:

- (1) the construction, rehabilitation, or reconstruction of a road, street, or highway that serves the District, including any:
 - (A) right-of-way;
 - (B) roadway surface;
 - (C) roadway subgrade or shoulder;
 - (D) median divider;
 - (E) drainage facility or structure, including any related stormwater management facility or structure;
 - (F) roadway cut or fill;
 - (G) guardrail;
 - (H) bridge;
 - (I) highway grade separation structure;

- (J) tunnel;
- (K) overpass, underpass, or interchange;
- (L) entrance plaza, approach, or other structure that is an
integral part of a street, road, or highway;
- (M) bicycle or walking path;
- (N) designated bus lane;
- (O) sidewalk or pedestrian plaza;
- (P) streetscaping and related infrastructure; including placing
utilities underground; and
- (Q) other property acquired to construct, operate, or use a road,
street, or highway; and
- (2) a transit facility that serves the needs of the District, including
any:
 - (A) track;
 - (B) right-of-way;
 - (C) bridge;
 - (D) tunnel;
 - (E) subway;
 - (F) rolling stock;
 - (G) station or terminal;
 - (H) parking area;
 - (I) related equipment, fixture, building, structure, or other real
or personal property; and
 - (J) service intended for use in connection with the operation
of a transit facility, including rail, bus, motor vehicle, or
other mode of transportation.

68C-2. Creation; Boundaries.

(a) The White Flint Special Taxing District is coterminous with the approved and adopted White Flint Sector Plan area.

(b) The following properties, identified by street address, are not included in the District: 11700 Old Georgetown Road, 11701 Old Georgetown Road, 11750 Old Georgetown Road, 11800 Old Georgetown Road, 11801 Rockville Pike, 5800 Nicholson Lane, 5802 Nicholson Lane, 5809 Nicholson Lane, 5440 Marinelli Road, 5503 Edson Lane, 5505 Edson Lane, 5507 Edson Lane, 5509 Edson Lane, 11201 Woodglen Drive, 11203 Woodglen Drive, 11205 Woodglen Drive, 11207 Woodglen Drive, 11209 Woodglen Drive, 11200-11219 Edson Park Place, 11222 Edson Park Place, 11224 Edson Park Place, 11226 Edson Park Place, 11228 Edson Park Place, 11230 Edson Park Place, 11232 Edson Park Place, 11234 Edson Park Place, 11236 Edson Park Place, 11238 Edson Park Place, and 11240 Edson Park Place.

68C-3. Levy of Tax; Limits.

(a) Each tax year the County Council may levy against all the assessable real and personal property in the District a sum on each \$100 of assessable property that does not exceed an amount sufficient to cover the costs of transportation infrastructure improvements that have been identified in a Council resolution approved under Section 68C-4.

(b) Under Section 9-1302 of Article 24, Maryland Code, the limit in Charter Section 305 on levies of ad valorem taxes on real property to finance County budgets does not apply to revenue from any tax imposed under this Chapter.

(c) The tax imposed under this Chapter must be levied and collected as other County property taxes are levied and collected.

- (d) The tax imposed under this Chapter has the same priority, bears the same interest and penalties, and in every respect must be treated the same as other County property taxes.

68C-4. Transportation Infrastructure Improvement Resolution.

- (a) After holding a public hearing, the Council may approve a resolution that lists each transportation infrastructure improvement that would be entirely or partly paid for by a tax imposed under Section 68C-3.
- (b) The resolution must indicate the estimated cost, including a contingency amount, for each listed improvement.
- (c) The Council may amend the resolution after holding a public hearing.
- (d) The Council must present the resolution and each amended resolution to the Executive for approval or disapproval. If the Executive disapproves a resolution within 10 days after it is transmitted to the Executive and the Council readopts the resolution by a vote of 6 Councilmembers, or if the Executive does not act within 10 days after the resolution is transmitted, the resolution takes effect.
- (e) Before the Council holds a public hearing under subsection (a) or (c), the Executive should transmit to the Council:
- (1) a list of recommended transportation infrastructure improvements to be entirely or partly paid for by a tax imposed under Section 68C-3;
 - (2) the estimated cost, including a contingency amount, for each listed improvement; and
 - (3) an estimated tax rate for each tax to be imposed under Section 68C-3.

68C-5. District Fund.

- (a) The Director of Finance must establish a separate fund for the proceeds collected from any tax imposed under this Chapter. The proceeds of any tax imposed under this Chapter must be pledged to and paid into this fund.
- (b) The Director of Finance must use this fund only to pay the cost of any transportation infrastructure improvement related to the District.
- (c) If in any fiscal year a balance remains in the fund, the Director of Finance may use the balance to:
- (1) pay the cost of any transportation infrastructure improvement for the District;
 - (2) create a reserve to pay the future costs of any transportation infrastructure improvement for the District;
 - (3) pay bond-related obligations or retire bonds then outstanding; or
 - (4) pay into a sinking fund required by the terms of bonds which finance the cost of any transportation infrastructure improvement for the District that may be incurred or accrue in later years.

68C-6. Issuing Bonds.

- (a) Before the County issues any bond payable from ad valorem taxes levied under Section 68C-3, the Council must adopt a resolution authorizing the issuance of bonds that meets the requirements of this Section.
- (b) Each resolution under this Section must:
- (1) describe the types of transportation infrastructure improvements and related costs to be financed; and
 - (2) specify the maximum principal amount of bonds to be issued.

(c) Each resolution may specify, or authorize the Executive by executive order to specify:

- (1) the actual principal amount of bonds to be issued;
- (2) the actual rate or rates of interest for the bonds;
- (3) how and on what terms the bonds must be sold;
- (4) how, when, and where principal of, and interest on, the bonds must be paid;
- (5) when the bonds may be executed, issued, and delivered;
- (6) the form and tenor of the bonds, and the denominations in which the bonds may be issued;
- (7) how any or all of the bonds may be called for redemption before their stated maturity dates;
- (8) the nature and size of any debt service reserve fund;
- (9) the pledge of other assets in and revenues from the District to pay the principal of and interest on the bonds;
- (10) any bond insurance or any other financial guaranty or credit or liquidity enhancement of the bonds; and
- (11) any other provision consistent with law that is necessary or desirable to finance any transportation infrastructure improvement that has been identified in a Council resolution approved under Section 68C-4.

(d) (1) The County covenants to levy ad valorem taxes against all assessable real and personal property in the District at a rate and amount sufficient in each year when any bonds are outstanding to:

- (A) provide for the payment of the principal of, interest on, and redemption premium if any, on the bonds;

(B) replenish any debt service reserve fund established with respect to the bonds; and

(C) provide for any other purpose related to the ongoing expenses of and security for the bonds.

(2) The County further covenants, when any bond is outstanding, to enforce the collection of all ad valorem taxes under this Chapter as provided by applicable law.

(e) All proceeds received from any issuance of bonds must be applied solely towards costs of the transportation infrastructure improvements listed in the resolution adopted under Section 68C-4, including the cost of issuing bonds and payment of the principal of, interest on, and redemption premium if any, on the bonds.

(f) The bonds issued under this Chapter:

(1) are special obligations of the County and do not constitute a general obligation debt of the County or a pledge of the County's full faith and credit or the County's general taxing power;

(2) may be sold in any manner, either at public or private sale, and on terms as the Executive approves;

(3) are not subject to Sections 10 and 11 of Article 31, Maryland Code; and

(4) must be treated as securities to the same extent as bonds issued under Section 9-1301 of Article 24, Maryland Code.

(g) To the extent provided by law, the bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized on their sale or exchange, must be exempt at all times from every kind and nature of taxation by the State of Maryland and any county or municipality in Maryland.

(h) The bonds must be payable from the fund required under Section 68C-5 and any other asset or revenue of the District pledged toward their payment. When any bond is outstanding, the monies in the fund are pledged to pay the costs of any transportation infrastructure improvement funded entirely or partly by the proceeds of the bonds, including the costs of issuing the bonds and payment of the principal of, interest on, and redemption premium if any, on the bonds. In addition to ad valorem taxes, the bonds may be secured by any other asset in or revenue generated in the District.

(i) Any ad valorem tax imposed under this Chapter must not be accelerated because of any bond default.

68C-7. Expiration of district.

Any special taxing district created under this Chapter expires by operation of law 30 days after the cost of all transportation infrastructure improvements identified in a Council resolution approved under Section 68C-4, including all outstanding bonds and cash advances made by the County, have been paid.

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

Resolution No. _____
Introduced: October 5, 2010
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

SUBJECT: **White Flint Development Tax District Transportation Infrastructure Improvements**

Background

1. County Code Chapter 68C establishes the White Flint Special Taxing District, authorizes the levy of an ad valorem tax to fund transportation infrastructure improvements in the District, and authorizes the issuance of bonds to finance the transportation infrastructure improvements.
2. Chapter 68C-4 requires a resolution that lists each transportation infrastructure improvement that is to be paid for by the District special tax, and the estimated costs of each improvement, which must include a contingency amount.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

1. The County's goal is that the White Flint Special Taxing District special tax rate must not exceed 10% of the total tax rate for the District, except that the rate must be sufficient to pay debt service on any bonds that are already outstanding.
2. If the revenues from the special tax at the level in the preceding paragraph are not sufficient to afford additional infrastructure improvements as are necessary and ready for implementation to execute the White Flint Sector Plan, the County Executive, before recommending any increase to the tax rate above the level in the preceding paragraph, must consider alternative approaches, including the timing and scope of each infrastructure item and the structure of the financing plan to pay for it, and alternative revenue sources.
3. For the tax year that began on July 1, 2010, the total base real property tax rate in the White Flint Special Taxing District is \$1.027 per \$100 of assessed value.
4. For the tax year that begins on July 1, 2011, the rate of the White Flint Special Taxing District special tax is estimated to be \$0.103 per \$100 of assessed value.

5. The specific transportation infrastructure improvements that will be financed by the White Flint Special Taxing District are listed in Exhibit A, along with an estimated cost for each improvement, including a contingency amount.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

EXHIBIT A

WHITE FLINT SPECIAL TAXING DISTRICT DISTRICT-FUNDED IMPROVEMENTS

Improvement Description	Estimated Cost
Old Georgetown Road (MD 187): Nicholson La./Tilden La. to Executive Blvd.	\$17,774,000
Old Georgetown Road (MD 187): Hoya St. to Rockville Pike (MD 355)	1,789,000
Hoya Street (formerly Old Old Georgetown Rd.): Executive Blvd. to Montrose Pkwy.	15,344,000
Rockville Pike (MD 355): Flanders Ave. to Hubbard Drive	64,261,000
Nicholson Lane: Old Georgetown Rd. (MD 187) to CSX tracks	12,942,000
Nebel Street: Nicholson La. To Randolph Rd.	9,200,000
Executive Blvd. Ext.: Marinelli Rd. to Old Georgetown Rd (MD 187)	13,500,000
Second Entrance to Metro	35,000,000
Main St./Market St.: Old Georgetown Rd. (MD 187) to Executive Blvd. Extended (Bikeway)	1,713,000
Main St./Market St.: Old Georgetown Rd. (MD 187) to Executive Blvd. Ext.	4,933,000
Main St./Market St.: Executive Blvd. to Rockville Pike (MD 355)	4,661,000
Main Street Bridge	2,000,000
Executive Blvd. Ext. (East): Rockville Pike (MD 355) to Nebel St. Ext. (South)	16,700,000
Nebel St. Ext. (South): Nicholson La. to Executive Blvd. Ext. (East)	8,200,000
TOTAL	208,017,000

White Flint Sector Plan Executive Branch Cost Estimates - District

October 13, 2010

Assumes Property Dedications (County Estimates Assume No Property Dedications)

ROW Estimates Based Solely on FAR at White Flint Partnership's estimated \$50 per FAR foot

N.B. land values are assumptions and not based on appraised values

						County Estimates					
									Stages - TOTAL COST		
						County Estimated Construction Cost	ROW (Minimum Estimated by Partnership)	Total Cost (Construction + ROW)	Stage 1	Stage 2	Stage 3
MP #						Name	Limits	Comments			
District											
Phase 1: Construction Contract, Phase 2: Complete Realignment	1	M-4	Old Georgetown Rd (Md 187)	Tilden Lane to East Jefferson St		\$17,774,064		\$17,774,064	\$17,774,064		
	2	M-4	East Jefferson St Ext (Md 187)	Old (Old) Georgetown Road to Rockville Pike	25% of Total	\$1,789,063		\$1,789,063			\$1,789,063
	3	M-4A	Old Old Georgetown Rd	East Jefferson St Ext to Montrose Pkwy		\$15,344,000		\$15,344,000	\$15,344,000		
Phase 1: Fund & Design	4	M-6	Rockville Pike (Md 355)	Flanders Ave to Hubbard Drive	75% of Total	\$59,831,810	\$4,429,100	\$64,260,910	\$7,772,281	\$453,350	\$56,035,279
	5	A-69	Nicholson Lane	Old Georgetown Road to CSX tracks	35% of Total	\$12,941,676		\$12,941,676		\$12,941,676	
	6	B-5	Nebel Street	Nicholson Lane to Randolph Road	REVISED PROJECT SCOPE (was \$38.8 Million)	\$9,200,000		\$9,200,000			\$9,200,000
Phase 1: Construction Contract, Phase 2: Complete Realignment	7	B-15 (not B-7)	Executive Blvd Ext (North)	East Jefferson St Mannelli		\$13,500,000		\$13,500,000	\$13,500,000		
	8	LB-1	Main Street	Old Georgetown Rd to Executive Blvd.	Bikeway	\$1,712,500		\$1,712,500	\$1,712,500		
	9		Second entrance to Metro (includes construction, planning, design, and permitting, construction administration, and contingency/escalation)			\$35,000,000		\$35,000,000		\$35,000,000	
Phase 1: Construction Contract, Phase 2: Complete Realignment	10	B-10	Main Street/Market Street	Executive Blvd to MD 187	Segment WEST of Executive Blvd.	\$4,932,942		\$4,932,942	\$4,932,942		
	11	B-10	Main Street (B-10 Market St)	Executive Blvd to Rockville Pike	Developers' amount includes numbers 2, 3 23, and 27 from REF. column. Conference Center Section Only.		\$4,661,175	\$4,661,175		\$4,661,175	
	Subtotal: Projects in August 2010 Funding Analysis					\$172,026,054	\$9,090,275	\$181,116,329	\$61,035,787	\$53,056,201	\$67,024,341
Eastern Work Around	12		Main Street Bndge (LCOR)			\$2,000,000		\$2,000,000	\$2,000,000		
	13	B-7	Executive Blvd Ext (east)	Rockville Pike to new Nebel Extended		\$16,700,000		\$16,700,000	\$10,000,000	\$6,700,000	
	14	B-5	Nebel Street	Nicholson Lane south around Combined Prop		\$8,200,000		\$8,200,000	\$8,200,000		
Subtotal District					\$198,926,054	\$9,090,275	\$208,016,329	\$81,235,787	\$59,756,201	\$67,024,341	
Subtotal District: Percent of Grand Total					22.9%						

White Flint Sector Plan Executive Branch Cost Estimates - County

October 13, 2010

Assumes Property Dedications (County Estimates Assume No Property Dedications)

ROW Estimates Based Solely on FAR at White Flint Partnership's estimated \$50 per FAR foot

N.B. land values are assumptions and not based on appraised values

				County Estimates					
							Stages - TOTAL COST		
MP #	Name	Limits	Comments	County Estimated Construction Cost	ROW (Minimum Estimated by Partnership)	Total Cost (Construction + ROW)	Stage 1	Stage 2	Stage 3
County									
15		Circulator bus infrastructure	Was in District @ \$1.25 million. Removed because it is operating.			\$0			
16	B-6	Marinelli Road ³	Citadel Ave to Wentworth Pl	\$2,200,000		\$2,200,000	\$2,200,000		
17	A-90	Randolph Rd	Nebel Street to CSX tracks	\$4,929,408	\$113,750	\$5,043,158	\$0	\$4,929,408	\$0
18	A-270	Montrose Pkwy Phase 1 (MD 355 Interchange Phase I)	Old Georgetown Rd to Chapman Ave	Funded and Under Construction	\$0	\$0	\$0	\$0	\$0
19	A-270	Montrose Pkwy Phase 2 (MD 355 Interchange Phase 2)	Chapman Ave to Parklawn Drive			\$72,156,000	\$0	\$0	\$0
20	B-5	Nebel Street Ext. (North)	Randolph Road to Plan Area Boundary	\$13,931,000		\$13,931,000	\$0	\$0	\$0
21	B-12	Chapman Ave (Citadel Ave/ Maple Ave)	Old Georgetown Road to Plan Area Boundary	\$27,074,919		\$27,074,919	\$14,146,919	\$0	\$0
22		Montgomery Aquatic Center (MAC) Expansion		\$19,104,227		\$19,104,227	\$0	\$0	\$19,104,227
23		Fire Station with Police Substation and Urban District Office	(excludes operating and one time costs)	\$29,960,000		\$29,960,000	\$29,960,000	\$0	\$0
24		Bus Depot		\$130,530,000		\$130,530,000	\$0	\$0	\$130,530,000
25		Civic Green	1 acre	\$11,390,000		\$11,390,000	\$0	\$11,390,000	\$0
26		Elementary School	(excludes operating and personnel costs)	\$20,000,000		\$20,000,000	\$0	\$0	\$20,000,000
27	added	Recreation Center at Wall Park		\$37,420,000		\$37,420,000	\$0	\$37,420,000	\$0
28	Outside Sector	CLATR Intersections outside of District				\$0			
29	M-4	East Jefferson St Ext (Md 187)	Old (Old) Georgetown Road to Rockville Pike	25% of Total	\$1,789,063	\$135,938	\$1,925,001	\$0	\$0
30	A-69	Nicholson Lane	Old Georgetown Road to CSX tracks	10% of Total	\$5,312,868	\$2,031,348	\$7,344,216	\$0	\$5,312,868
State									
31		MARC Station	MTA	\$35,655,000		\$35,655,000	\$0	\$0	\$35,655,000
Subtotal County (or State)				\$411,452,485		\$413,733,521	\$46,306,919	\$59,052,276	\$207,078,290
Subtotal County (or State): Percent of Grand Total				47.4%					

NOTE: Figures do not include Operating Budget Impacts.
Some Projects not reflected in Staging. ROW costs not included in Staging.

White Flint Sector Plan Executive Branch Cost Estimates - Developer

October 13, 2010

Assumes Property Dedications (County Estimates Assume No Property Dedications)

ROW Estimates Based Solely on FAR at White Flint Partnership's estimated \$50 per FAR foot

N.B. land values are assumptions and not based on appraised values

					County Estimates						
								Stages - TOTAL COST			
	MP #	Name	Limits	Comments	County Estimated Construction Cost	ROW (County Estimated)	Total Cost (Construction + ROW)	Stage 1	Stage 2	Stage 3	
Developer											
Phase 1: Fund & Design	32	M-4	East Jefferson St Ext (Md 187)	Old (Old) Georgetown Road to Rockville Pike	50% of Total	\$3,578,125	\$271,875	\$3,850,000	\$0	\$0	\$3,578,125
	33	M-6	Rockville Pike (Md 355)	Flanders Ave to Hubbard Drive	25% of Total	\$19,943,937	\$14,184,313	\$34,128,250	\$0	\$0	\$19,943,937
	34	A-69	Nicholson Lane	Old Georgetown Road to CSX tracks	55% of Total	\$29,220,774	\$11,172,414	\$40,393,188	\$0	\$29,220,774	\$0
	35	B-3	Woodglen Drive	Edson Lane to Nicholson Lane		\$9,919,800		\$9,919,800	\$0	\$9,919,800	\$0
	36	B-4	Huff Court Ext	Nebel St Ext to Executive Blvd	White Flint Garage 2 level	\$9,538,720	\$23,164,000	\$32,702,720	\$0	\$0	\$9,538,720
Phase 1: Fund: Streetscape/ Sidewalks/Bikeways Phase 2: Construct S/S/B	37	B-4	Huff Court	Executive Blvd to Nicholson Lane		\$4,301,880	\$2,350,000	\$6,651,880	\$0	\$4,301,880	\$0
	38	B-4	Citadel Avenue	Nicholson Lane to existing terminus		\$3,234,375		\$3,234,375	\$0	\$3,234,375	\$0
	39	B-4	Citadel Avenue Ext (?)	Marinelli Road to Old Georgetown Rd		\$6,928,650		\$6,928,650	\$6,928,650	\$0	\$0
	40	B-5	Edson Lane	Woodglen Drive to Rockville Pike		\$5,636,250	\$2,578,125	\$8,214,375	\$5,636,250	\$0	\$0
	41	B-5	Nebel Street Ext. (South)	Rockville Pike to Nicholson Lane	3 bldgs	\$33,922,000	\$16,083,750	\$50,005,750	\$0	\$33,922,000	\$0
	42	B-6	Marinelli Road	Executive Blvd to Nebel Street		\$26,408,448	\$2,000,000	\$28,408,448	\$0	\$26,408,448	\$0
	43	B-7	Executive Blvd Ext (North)	B-16 to East Jefferson Street	Old Toys R US/ AC Moore Bldg	\$19,094,290	\$7,700,000	\$26,794,290	\$19,094,290	\$0	\$0
	44	B-7	Executive Blvd Ext	Marinelli Road to Woodglen Drive		\$17,605,632		\$17,605,632	\$0	\$17,605,632	\$0
	45	B-7	Executive Blvd Ext	Woodglen Drive to Rockville Pike		\$5,894,328		\$5,894,328	\$0	\$5,894,328	\$0
	46	B-7	Executive Blvd Ext (East)	Rockville Pike to Huff Court		\$5,894,328	\$3,960,000	\$9,854,328	\$0	\$0	\$5,894,328
	47	B-10	Main Street (B-10 Market St)	Executive Blvd to Rockville Pike	Developers' amount includes numbers 2, 3 23, and 27 from REF. column. Woodglen to MD355.	\$6,820,351	\$11,979,649	\$18,800,000		\$6,820,351	\$0
	48	B-10	Main Street (B-10 Market St)	Rockville Pike to B-13		\$10,582,367	\$11,225,353	\$21,807,720	\$0	\$10,582,367	\$0
	49	B-11	Station Street	Marinelli Road to Old Georgetown Rd		\$6,467,208	\$10,843,350	\$17,310,558	\$6,467,208	\$0	\$0
	50	B-12	Chapman Ave (or other name)	Marinelli Road to Old Georgetown Rd		\$6,086,784	\$10,203,375	\$16,290,159	\$6,086,784	\$0	\$0
	51	B-13	New Street	Marinelli Road to Nebel Street		\$6,467,208	\$1,964,375	\$8,431,583	\$0	\$0	\$6,467,208
	52	B-14	Realigned Nicholson Court	Nebel Ext to cul-de-sac		\$3,757,500	\$62,500	\$3,820,000	\$0	\$0	\$3,757,500
	53	B-16	Midpike Plaza Rung	Existing Terminus to B-13 (approx 900')		\$6,467,208	\$9,900,000	\$16,367,208	\$0	\$6,467,208	\$0
	54	B-18	Security Lane Extended	Rockville Pike to B-4		\$2,521,750	\$3,368,750	\$5,890,500	\$0	\$0	\$2,521,750
	55	LB-1	Main Street	Executive Blvd. to Rockville Pike	Bikeway	\$225,000	\$2,343,750	\$2,568,750	\$225,000	\$0	\$0
	56		FULL Library		one-time capital costs	\$6,270,000		\$6,270,000	\$6,270,000	\$0	\$0
57		Satellite Regional Services Center		one-time capital costs	\$1,060,000		\$1,060,000	\$1,060,000	\$0	\$0	
Subtotal Developer ⁽⁷⁾					\$257,846,912	\$145,355,580	\$403,202,492	\$51,768,182	\$154,377,163	\$51,701,568	
Subtotal Developer: Percent of Grand Total ⁽⁵⁾					29.7%						

NOTE: Stage estimates do not include ROW costs.

**FY 2011 Special District Tax Rates
per \$100 of Assessed Value**

Proposed White Flint Rate	\$0.103
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Parking Lot District Rates for Commercial Properties

Bethesda	\$0.104
Montgomery Hills	\$0.240
Silver Spring	\$0.317
Wheaton	\$0.240

Urban District Rates

Bethesda	\$0.024
Silver Spring	\$0.012
Wheaton	\$0.030

Development District Rates

Kingsview Village	\$0.079
West Germantown	\$0.163

Chapter 617

(Senate Bill 828)

AN ACT concerning

Special Taxing Districts – Transportation Improvements – Exemption from County Tax Limitations

FOR the purpose of exempting certain taxes imposed only within a special taxing district for the purpose of financing the cost of transportation improvements from county tax limitations; authorizing a county to issue, by law, certain bonds for certain infrastructure improvements; authorizing a county to sell certain bonds secured by certain revenues; providing that certain bonds may not be secured by the full faith and credit or taxing authority of a county; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to special taxing districts and county tax limitations.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1302 and 9–1303

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–1302.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COST” HAS THE MEANING STATED IN ~~§ 3–101(D)~~ § 9–1301 OF ~~THE TRANSPORTATION ARTICLE~~ THIS SUBTITLE.

(3) “COUNTY TAX LIMITATION” MEANS A PROVISION OF A COUNTY CHARTER THAT LIMITS:

(i) THE MAXIMUM PROPERTY TAX RATE THAT A COUNTY MAY IMPOSE; OR

(II) THE RATE OF GROWTH OF COUNTY PROPERTY TAX REVENUES.

(4) "HIGHWAY FACILITY" HAS THE MEANING STATED IN § 3-101(F) OF THE TRANSPORTATION ARTICLE.

(5) "SPECIAL TAXING DISTRICT" MEANS A DEFINED GEOGRAPHIC AREA DESIGNATED BY A COUNTY WITHIN WHICH AD VALOREM OR SPECIAL TAXES ARE IMPOSED FOR THE PURPOSE OF FINANCING THE COST OF INFRASTRUCTURE IMPROVEMENTS.

(6) "TRANSIT FACILITY" HAS THE MEANING STATED IN § 3-101(K) OF THE TRANSPORTATION ARTICLE.

(7) "~~TRANSPORTATION~~ STATE TRANSPORTATION IMPROVEMENTS" INCLUDES HIGHWAY FACILITIES, TRANSIT FACILITIES, AND RELATED INFRASTRUCTURE.

(8) "COUNTY TRANSPORTATION IMPROVEMENTS" INCLUDES:

(I) FOR COUNTY ROADS AND HIGHWAYS:

1. COUNTY RIGHTS-OF-WAY, ROADWAY SURFACES, ROADWAY SUBGRADES, SHOULDERS, MEDIAN DIVIDERS, DRAINAGE FACILITIES AND STRUCTURES, RELATED STORMWATER MANAGEMENT FACILITIES AND STRUCTURES, ROADWAY CUTS, ROADWAY FILLS, GUARDRAILS, BRIDGES, HIGHWAY GRADE SEPARATION STRUCTURES, TUNNELS, OVERPASSES, UNDERPASSES, INTERCHANGES, ENTRANCE PLAZAS, APPROACHES, AND OTHER STRUCTURES FORMING AN INTEGRAL PART OF A STREET, ROAD, OR HIGHWAY, INCLUDING BICYCLE AND WALKING PATHS, DESIGNATED BUS LANES, SIDEWALKS, PEDESTRIAN PLAZAS, STREETSCAPING, AND RELATED INFRASTRUCTURE; AND

2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY; AND

(II) FOR COUNTY TRANSIT FACILITIES, ANY ONE OR MORE OR COMBINATION OF TRACKS, RIGHTS-OF-WAY, BRIDGES, TUNNELS, SUBWAYS, ROLLING STOCK, STATIONS, TERMINALS, PORTS, PARKING AREAS, EQUIPMENT, FIXTURES, BUILDING STRUCTURES, OTHER REAL OR PERSONAL PROPERTY, AND SERVICES INCIDENTAL TO OR USEFUL OR DESIGNED FOR USE IN CONNECTION WITH THE RENDERING OF TRANSIT SERVICE BY ANY MEANS, INCLUDING RAIL,

BUS, MOTOR VEHICLE, OR OTHER MODE OF TRANSPORTATION BUT DOES NOT INCLUDE ANY RAILROAD FACILITY.

(B) A COUNTY TAX LIMITATION ~~DOES NOT~~ THAT WOULD OTHERWISE APPLY TO AD VALOREM OR SPECIAL TAXES IMPOSED ONLY WITHIN A SPECIAL TAXING DISTRICT DOES NOT APPLY FOR THE PURPOSE OF FINANCING THE COST OF STATE TRANSPORTATION IMPROVEMENTS AND COUNTY TRANSPORTATION IMPROVEMENTS.

9-1303.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BOND" MEANS A SPECIAL OBLIGATION BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY A COUNTY UNDER THIS SECTION.

(3) "COSTS" MEANS ANY EXPENSE NECESSARY OR INCIDENT TO ACQUIRING, BUILDING, OR FINANCING ANY TRANSPORTATION IMPROVEMENT AS MAY BE PROVIDED BY THE LOCAL LAW AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION.

(4) (I) "SPECIAL TAX" MEANS AN AD VALOREM OR SPECIAL TAX, ASSESSMENT, FEE, OR CHARGE IMPOSED BY A COUNTY WITHIN A SPECIAL TAXING DISTRICT.

(II) "SPECIAL TAX" DOES NOT INCLUDE AN AD VALOREM OR SPECIAL TAX, ASSESSMENT, FEE, OR CHARGE LEVIED UNDER CHAPTER 20A OF THE MONTGOMERY COUNTY CODE.

(5) (I) "SPECIAL TAXING DISTRICT" MEANS A SPECIAL TAXING DISTRICT, SPECIAL ASSESSMENT DISTRICT, OR SIMILAR DEFINED GEOGRAPHICAL AREA WITHIN A COUNTY IN WHICH THE COUNTY IS AUTHORIZED TO IMPOSE A SPECIAL TAX.

(II) "SPECIAL TAXING DISTRICT" DOES NOT INCLUDE A DEVELOPMENT DISTRICT CREATED UNDER CHAPTER 20A OF THE MONTGOMERY COUNTY CODE.

(6) "TRANSPORTATION IMPROVEMENT" MEANS A STATE TRANSPORTATION IMPROVEMENT OR A COUNTY TRANSPORTATION IMPROVEMENT AS DEFINED IN § 9-1302 OF THIS SUBTITLE.

(B) IN ADDITION TO OTHER POWERS A COUNTY MAY HAVE, AND NOTWITHSTANDING THE PROVISIONS OF ANY OTHER PUBLIC LOCAL LAW, PUBLIC GENERAL LAW, OR THE COUNTY CHARTER OF A COUNTY THAT HAS ADOPTED HOME RULE POWERS UNDER ARTICLE XI-A OF THE MARYLAND CONSTITUTION, A COUNTY MAY ENACT A LAW TO PROVIDE FOR THE ISSUANCE OF BONDS TO FINANCE THE COSTS OF TRANSPORTATION IMPROVEMENTS FOR WHICH THE PRINCIPAL, INTEREST, AND ANY PREMIUM SHALL BE PAID FROM AND SECURED BY SPECIAL TAXES COLLECTED BY THE COUNTY IN A SPECIAL TAXING DISTRICT.

(C) (1) BONDS ISSUED UNDER THIS SECTION ARE SPECIAL OBLIGATIONS OF THE COUNTY AND DO NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE COUNTY OR A PLEDGE OF THE COUNTY'S FULL FAITH AND CREDIT OR GENERAL TAXING POWER.

(2) BONDS ISSUED UNDER THIS SECTION MAY BE SOLD IN ANY MANNER, EITHER AT PUBLIC OR PRIVATE SALE AND ON TERMS AS THE COUNTY DEEMS BEST.

(3) BONDS ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO ARTICLE 31, §§ 10 AND 11 OF THE CODE.

(4) BONDS ISSUED UNDER THIS SECTION, THEIR TRANSFER, THE INTEREST PAYABLE ON THEM, AND ANY INCOME DERIVED FROM THEM, INCLUDING ANY PROFIT REALIZED ON THEIR SALE OR EXCHANGE, SHALL BE EXEMPT AT ALL TIMES FROM EVERY KIND AND NATURE OF TAXATION BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION.

(5) BONDS ISSUED UNDER THIS SECTION SHALL BE TREATED AS SECURITIES TO THE SAME EXTENT AS BONDS ISSUED UNDER § 9-1301 OF THIS SUBTITLE.

(D) IN ADDITION TO THE SPECIAL TAXES, BONDS ISSUED UNDER THIS SECTION MAY BE SECURED BY OTHER REVENUES GENERATED WITHIN THE SPECIAL TAXING DISTRICT.

(E) THE POWERS GRANTED UNDER THIS SECTION SHALL BE REGARDED AS SUPPLEMENTAL AND ADDITIONAL TO POWERS CONFERRED BY OTHER LAWS, AND MAY NOT BE REGARDED AS IN DEROGATION OF ANY POWERS NOW EXISTING, INCLUDING POWERS TO ISSUE SPECIAL OBLIGATION DEBT UNDER THIS ARTICLE, ARTICLE 25, ARTICLE 25A, OR ARTICLE 25B OF THE CODE.

(F) THIS SECTION, BEING NECESSARY FOR THE WELFARE OF THE STATE AND ITS RESIDENTS, SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Amendment (\$9.835 M) to the FY11-16 Capital Improvements Program and
Special Appropriation #4-E11-CMCG-3 to the FY11 Capital Budget
Montgomery County Government
Department of Transportation
White Flint District West: Transportation (No. 501116), \$385,000

Background

1. Section 308 of the Montgomery County Charter provides that a special appropriation: (a) may be made at any time after public notice by news release; (b) must state that the special appropriation is necessary to meet an unforeseen disaster or other emergency or to act without delay in the public interest; (c) must specify the revenues necessary to finance it; and (d) must be approved by no fewer than six members of the Council.
2. Section 302 of the Montgomery County Charter provides that the Council may amend an approved capital improvements program at any time by an affirmative vote of no fewer than six members of the Council.
3. The County Executive recommends the following capital project appropriation increases:

<u>Project Name</u>	<u>Project Number</u>	<u>Cost Element</u>	<u>Amount</u>	<u>Source of Funds</u>
White Flint District West: Transportation	501116	PDS	\$385,000	Current Revenue General

Special Appropriation #4-E11-CMCG-3 and Amendment to the FY11-16 Capital Improvements Program
Page Two

4. This project is needed to accelerate the preliminary engineering for one new road, one relocated road, improvements to three existing roads, and one new bikeway in the White Flint Development Tax District so that more accurate designs and cost estimates can be established. Funds to pay for the analysis and studies necessary to implement the district are also included. The recommended amendment is consistent with the criteria for amending the CIP in that this project supports significant economic development initiatives, which in turn will strengthen the fiscal capacity of the County government. The new growth planned for the White Flint area in accordance with the recently approved Sector Plan will revitalize the region and strengthen the County as a whole. These roadway and bikeway improvements will greatly aid and expedite the planned improvements for the area.
5. The County Executive recommends an amendment to the FY11-16 Capital Improvements Program and a special appropriation in the amount of \$385,000 for White Flint District West: Transportation (No.501116), and specifies that the source of funds will be Current Revenue General with repayment in FY12 from White Flint Development District tax funds.
6. Notice of public hearing was not given and no public hearing was held.

Action

The County Council for Montgomery County, Maryland, approves the following actions:

1. The FY11-16 Capital Improvements Program of the Montgomery County Government is amended as reflected on the attached project description form and a special appropriation is approved as follows:

<u>Project Name</u>	<u>Project Number</u>	<u>Project Element</u>	<u>Cost Amount</u>	<u>Source of Funds</u>
White Flint District West: Transportation	501116	PDS	\$385,000	Current Revenue General

2. The County Council declares that this action is necessary to act without delay in the public interest, and that this appropriation is needed to meet the emergency.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

White Flint District West: Transportation -- No. 501116

Category
Subcategory
Administering Agency
Planning Area

Transportation
Roads
Transportation
North Bethesda-Garrett Park

Date Last Modified
Required Adequate Public Facility
Relocation Impact
Status

September 27, 2010
No
None.
Preliminary Design Stage

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY09	Est. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	8,800	0	0	8,800	350	1,250	500	2,200	2,200	2,300	0
Land	1,000	0	0	1,000	0	0	600	0	200	200	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	35	0	0	35	35	0	0	0	0	0	0
Total	9,835	0	0	9,835	385	1,250	1,100	2,200	2,400	2,500	0

FUNDING SCHEDULE (\$000)

Current Revenue: General	0	0	0	0	385	-385	0	0	0	0	0
Development District -White Flint	9,835	0	0	9,835	0	1,635	1,100	2,200	2,400	2,500	0
Total	9,835	0	0	9,835	385	1,250	1,100	2,200	2,400	2,500	0

DESCRIPTION

This project provides for completing preliminary engineering, to 35% plans, for one new road, one relocated road, improvements to three existing roads, and one new bikeway in the White Flint District area for Stage 1. Various improvements to the roads will include new traffic lanes, shared-use paths, the undergrounding of overhead utility lines, other utility relocations and streetscaping.

The proposed projects are as follows:

- o Main Street/Market Street (B-10) - Old Georgetown Road (MD187) to Executive Boulevard Extended - New 2 lane 700 foot roadway.
- o Executive Boulevard Extended (B-15) - Marinelli Road to Old Georgetown Road (MD187) - Reconstruct 900 feet of 4 lane roadway.
- o Old Georgetown Road (MD187) (M-4) - From Nicholson Lane/Tilden Lane to Executive Boulevard - Reconstruct 1,600 feet of 6 lane roadway.
- o Hoya Street (formerly 'Old' Old Georgetown Road) (M-4A) - From Executive Boulevard to Montrose Parkway - Reconstruct 1,100 feet of 4 lane roadway.
- o Rockville Pike (MD355) (M-6) - Flanders Avenue to Hubbard Drive - Reconstruct 6,300 feet of 6-8 lane roadway.
- o Main Street/Market Street (LB-1) - Old Georgetown Road (MD187) to Executive Boulevard Extended - Construct 1,250 feet of bikeway.

The proposed projects will be White Flint Development Tax District funded and are located primarily in the western side of the White Flint Development District. All the roadway segments except for the Rockville Pike are specified for completion in Stage 1 of the White Flint Sector Plan and will be designed in FY11-13 with land acquisitions in FY13. The Rockville Pike segment will be designed in FY14-16 with land acquisitions in FY15-16. The Rockville Pike segment will be constructed during Stage 3 of the Sector Plan.

This project also provides for consulting fees for the analysis and studies necessary to implement the district, which are programmed in the "Other" cost element.

ESTIMATED SCHEDULE

Design is expected to commence on all projects except the Rockville Pike section in the Spring of 2011(FY11) and to conclude in the Spring of 2013 (FY13). Some property acquisition may occur in 2012-13 (FY13). Design on the Rockville Pike section will begin in the Fall of 2013 (FY14) and be complete in the Spring of 2016 (FY16). Some property acquisition may occur on this section in 2015 (FY15) and 2016 (FY16).

JUSTIFICATION

The vision for the White Flint District is for a more urban core with a walkable street grid, sidewalks, bikeways, trails, paths, public use space, parks and recreational facilities, mixed-use development, and enhanced streetscape to improve the areas for pedestrian circulation and transit oriented development around the Metro station. These road improvements, along with other District roads proposed to be constructed to be funded and constructed by developers will fulfill the strategic program plan for a more effective and efficient transportation system. The proposed improvements are in conformance with the White Flint Sector Plan Resolution 16-1300 adopted March 23, 2010.

FISCAL NOTE

The funding source for these projects will be White Flint Development District Tax revenues and related bond issues. Debt service on the bond issues will be paid solely from White Flint Development District revenues.

The advanced funds (Current Revenue: General) in FY11 will be repaid by White Flint Development District Tax funding sources in FY12.

The project cost estimates are based on FY10 costs and exclude escalation factors. Final construction costs will be determined after the preliminary

APPROPRIATION AND EXPENDITURE DATA			COORDINATION	MAP
Date First Appropriation	FY11	(\$000)		
First Cost Estimate			M-NCPPC, White Flint Sector Plan WMATA City of Rockville MSHA Town of Garrett Park Neighborhood Civic Associations Developers	See Map on Next Page
Current Scope	FY11	9,835		
Last FY's Cost Estimate		0		
Appropriation Request	FY11	0		
Appropriation Request Est.	FY12	1,750		
Supplemental Appropriation Request		385		
Transfer		0		
Cumulative Appropriation		0		
Expenditures / Encumbrances		0		
Unencumbered Balance		0		
Partial Closeout Thru	FY08	0		
New Partial Closeout	FY09	0		
Total Partial Closeout		0		

White Flint District West: Transportation -- No. 501116 (continued)

engineering phase. The total project cost the for Stage 1 west-side White Flint Development Tax District -funded projects is anticipated to approximate \$59 million.

The total project cost for White Flint Development Tax District-funded projects planned for Stages 1, 2, and 3 of the White Flint Sector Plan are estimated at \$208 million

OTHER DISCLOSURES

- A pedestrian impact analysis has been completed for this project.

