

INTRODUCED \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_  
COUNCIL ACTION \_\_\_\_\_  
EXECUTIVE ACTION \_\_\_\_\_  
EFFECTIVE DATE \_\_\_\_\_

**County Council Of  
Howard County, Maryland**

2009 Legislative Session

Legislative Day No. 4

**Bill No. 21-2009**

Introduced by: The Chairperson at the request of the County Executive

AN ORDINANCE levying and providing for the collection of a special tax on property within the special taxing district in the Savage area of Howard County, Maryland known as the "Savage Towne Centre Special Taxing District" pursuant to the Rate and Method identified herein and for various matters relating thereto; authorizing and empowering the County to issue up to \$17,000,000.00 of its special obligation bonds at a maximum interest rate of 7% per annum in order to finance or reimburse the cost of certain public improvements relating to the Special Taxing District and the geographically coincident Savage Towne Centre Development District and other costs permitted under the Acts identified herein; providing that such bonds and the interest thereon shall never constitute a general obligation of the County or a pledge of its full faith and credit; providing for the further specification, prescription, determination, provision for or approval of various other matters, details, documents and procedures in connection with the authorization, issuance, security, sale and payment for any such bonds; making certain legislative findings; and generally providing for the levy, imposition, collection and application of such special tax and the issuance of bonds in accordance with the Acts identified herein.

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Introduced and read first time \_\_\_\_\_, 2009. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2009 and concluded on \_\_\_\_\_, 2009.

By order \_\_\_\_\_  
Stephen LeGendre,  
Administrator

This Bill was read the third time on \_\_\_\_\_, 2009 and Passed, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre,  
Administrator

Approved by the County Executive \_\_\_\_\_, 2009

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

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Before issuing bonds pursuant to the Tax Increment Financing Act, the governing body of the County must designate by resolution a contiguous area within its jurisdiction as a development district, receive from the supervisor of assessments a certification as to the amount of the “original assessable base” or, if applicable, the “adjusted assessable base”, each as defined in the Tax Increment Financing Act, create a special fund by resolution and pledge that until the bonds have been fully paid or thereafter, the property taxes on real property within the development district shall be divided and allocated as provided in the Tax Increment Financing Act.

1           Section 9-1301 of Article 24 of the Annotated Code of Maryland (as amended from time to time, the  
2   “Special Taxing District Act” and, together with the Tax Increment Financing Act, the “Acts”), authorizes the  
3   County to create a “special taxing district” (as such term is used in the Special Taxing District Act), to borrow  
4   money by issuing and selling its “bonds” (as such term is used in the Special Taxing District Act) for the  
5   purpose of financing, refinancing or reimbursing the “cost” (as such term is used in the Special Taxing  
6   District Act) of the design, construction, establishment, extension, alteration or acquisition of adequate storm  
7   drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting,  
8   parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities and other  
9   infrastructure improvements as necessary, whether situated within the special taxing district or outside of the  
10   special taxing district if the infrastructure improvement is reasonably related to other infrastructure  
11   improvements within the special taxing district, for the development and utilization of the land, each with  
12   respect to any defined geographic region within the County, and to pay such bonds from the proceeds of ad  
13   valorem taxes or special taxes levied on real and personal property located within the boundaries of the  
14   special taxing district and required to be deposited in a “special fund” created pursuant to the Special Taxing  
15   District Act.

16           Before issuing bonds under the Special Taxing District Act, the County is required to designate by  
17   resolution an area or areas as a “special taxing district”, to adopt a resolution creating a special fund with  
18   respect to the special taxing district, to provide for the levy of an ad valorem or special tax on all real and  
19   personal property within the special taxing district, and to pledge that it will pay such ad valorem tax or  
20   special tax into the special fund.

21           The bonds authorized to be issued by the Special Taxing District Act are special obligations of the  
22   County payable from the ad valorem taxes or special taxes deposited in the special fund created by the  
23   County, from sinking funds and debt service reserve funds established therefor, and from other assets or  
24   revenues, if any, pledged by the County for that purpose.

25           Prior to issuing and selling bonds for the purposes allowed under the Special Taxing District Act, a  
26   request must be made to the County by both (i) at least two-thirds of the owners of the real property located

1 within the special taxing district, provided that: (A) multiple owners of a single parcel are treated as a single  
2 owner and (B) a single owner of multiple parcels is treated as one owner; and (ii) the owners of at least two-  
3 thirds of the assessed valuation of the real property located within the special taxing district.

4 Pursuant to Resolution No. \_\_\_\_-2009, which is being introduced simultaneously with this  
5 Ordinance and will be effective prior to the enactment of this Ordinance (the "Designation Resolution"), the  
6 County has designated a contiguous area within its boundaries comprised of approximately 12.73 acres of  
7 land located in Annapolis Junction, Maryland on Dorsey Run Road at Henkels Lane (as more particularly  
8 described in the Exhibits to the Designation Resolution), as both a "development district" to be known as the  
9 "Savage Towne Centre Development District" (the "Development District") for purposes of the Tax  
10 Increment Financing Act and as a geographically coincident "special taxing district" to be known as the  
11 "Savage Towne Centre Special Taxing District" (the "Special Taxing District" and, together with the  
12 Development District, the "Districts") for purposes of the Special Taxing District Act in order to encourage  
13 and promote the development of a transit oriented development, including a public parking garage and a  
14 mixed-use project.

15 The Designation Resolution contemplates that special obligation bonds will be issued by the County  
16 pursuant to the authority of both Acts, in one or more series, from time to time, for the purposes of financing,  
17 refinancing or reimbursing all or a portion of the cost of certain public improvements to serve the Districts, as  
18 authorized by the Acts and other applicable law.

19 The Designation Resolution further provides that proceeds of any such bonds may also be applied to  
20 finance, refinance or reimburse other costs and expenses permitted under both of the Acts.

21 Pursuant to the Designation Resolution, the County will establish a special fund as required by the  
22 Tax Increment Financing Act designated as the "Savage Towne Centre Tax Increment Fund" (the "Tax  
23 Increment Fund"), and will determine certain other matters with respect to the Tax Increment Fund as  
24 required by the Tax Increment Financing Act.

25 Pursuant to the Designation Resolution, the County will establish a special fund as required by the  
26 Special Taxing District Act designated as the "Savage Towne Centre Special Taxes Fund" (the "Special

1 Taxes Fund”), and will determine certain other matters with respect to the Special Taxes Fund as required by  
2 the Special Taxing District Act.

3 Before issuing any bonds with respect to the Special Taxing District, the County is required by the  
4 Special Taxing District Act to provide for the levy of an ad valorem tax or a special tax on all real and  
5 personal property within the Special Taxing District and to pledge that it shall pay such ad valorem tax or  
6 special tax to the Special Taxes Fund for the payment of debt service on the bonds and other expenses and  
7 purposes permitted under the Special Taxing District Act.

8 Pursuant to Section 12-204 of the Tax Increment Financing Act and Subsection (h) of the Special  
9 Taxing District Act, the County may implement its authority under such Acts to issue its bonds for the  
10 purpose of financing, refinancing or reimbursing the costs of public improvements benefiting the Districts  
11 and certain related costs authorized by the Acts, by passing an ordinance which, among other matters,  
12 specifies and describes the proposed undertaking and states that it has complied with certain conditions  
13 precedent to the issuance of the bonds, specifies the maximum principal amount of the bonds to be issued,  
14 and specifies the maximum rate of interest the bonds are to bear.

15 By enactment of this Ordinance, the County desires to provide for the issuance of its revenue bonds,  
16 notes or other similar instruments in one or more series from time to time in an aggregate principal amount  
17 not to exceed Seventeen Million Dollars (\$17,000,000) (collectively, the “Bonds”) in order to finance initially  
18 or reimburse the cost (within the meaning of the Acts) of public improvements benefiting the Districts and  
19 related financing costs or costs of issuing the Bonds.

20 In order to provide for the payment of the principal of and interest on the Bonds, pursuant to the  
21 Designation Resolution, the County has (i) pledged that that portion of the property taxes on real property  
22 located within the Development District representing the levy on the Tax Increment (as defined in the  
23 Designation Resolution) shall be paid into the Tax Increment Fund when collected and applied in accordance  
24 with Section 8 of the Designation Resolution and Section 12-209 of the Tax Increment Financing Act and (ii)  
25 determined to levy, impose and collect, and by this Ordinance hereby levies and imposes, and covenants to  
26 collect, pursuant to Subsection (f) of the Special Taxing District Act, a special tax to be designated the

1 “Savage Towne Centre Special Tax” (the “Special Tax”) upon all real and personal property within the  
2 Special Taxing District, unless otherwise provided by law or by the provisions hereof, for the purposes, to the  
3 extent and in the manner herein provided, contingent upon the issuance and sale of the Bonds, and to the  
4 extent that moneys on deposit in the Tax Increment Fund or otherwise available for such purposes under any  
5 trust indenture for the Bonds are insufficient (A) to cover debt service on the Bonds, (B) to replenish any debt  
6 service reserve fund or (C) for any authorized purpose relating to the ongoing expenses of or security for the  
7 Bonds, at a rate or rates and amount designed to provide adequate revenues at least sufficient in each year in  
8 which any of the Bonds are outstanding to pay the principal of, interest on, and redemption premium, if any,  
9 on the Bonds, to replenish any debt service reserve fund, and for any other purpose relating to the ongoing  
10 expenses of or security for the Bonds.

11 The Special Tax shall be imposed, levied and collected in the Special Taxing District each fiscal year  
12 of the County, beginning with the first fiscal year after the issuance of the Bonds, if necessary, in an amount  
13 to be determined in accordance with the Rate and Method identified herein.

14 The Special Tax shall be collected in the same manner and at the same time as regular ad valorem  
15 taxes are collected within the Districts, and shall be discontinued when all of the Bonds have been paid in full  
16 (either at their maturity or prior to maturity by defeasance in full).

17 The Request (or applicable portions thereof) constitutes the request of the property owners  
18 contemplated by Subsections (d)(1) and (h)(3)(ii) of the Special Taxing District Act.

19 Prior to issuing any Bonds relating to the Districts, the County is required to enact this Ordinance in  
20 order to comply with certain provisions of the Acts.

21 Prior to enacting this Ordinance, the County Council of Howard County, Maryland (the “County  
22 Council”) held a public hearing after giving not less than ten (10) days notice in a newspaper of general  
23 circulation in the County in accordance with Subsection (n) of the Special Taxing District Act.

24 The County reasonably expects to make expenditures with respect to the public improvements to be  
25 financed from proceeds of the Bonds, and to reimburse such expenditures from proceeds of the Bonds.

1           The County desires that this Ordinance shall serve as a declaration of official intent within the  
2 meaning of, and for the purposes set forth in, U.S. Treasury Regulation Section 1.150-2 (the “Reimbursement  
3 Regulations”).

4           Certain legislation has been introduced into the 2009 Session of the Maryland General Assembly as  
5 SB 274 and HB 300 (the “State Bill”) pursuant to which the State of Maryland (the “State”), any unit or  
6 department or political subdivision thereof may own all or a portion of the public improvements to be  
7 financed with the proceeds of any bonds issued under the Acts, and if such legislation is enacted, then it is  
8 anticipated that the Maryland State Department of Transportation (“MDOT”) will own a portion of the public  
9 improvements to be financed from the proceeds of the Bonds.

10 **Now, therefore, in accordance with the Acts:**

11           **Section 1. Be it enacted by the County Council of Howard County, Maryland, That**

12           (a)     The Recitals to this Ordinance (the “Recitals”) are deemed a substantive part of this  
13 Ordinance and are incorporated by reference herein, and capitalized terms defined in the Recitals and  
14 used herein shall have the meanings given to such terms in the Recitals.

15           (b)     The following terms used in the Recitals and elsewhere in this Ordinance shall have the  
16 meanings given to such terms in the respective Acts: “development district”, “tax increment”, “special  
17 taxing district”, “cost”, “public improvements”, “infrastructure improvements”, “bonds”, “special fund”,  
18 “ad valorem tax” and “special tax”; and references to “public improvements” herein are deemed to refer  
19 to costs and activities permitted to be financed and refinanced by both of the Acts, including (without  
20 limitation) “infrastructure improvements”, as such term is used in the Special Taxing District Act.

21           (c)     The findings and determinations set forth in Section 2 of the Designation Resolution are  
22 hereby ratified and confirmed with respect to the subject matter of this Ordinance and the issuance of the  
23 Bonds provided for herein.

24           (d)     The issuance of Bonds for the purpose of providing funds initially to finance or reimburse  
25 public improvements benefiting the Districts serves the public purposes of providing public  
26 improvements within the County, directly and indirectly enhancing the taxable base of the County,

1 encouraging the development of residential areas, commerce and industry within the County, increasing  
2 the general health and welfare of the residents of the County and increasing employment within the  
3 County through the construction of the Project and the expected increased commercial activity within  
4 and outside the Districts.

5 (e) The public improvements proposed to be initially financed or reimbursed from Bond  
6 proceeds include, but are not limited to (i) the parking garage (the “Garage”), and (ii) such other  
7 infrastructure improvements as may be authorized by both of the Acts and as may be provided for in an  
8 agreement or agreements between the County and the property owner(s) or its/or their contractors,  
9 developers or agents (collectively, the “Improvements”).

10 (f) The Improvements, in addition to providing general public benefits to the County and its  
11 citizens, specifically benefit the properties located in the Development District by providing needed  
12 infrastructure improvements for the use of the residents and businesses located or to be located on such  
13 properties and their visitors and invitees and the general public.

14 (g) By the adoption of the Designation Resolution, the County took all necessary action  
15 contemplated by the Tax Increment Financing Act to provide for the segregation and deposit in the Tax  
16 Increment Fund of that portion of the taxes representing the levy on the Tax Increment of properties  
17 located in the Development District, and by this Ordinance the County hereby reiterates its pledge and  
18 covenants to levy, collect and segregate such revenues for the benefit of the holders of the Bonds.

19 (h) By the adoption of the Designation Resolution and enactment of this Ordinance, the  
20 County has complied with the provisions of the Acts, including but not limited to Section 12-205 of the  
21 Tax Increment Financing Act and Subsections (f) and (h) of the Special Taxing District Act, requiring  
22 certain actions to be performed prior to the issuance of any Bonds.

23 **Section 2. Be it further enacted by the County Council of Howard County, Maryland, That:**

24 (a) There is hereby levied and imposed pursuant to the Special Taxing District Act a  
25 special tax (the “Special Tax”) upon all real and personal property within the Special Taxing District,  
26 unless exempted by law or by the provisions of the “Rate and Method of Apportionment of Special Taxes



1 of the Howard County Savage Towne Centre Special Taxing District” attached hereto as Exhibit A and  
2 incorporated by reference herein as though set forth in full herein (the “Rate and Method”), in an amount  
3 equal to the Maximum Special Tax provided for in the Rate and Method (subject to increase in each tax  
4 year as specified in the Rate and Method), which Maximum Special Tax is hereby levied and imposed  
5 upon and allocated among the Parcels of Taxable Property (as defined in the Rate and Method) located in  
6 the Special Taxing District in accordance with the Rate and Method; provided that, the Maximum Special  
7 Tax may be reduced by the County Executive of the County (the “County Executive”) in accordance with  
8 the Rate and Method when any Bonds are issued in order to reflect the actual rate or rates of interest on  
9 such Bonds, the amount of Bonds actually issued and any corresponding reduction in debt service. The  
10 Special Tax is hereby levied and imposed to the extent and in the manner provided in the Rate and  
11 Method, through the application of the procedures provided for in the Rate and Method. The Special Tax  
12 shall take effect and terminate as provided in the Rate and Method. The Maximum Special Tax is  
13 designed to provide adequate revenues to pay the principal of, interest on and redemption premium, if  
14 any, on the Bonds, to replenish any debt service reserve fund, and for any other purpose related to the  
15 ongoing expenses of or security for the Bonds. The County hereby covenants that the Special Tax shall  
16 be collected in accordance with the Rate and Method at a rate and amount at least sufficient in each year  
17 in which any of the Bonds are outstanding to provide, if necessary, for the payment of the principal of,  
18 interest on and any redemption premium on the Bonds, to make any other required payments and to  
19 provide for ongoing expenses of or security for the Bonds, all in accordance with the Rate and Method;  
20 provided that, any amounts on deposit in the Tax Increment Fund or available from other sources  
21 (including interest earnings) shall be credited against the Special Tax to be collected in each year in  
22 accordance with the Rate and Method. The Council hereby authorizes and directs the County Executive,  
23 on behalf of the County, to determine the amount of the Special Tax to be collected from each Parcel of  
24 Taxable Property in each year in accordance with the procedures set forth in the Rate and Method, which  
25 amount to be collected may be in an amount less than that portion of the Maximum Special Tax allocable  
26 to each such Parcel in accordance with the Rate and Method, but may not exceed the portion of the

1 Maximum Special Tax allocated to each such Parcel pursuant to the Rate and Method. The Rate and  
2 Method was prepared by MuniCap, Inc. for the benefit of the County. The Special Tax also may be  
3 levied with respect to any refunding bonds issued under the Special Taxing District Act (and any other  
4 authorizing law, if applicable) pursuant to the provisions of an ordinance or resolution enacted or adopted  
5 by the County in connection with the issuance of such refunding bonds. Notwithstanding anything to the  
6 contrary contained herein, Special Taxes levied and collected in accordance with this Ordinance shall not  
7 be used for the payment of expenses incurred in the ongoing operation and maintenance of the Garage or  
8 any of the Improvements.

9 (b) Attached hereto as Exhibit B and incorporated by reference herein as though set  
10 forth herein in full is the “Savage Towne Centre Special Taxing District Special Taxing Report” (the  
11 “Report”), prepared by MuniCap, Inc. for the benefit of the County, which Report documents the  
12 methodology utilized in apportioning the Special Tax among property owners within the Special Taxing  
13 District and, based on, and in reliance upon, the Report the Council finds that the methodology is  
14 reasonable and results in fairly allocating the costs of the Improvements as required by the Special Taxing  
15 District Act.

16 **Section 3. Be it further enacted by the County Council of Howard County, Maryland, That:**

17 (a) The issuance and sale by the County of the Bonds, from time to time, in one or more  
18 series, in an aggregate principal amount not to exceed Seventeen Million Dollars (\$17,000,000), and bearing  
19 interest at the maximum rate of interest not to exceed Seven Percent (7%) per annum, all as may be  
20 determined pursuant to this Ordinance, is hereby authorized and approved. The Bonds are authorized hereby  
21 to be executed by the manual or facsimile signatures of the County Executive and the Director of Finance of  
22 the County (the “Director of Finance”) and the seal of the County shall be affixed to the Bonds and attested  
23 by the Chief Administrative Officer of the County (the “Chief Administrative Officer”). Any series of Bonds  
24 shall mature not later than thirty (30) years from the date of issuance. **The Bonds shall not be an**  
25 **indebtedness of the County for which the County is obligated to levy or pledge, or has levied or**  
26 **pledged, ad valorem taxes or special taxes of the County other than the real property taxes**

1 representing the levy on the tax increment of properties located in the Development District or the  
2 special taxes contemplated by this Ordinance. The Bonds shall be a special obligation of the County  
3 and will not constitute a general obligation debt of the County or a pledge of the County's full faith and  
4 credit or taxing power. The only funds the County will be obligated to use to make payment on the  
5 Bonds will be those that result from real property taxes levied by the County on the tax increment of  
6 properties located in the Development District and, if such revenues are or will be insufficient, the  
7 special tax levied on and collected from property located in the Special Taxing District and from  
8 moneys held under the Indenture. The County may also, in its sole discretion, elect to appropriate  
9 from time to time, and without obligation to make any continued appropriation, any grants or funds  
10 received by the County pursuant to the BRAC Incentive and Revitalization Act. Such revenues, if any,  
11 shall be deposited into the Tax Increment Fund and upon such deposit shall be pledged for the  
12 repayment of any Bonds issued.

13 (b) The following shall be conditions precedent to the issuance and delivery of any  
14 Bonds: (i) the inclusion of the Garage and Improvements as a capital project in the County's fiscal year  
15 2010-2011 Annual Budget and Appropriation Ordinance; (ii) the delivery of a tax certificate from MDOT or  
16 other agreement by and between MDOT and the County regarding the public use and purpose of the Garage  
17 and such other matters as the County may require; and (iii) the addition of the County as a party or a third-  
18 party beneficiary to the PPP Agreement (as described in the Designation Resolution). In addition, if the  
19 State Bill is not enacted, the issuance of any Bonds under this Ordinance is further contingent upon the  
20 execution of a lease or other agreement between MDOT and the County pursuant to which the County agrees  
21 to lease the Garage Portion (as defined in the Designation Resolution) to MDOT until the earlier of (A) any  
22 Bonds or refunding bonds issued are no longer outstanding and (B) the property is conveyed to MDOT.

23 **Section 4. Be it further enacted by the County Council of Howard County, Maryland, That**  
24 prior to the sale, issuance and delivery of any series of the Bonds, the County Executive, by executive order,  
25 is hereby authorized, empowered and directed to specify, prescribe, determine, provide for, or approve, for  
26 the purposes and within the limitations of the Acts and this Ordinance, all matters, details, forms, documents,

1 and procedures pertaining to the sale, security, issuance, delivery, and payment of or for such Bonds,  
2 including, without limitation, the following (references in the following clauses (a) – (r) to the Bonds are  
3 deemed to refer to any series of the Bonds):

4 (a) The actual principal amount of the Bonds to be issued;

5 (b) The actual rate or rates of interest for the Bonds;

6 (c) The manner in which and the terms upon which the Bonds are to be sold;

7 (d) The manner in which and the times and places that the interest on the Bonds is to be  
8 paid;

9 (e) The time or times that the Bonds may be executed, issued and delivered;

10 (f) The form and tenor of the Bonds and the denominations in which the Bonds may be  
11 issued;

12 (g) The manner in which and the times and places that the principal of the Bonds is to  
13 paid, within the limitations set forth in the Acts and this Ordinance;

14 (h) Provisions pursuant to which any or all of the Bonds may be called for redemption  
15 prior to their stated maturity dates;

16 (i) Provisions for obtaining insurance for the Bonds or for the issuance of a guaranty,  
17 letter or credit, line of credit, or similar credit support for the Bonds;

18 (j) The form and contents of, and provisions for the execution and delivery of, such  
19 financing or other documents that are not otherwise specifically identified in this Ordinance or the  
20 Designation Resolution, and any amendments, modifications or supplements thereto, as the County Executive  
21 shall deem necessary or desirable to evidence, secure or effectuate the issuance, sale and delivery of the  
22 Bonds, including, without limitation, any trust indenture or trust agreement, any funding or similar  
23 agreement, any bond purchase agreement, agreements with consultants to or agents of the County with  
24 respect to the Districts or the Bonds, fee agreements, funding agreements, investment agreements, security  
25 agreements, assignments, guarantees, financing agreements or escrow agreements;

1           (k)     The creation of security for the Bonds and provision for the administration of the  
2 Bonds including, without limitation, the appointment of such trustees, escrow agents, fiscal agents,  
3 administrators of the Districts, paying agents, registrars, rebate monitors or other agents as the County  
4 Executive shall deem necessary or desirable to effectuate the transactions authorized hereby;

5           (l)     Provisions for the preparation and distribution of both a preliminary and a final  
6 official statement, placement memorandum, offering circular or other disclosure document in connection with  
7 the sale of the Bonds, if such preliminary official statement and final official statement, placement  
8 memorandum, offering circular or other disclosure document is determined to be necessary or desirable for  
9 the sale of the Bonds;

10           (m)    The determination of the manner of sale of the Bonds, which may be either at public  
11 or private negotiated or competitive sale, the identity of the underwriter or placement agent for the Bonds, if  
12 any, or the purchaser or purchasers of the Bonds, and the form and contents of, and provisions for the  
13 execution and delivery of, any contract or contracts for the purchase and sale of the Bonds (or any portion  
14 thereof);

15           (n)    To the extent that other obligated persons with respect to the Bonds have not  
16 assured compliance with, or to the extent that the offering of the Bonds is not exempt from the requirements  
17 of, Rule 15c2-12 of the United States Securities and Exchange Commission, the determination of the form  
18 and contents of any written agreement or contract required by law or to the extent the same is determined to  
19 be necessary or desirable even if not required by law, for the benefit of the holders of the Bonds under which  
20 agreement or contract the County will undertake to provide annual financial information, audited financial  
21 statements, material events notices, and other information to the extent required by such Rule or such  
22 agreement or contract;

23           (o)    The negotiation, preparation, execution and delivery of any development  
24 agreements or use agreements with the owners of any portion of the property located within the Districts  
25 and/or their developers, contractors or agents regarding the use and application of proceeds of the Bonds or  
26 the use or ownership of properties located within the Districts or outside the Districts if benefited by the

1 Improvements and any agreements necessary or desirable to provide the transfer of ownership of the  
2 Improvements of the County or any other governmental agency or public entity if required by the County  
3 Executive or in order to ensure that the interest payable on any such Bonds shall remain exempt from gross  
4 income for federal income tax purposes, if applicable.

5 (p) The specific Improvements to be financed, reimbursed or refinanced from proceeds  
6 of the Bonds or the mechanics for determining the same;

7 (q) Any matters contemplated by the Acts relating to application of the proceeds of the  
8 Bonds, including, without limitation, the establishment and application of sinking funds and reserve funds  
9 and provision for any payment of capitalized interest on the Bonds; and

10 (r) The determination of, or the provision for, such other matters in connection with the  
11 authorization, issuance, execution, sale, delivery, and payment of the Bonds, the security for the Bonds, and  
12 the consummation of the transactions contemplated by this Ordinance as may be deemed appropriate by the  
13 County Executive, including, without limitation, establishing procedures for the execution,  
14 acknowledgement, sealing and delivery of such other and further agreements, documents and instruments,  
15 and the authorization of the officials of the County to take any and all actions, as are or may be necessary or  
16 appropriate to consummate the transactions contemplated by this Ordinance in accordance with the Acts and  
17 this Ordinance.

18 The County Executive's execution and delivery of any such executive order shall constitute  
19 conclusive evidence of the County Executive's approval of the subject matter thereof.

20 **Section 5. Be it further enacted by the County Council of Howard County, Maryland,** That the  
21 County Executive, on behalf of the County, by an executive order contemplated in Section 4 hereof, is hereby  
22 authorized to condition the issuance of any series of the Bonds upon the execution, delivery and recording, as  
23 applicable, by the County, any of then-current owners of property located in the Districts, the developers of  
24 property within the Districts or other appropriate parties of any declaration of covenants, any notice to  
25 subsequent property owners within the Districts, any notification to a governmental unit having jurisdiction  
26 over any Improvements located outside the County, or any other similar documents, instruments or

1 certificates reasonably related to the transactions contemplated by this Ordinance. The County Executive, on  
2 behalf of the County, is hereby authorized and empowered to prepare or cause to be prepared, negotiate or  
3 cause to be negotiated and execute and deliver any such documents, instruments or certificates to which the  
4 County is a party, and the same shall contain such terms, agreements and conditions and be in such form as  
5 the County Executive may approve, and the execution and delivery of the same by the County Executive  
6 shall constitute conclusive evidence of the County Executive's approval thereof.

7 **Section 6. Be it further enacted by the County Council of Howard County, Maryland, That:**

8 (a) The County covenants with the registered owners of any such series of the Bonds  
9 that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the  
10 proceeds of the applicable series of Bonds or of any monies, securities or other obligations to the credit of any  
11 account of the County which may be deemed to be proceeds of such series of the Bonds pursuant to the  
12 Internal Revenue Code of 1986, as amended (the "Code"), or the income tax regulations thereunder (the  
13 "Regulations") (collectively, the "Bond Proceeds") that would cause the Bonds of such series to be "arbitrage  
14 bonds" within the meaning of the Code and the Regulations, and that it will comply with those provisions of  
15 the Code and the Regulations as may be applicable to the Bonds of such series on their date of issuance and  
16 which may subsequently lawfully be made applicable to the Bonds of such series as long as any applicable  
17 Bond remains outstanding and unpaid.

18 (b) The County specifically covenants that it will comply with the provisions of the  
19 Code and the Regulations applicable to any such series of the Bonds, including, without limitation,  
20 compliance with provisions regarding the timing of the expenditure of the proceeds of the Bonds, the use of  
21 such proceeds and the facilities refinanced with such proceeds, the restriction of investment yields, the filing  
22 of information with the Internal Revenue Service, and the rebate of certain earnings resulting from the  
23 investment of the proceeds of the Bonds or payments in lieu thereof. The County further covenants that it  
24 shall make such use of the proceeds of the Bonds of such series, regulate the investment of the proceeds  
25 thereof and take such other and further actions as may be required to maintain the exclusion from gross  
26 income for federal income tax purposes of interest on the Bonds of such series. All officials, officers,

1 employees and agents of the County are hereby authorized and directed to provide such certifications of facts  
2 and estimates regarding the amount and use of the proceeds of the Bonds of such series as may be necessary  
3 or appropriate.

4 (e) The provisions of this Section 6 shall apply only to any series of Bonds that is  
5 issued with the expectation that interest on the Bonds of such series shall be excludable from gross income  
6 for purposes of federal income taxation.

7 **Section 7. Be it further enacted by the County Council of Howard County, Maryland,** that the  
8 County reasonably expects to pay costs permitted by both of the Acts with respect to the public  
9 improvements described in the Recitals to this Ordinance prior to the issuance of the Bonds and to use  
10 proceeds of the Bonds to reimburse all or a portion of such prior expenditures. The maximum principal  
11 amount of the Bonds expected to be issued by the County for the purpose of financing or reimbursing the  
12 costs of such public improvements and related costs permitted by the Acts is Seventeen Million Dollars  
13 (\$17,000,000.00). The County intends that this Ordinance shall constitute a declaration of official intent  
14 within the meaning of, and for the purposes set forth in, the Reimbursement Regulations.

15 **Section 8. Be it further enacted by the County Council of Howard County, Maryland,** That  
16 the County Executive, the Chief Administrative Officer and the Director of Finance, acting individually  
17 or in concert as appropriate (in any such case the “Authorized Representative”), and provided that such  
18 actions are within the bounds of their authority, are authorized and directed to take any and all actions and  
19 to execute, attest, affix the County’s seal to and deliver, and to file and record in any appropriate public  
20 offices (if applicable) all documents, instruments, certifications, forms (including but not limited to,  
21 appropriate IRS forms in respect to the Bonds), financing statements, letters of instructions, written  
22 requests, contracts, agreements and other papers customarily delivered in connection with the issuance of  
23 obligations in the nature of the Bonds, whether or not herein mentioned and not otherwise provided for  
24 herein or in the Designation Resolution, as may be necessary or convenient to evidence the approvals of  
25 the County provided in this Ordinance, to invest the proceeds of the Bonds or moneys on deposit in the  
26 Tax Increment Fund or the Special Taxes Fund (in all such cases, in accordance with the provisions of



1 applicable Maryland and federal law), to facilitate the issuance of any series of the Bonds and to  
2 consummate the transactions contemplated in this Ordinance or in any of the documents herein authorized  
3 and approved.

4 **Section 9. Be it further enacted by the County Council of Howard County, Maryland,** That the  
5 provisions of this Ordinance shall be liberally construed in order to effectuate and carry out the purposes of  
6 and the activities authorized by the Acts and the matters contemplated by this Ordinance.

7 **Section 10. Be it further enacted by the County Council of Howard County, Maryland,** That  
8 the provisions of this Ordinance are severable, and if any provision, sentence, clause, section or part hereof is  
9 held or determined to be illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such  
10 illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining  
11 provisions, sentences, clauses, sections or parts of this Ordinance or their application to other persons or  
12 circumstances. It is hereby declared to be the intent of the County that this Ordinance would have been  
13 adopted if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or part  
14 had not been included herein, and if the person or circumstances to which this Ordinance or any part hereof  
15 are inapplicable had been specifically exempted herefrom.

16 **Section 11. Be it further enacted by the County Council of Howard County, Maryland,** That  
17 this Ordinance shall take effect on the date of its enactment. In the event that no Bonds are issued pursuant to  
18 the Acts within two years of the effective date of this Ordinance, this Ordinance shall expire and shall be of  
19 no further force and effect. The Council may extend the effectiveness of this Ordinance prior to its expiration  
20 by enacting another ordinance.

Exhibit A

Rate and Method of Apportionment of Special Taxes of the  
Howard County Savage Towne Centre Special Taxing District

***Howard County, Maryland***

***Savage Towne Centre Special Taxing District***

***RATE AND METHOD OF APPORTIONMENT  
OF SPECIAL TAXES***

A Special Tax is hereby levied and shall be collected in the Savage Towne Centre Special Taxing District (the “District”) each Fiscal Year, beginning with the Commencement Date and continuing until the Termination Date, in an amount equal to the Maximum Special Tax as determined by the procedures described below. All of the real and personal property in the District, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms used herein shall have the following meanings:

“**Act**” means Md. Art. 24 Code Annot., Section 9-1301, *et seq.*, as amended from time to time.

“**Adjusted Maximum Special Tax**” means the Special Tax determined in accordance with Section B.2.

“**Administrative Expenses**” means any or all of the following: the fees and expenses of any fiscal agent or trustee employed by the County in connection with any Bonds; the expenses of the County in carrying out its respective duties under the Indenture of Trust, including, but not limited to, levying and collecting the Special Tax and complying with arbitrage rebate requirements and obligated persons disclosure requirements associated with applicable federal and state securities law, including the costs of any employees of the County and fees of any professionals retained by the County to provide services for such purposes; and all other costs and expenses of the County, Trustee, or Administrator incurred in connection with the discharge of their respective duties under the Indenture of Trust, as applicable, including legal expenses associated with such duties, and, in the case of the County, in any way related to the administration of the District.

“**Administrator**” means the designee of the Director of Finance for purposes of estimating the annual Special Tax Requirement and the Special Tax to be levied each Fiscal Year and for providing other services as required herein or by the Indenture of Trust.

“**Bond Year**” shall have the meaning given to such term in the Indenture of Trust.

**“Bonds”** means any bonds or other debt, including refunding bonds, whether in one or more series, issued for the District by the County pursuant to the Act.

**“Building Square Footage” or “BSF”** means the actual, or for property not yet developed, the estimated, building area either rented or directly used in the production of income (not including area within a parking garage) as shown on the building permit, architectural plans or other available documents, as estimated by the Administrator.

**“Commencement Date”** means the first Fiscal Year in which Special Taxes are levied and may be collected, which shall be the first Fiscal Year after the issuance of the Bonds.

**“County”** means Howard County, Maryland, and any authorized designee of the County for the purposes of implementing this Rate and Method of Apportionment of Special Taxes.

**“Director of Finance”** means the official of the County who is the director of finance or other comparable officer of the County or designee thereof.

**“Equivalent Unit Factors”** means the following factors for each class of property:

Residential Property	1.00 per dwelling unit
Office Property	0.91 per 1,000 BSF
Retail Property	0.76 per 1,000 BSF
Hotel Property	0.56 per rentable room

**“Equivalent Units”** means the Equivalent Unit Factor for Residential Property, Office Property, Retail Property, and Hotel Property multiplied by the number of dwelling units of Residential Property, per 1,000 square feet of Building Square Footage for Office Property or Retail Property, and per hotel room for Hotel Property, respectively. The computation of the Equivalent Units for each Parcel shall be based on the information available regarding the use of the Parcel, which may include acreage and reasonable density ratios, and such computation by the County shall be conclusive as long as there is a reasonable basis for such determination.

**“Fiscal Year”** means the period starting any July 1 and ending on the following June 30.

**“Hotel Property”** means property used or intended for use as hotel facilities, including any ancillary space thereto.

**“Indenture of Trust”** means the indenture of trust relating to the Bonds, as modified, amended and/or supplemented from time to time.

**“Maximum Special Tax”** means the Special Tax determined in accordance with Section B.1.

**“Office Property”** means property used or intended for use as office facilities and any Taxable Property not classified as Residential Property, Hotel Property, and Retail Property, including any ancillary space thereto.

**“Owner Association Property”** means, for any Fiscal Year, any real property within the boundaries of the District that is owned by or irrevocably offered for dedication to a property owner's association and available for use in common by the property owners.

**“Parcel”** means a lot or parcel of real property within the District with a parcel number assigned by the Supervisor or property otherwise designated as a parcel by the County.

**“Proportionately”** means that the ratio of the Special Tax to be collected as a percent of the Adjusted Maximum Special Tax is equal for each Parcel (excluding those Parcels for which the Adjusted Maximum Special Tax is zero).

**“Public Improvements”** means those public improvements the County has authorized to be constructed for the benefit of the District and funded by the Bonds.

**“Public Property”** means property within the boundaries of the District owned by, or irrevocably offered for dedication (in a plat map approved by the County or otherwise), whether in fee simple interest or some other interest that creates an exclusive right of use, to the federal government, State of Maryland, County, any other public agency, or a public utility provider.

**“Residential Property”** means property used or intended for use as residential dwellings, including any ancillary space thereto.

**“Retail Property”** means property used or intended for use primarily for selling goods or services to the general public, including any ancillary space thereto.

**“Special Tax”** means the special tax levied by the County and to be collected pursuant to the terms herein.

**“Special Tax Credit”** means, for any Fiscal Year, Tax Increment Revenues to be collected from a Parcel for that Fiscal Year. For purposes of calculating the Tax Increment Revenues for each Parcel, the base year value shall be allocated to each Parcel on the basis of the assessed value of each Parcel.

**“Special Tax Requirement”** has the meaning given to it in Section C.1.

**“Supervisor”** means the Supervisor of Assessments for the County.

**“Tax Increment Fund”** means the account of such name established for the District pursuant to an ordinance enacted by the County.

**“Tax Increment Revenues”** means the amounts paid into the Tax Increment Fund each year by the County.

**“Taxable Property”** means any Parcel that is not Public Property or Owner Association Property.

**“Termination Date”** means the last Fiscal Year in which Special Taxes have been levied and may be collected as provided for in Section F.

**“Trustee”** means the trustee appointed by the County for the District to carry out the duties of the trustee specified in the Indenture of Trust.

## **B. MAXIMUM SPECIAL TAXES**

### **1. Maximum Special Tax**

The Maximum Special Tax for all Taxable Property in the District for the first Fiscal Year in which Special Taxes are levied (the Commencement Date) shall be equal to \$1,220,000. On each July 1 thereafter, the Maximum Special Tax shall be increased to 102 percent of the respective Maximum Special Tax in effect in the previous Fiscal Year.

The Maximum Special Tax for each Parcel shall be equal to the following formula:

$$A = (B \div C) \times D$$

Where the terms have the following meaning:

A	=	The Maximum Special Tax for a Parcel
B	=	The Equivalent Units built or expected to be built on a Parcel
C	=	The total Equivalent Units estimated for all of the Parcels in the District
D	=	The Maximum Special Tax for the District as stated above.

### **2. Adjusted Maximum Special Tax**

The Adjusted Maximum Special Tax for each Parcel shall be equal to the lesser of (but not less than zero) (i) the Maximum Special Tax for the Parcel and (ii) the amount calculated by the following formula:

$$A = B - C$$

Where the terms have the following meaning:

A	=	The Adjusted Maximum Special Tax for a Parcel
B	=	The Maximum Special Tax for the Parcel
C	=	The Special Tax Credit for the Parcel

The Special Tax Credit applied to all Parcels shall not exceed the Tax Increment Revenues applied to the Special Tax Requirement as provided for in Section C. 1.

### 3. Personal Property

The special tax on personal property shall be zero.

## **C. COLLECTION OF THE SPECIAL TAX**

Special Taxes shall be collected each Fiscal Year from each Parcel of Taxable Property in amount calculated pursuant to the provisions of this section.

### 1. Special Tax Requirement

The Special Tax Requirement for any Fiscal Year shall be estimated by the Administrator and determined by the County and shall be an amount equal to (A) the amount required in any Fiscal Year to pay: (1) debt service and other periodic costs (including deposits to any sinking funds) on the Bonds to be paid from the Special Taxes collected in such Fiscal Year, (2) Administrative Expenses to be incurred in the Fiscal Year or incurred in any previous Fiscal Year and not paid by the District, (3) any amount required to replenish any reserve fund established in association with any Bonds, (4) an amount equal to the estimated delinquencies expected in payment of the Special Tax or other contingencies as deemed appropriate, and (5) the costs of remarketing, credit enhancement, bond insurance, and liquidity facility fees (including such fees for instruments that serve as the basis of a reserve fund related to any indebtedness in lieu of cash), less (B) (1) Tax Increment Revenues available to apply to the Special Tax Requirement for that Fiscal Year, (2) any credits available pursuant to the Indenture of Trust, such as capitalized interest, reserves, and investment earnings on any account balances, and (3) any other revenues available to apply to the Special Tax Requirement.

### 2. Calculation of Special Taxes for Each Parcel

Commencing with the Commencement Date and for each following Fiscal Year, the County shall determine the amount of Hotel Property, Office Property, Residential Property, and Retail Property for each Parcel of Taxable Property. The use of the Property shall be based on information available regarding the use of the property, as approved by the County, or if a specific use for the property has not been approved by the County, as proposed to be used by the owner of the Parcel. The determination of the use of the property pursuant to this section by the County shall be conclusive.

The Equivalent Units for each Parcel of Taxable Property shall be calculated as provided for in the definition of Equivalent Units.

The Maximum Special Tax and Adjusted Maximum Special Tax calculated for each Parcel of Taxable Property as provided for in Section B.

### 3. Collection of the Special Tax

Commencing with the Commencement Date and for each following Fiscal Year, the County shall determine the Special Tax Requirement, if any, for the applicable Fiscal Year and shall

collect the Special Tax Proportionately on each Parcel of Taxable Property in an amount up to the Adjusted Maximum Special Tax for each Parcel such that the total of the Special Tax to be collected is equal to the Special Tax Requirement.

The Administrator shall provide an estimate to the County each Fiscal Year of the amount of the Special Tax to be collected from each Parcel in conformance with the provisions of this section.

4. **Circumstances Under Which the Special Tax May be Increased as a Result of a Default**

The Maximum Special Tax levied on any Parcel may not be increased regardless of the default in the collection of the Special Tax from any other Parcel. The Special Tax to be collected from a Parcel may be increased as a result of a default in the payment of the Special Tax on another Parcel pursuant to the provisions of Section C. 1. and 2. If the Special Tax to be collected from a Parcel pursuant to the provisions of Section C.1. and 2. is less than the Adjusted Maximum Special Tax for such Parcel, the Special Tax may be increased up to the Adjusted Maximum Special Tax as a result of a default in the payment of the Special Tax to be collected from another Parcel. The Special Tax to be collected from a Parcel may not exceed the Adjusted Maximum Special Tax regardless of a default in the payment of Special Taxes by any other Parcel.

**D. EXEMPTIONS**

A Special Tax is not levied on and shall not be collected from Public Property or Owner Association Property.

**E. MANNER OF COLLECTION**

The Special Tax will be collected in the same manner and at the same time as ordinary real property taxes; provided, however, the Special Tax may be collected at a different time or in a different manner as determined by the Director of Finance, provided that such time or manner is not inconsistent with the provisions of the Indenture of Trust.

**F. TERMINATION OF SPECIAL TAX**

Except for any delinquent Special Taxes and related penalties and interest, Special Taxes shall not be collected from any Parcel after the earlier of (i) the repayment or defeasance of the Bonds, (ii) the thirtieth Fiscal Year in which Special Taxes are levied, with the first Fiscal Year being the Commencement Date, and (iii) such time provided for by the Indenture of Trust.

**G. REDUCTION IN THE MAXIMUM PROPERTY TAX RATE**

The Maximum Special Tax shall be reduced by the Director of Finance once the Bonds are issued to reflect the actual rate of interest on the Bonds and the amount of Bonds actually issued, to a rate that provides for adequate Special Tax revenue to pay the debt service on the Bonds and any other expected amounts of the Special Tax Requirement as provided for in the Indenture of Trust.

## **H. APPEALS OF THE LEVY OF THE SPECIAL TAX**

Any property owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal and refund to that effect with the Director of Finance not later than one calendar year after the due date (i.e., July 1) for the Special Tax that is disputed. Such appeal may not affect the due date of the payment of the Special Tax. The Director of Finance, or the designee of the Director of Finance, shall promptly review all information supplied by the appellant in support of the appeal and, if necessary, meet with the property owner, and decide the appeal. If the decision of the Director of Finance requires the Special Tax to be modified or changed in favor of the property owner, a cash refund shall not be made (except for the last year of levy or unless sufficient funds will otherwise be available to meet the Special Tax Requirement), but an adjustment shall be made to the next Special Tax levy on that Parcel. The decision of the Director of Finance may be appealed to the County's Chief Administrative Officer who shall hold a hearing on the appeal and consider any written or oral evidence presented by appellant. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

## **I. AMENDMENTS**

This Rate and Method of Apportionment of Special Taxes may be amended by the County and, to the maximum extent permitted by the Act, such amendments may be made without further notice under the Act and without notice to owners of Taxable Property within the District in order to (i) clarify or correct minor inconsistencies in the matters set forth herein, (ii) provide for lawful procedures for the collection and enforcement of the Special Tax so as to assure the efficient collection of the Special Tax for the benefit of the owners of the Bonds, and (iii) otherwise improve the ability of the County to fulfill its obligations to levy and collect the Special Tax and to make it available for the payment of the Bonds and Administrative Expenses. Any such amendment may not increase the Maximum Special Tax.

## **J. INTERPRETATION OF PROVISIONS**

The County shall make all interpretations and determinations related to the application of this Rate and Method of Apportionment of Special Taxes, unless stated otherwise herein or in the Indenture of Trust, and as long as there is a rational basis for the determination made by the County, such determination shall be conclusive.



ORDINANCE EXHIBIT B

**SAVAGE TOWNE CENTRE  
*SPECIAL TAXING DISTRICT*  
HOWARD COUNTY, MARYLAND**

**SPECIAL TAX REPORT**

Prepared By:

**MuniCap, Inc.**

March 14, 2009

**SAVAGE TOWNE CENTRE  
SPECIAL TAXING DISTRICT  
HOWARD COUNTY, MARYLAND**

**SPECIAL TAX REPORT**

**Purpose of Report**

The Savage Towne Centre Special Taxing District (the "District") is being created to finance all or a portion of the costs of certain public improvements for the benefit of the property in the District. The County expects to issue bonds on behalf of the special taxing district to fund the costs of the public improvements, bond issuance costs, bond interest during construction and for a period after construction, and a debt service reserve fund.

Howard County, Maryland (the "County") will levy a special tax each year to provide funds for the payment of debt service on the bonds and the cost of administration of the District. The District is being created, special taxes levied, and bonds issued pursuant to the Special Taxing District Act, Article 24, Section 9-1301, of the Annotated Code of Maryland (the "Act"), as amended from time to time. The Act requires special taxes to be levied in a manner that is reasonable. This report documents the special benefit and explains the reasonable basis of the special taxes levied as described in the "Rate and Method of Apportionment of Special Taxes" for the Savage Towne Centre Special Taxing District.

**Description of the Special Taxing District**

The State of Maryland, through the Maryland Department of Transportation, owns 12.73 acres of land at the site of the MARC Savage commuter rail station located in Howard County, Maryland. The State has agreed to sell 10.53 acres of the 12.73 acre site to Petrie Ross Ventures D.C., LLC, a limited liability company ("the Developer"), in exchange for commitments by the Developer to construct a parking garage on the property retained by the State and other commitments to develop the remaining acreage.

The 12.73 acres currently owned by the State is the property to be included in the Savage Towne Centre Special Taxing District. The District is generally bound by Henkels Lane to the north, Dorsey Run Road to the west, and Brock Bridge Road and the CSX rail line to the south. A map of the special taxing district is attached to this report as Exhibit A.

The Developer has proposed to develop property in the District as a mixed-used development consisting of market-rate and affordable rental housing, office and retail space and hotel accommodations. Table A provides a summary of the proposed development within the District.

**Table A**  
**Proposed Land Uses**

<b>Development Type</b>	<b>Units/SF/Rooms</b>
<i><u>Residential</u></i>	<i>(Units)</i>
Apartments (market rate)	354
Apartments (affordable units)	62
Sub-total residential	416
<i><u>Commercial</u></i>	<i>(SF)</i>
Retail	20,964
Restaurant	9,200
Office	78,000
	<i>(Rooms)</i>
Hotel	152

### **Proposed Public Improvements**

The purpose of the special taxing district, the special taxes to be levied in the special taxing district, and the special obligation bonds to be issued with respect to the special taxing district is to finance all or a part of the costs of a public parking garage.

The cost of constructing the public parking garage is approximately \$17.0 million. Of this total construction cost, approximately \$12.7 million is to be funded by bonds issued by the County for the benefit of the District. In addition, the Maryland Department of Transportation ("MDOT") and the Developer will credit approximately \$3.3 million toward the cost of constructing the public garage, which amount represents the approximate purchase price to be paid by the Developer to MDOT for the 10.52 acres of land. The Developer will be responsible for any remaining costs of the garage. The bonds will also fund approximately \$2.3 million of interest carrying costs during and after construction of the public parking garage.

The cost of constructing the public parking includes all supporting infrastructure necessary to facilitate access and operational capability, as well as costs of a new parking structure located on the portion of the site currently owned by MDOT. The parking garage will replace existing surface parking for the transit facility, freeing up the balance of the area currently used as a surface parking lot for the mixed use development. The new parking garage is planned to include 704 parking spaces.

### **Projected Issuance of Bonds**

Bonds are projected to be issued for the special taxing district to finance the costs of the public parking garage. Bond proceeds will include the costs of construction, a debt service reserve fund, issuance costs and capitalized interest. Interest income on the bond proceeds will

act as a supplement to the bond proceeds before they are fully expended. Table B below shows the estimated sources and uses of funds for the issuance of bonds.

**Table B**  
**Sources and Uses of Funds**

Source and Uses	Bonds
<b>Sources:</b>	
Bond proceeds	\$17,000,000
Interest earned in the improvement fund	\$123,154
Sub-total sources of funds	\$17,123,154
<b>Uses:</b>	
Public improvements	\$12,719,669
Issuance costs	\$200,000
Underwriter's discount	\$212,500
Capitalized interest	\$2,286,590
Rounding	\$4,395
Sub-total uses of funds	\$15,423,154
Debt service reserve fund	\$1,700,000
Total uses of funds	\$17,123,154

The actual issuance of the bonds may vary from these estimates depending on the interest rate on the bonds, the date the bonds are issued, the cost of issuing the bonds, reinvestment rates on bond proceeds, and other factors.

Bond issuance costs include legal fees, financial consulting fees, the cost of studies, the set-up and first year's fee of the trustee, trustee's council, County expenses, document printing costs and other miscellaneous costs related to the issuance of bonds. Capitalized interest on the bonds pays the interest on the bonds for approximately twenty-four months to allow time for the construction of the public parking garage and to also allow for the first phase of the development to be constructed and placed on the tax rolls so that property taxes are produced from the development to help pay the debt service on the bonds.

The purpose of the debt service reserve fund is to ensure there are sufficient funds to pay debt service should it be necessary to take action to collect delinquent special taxes. The proceeds in the reserve fund are invested and the income is applied to the annual debt service on the bonds. The reserve fund itself will eventually be applied to the repayment of the bonds. Accordingly, while the reserve fund is funded from bond proceeds, it is not a cost of issuing the bonds.

## **Projected Debt Service and Administrative Expenses**

A schedule showing projected debt service and administrative expenses is attached to this report as Exhibit B. The bonds are shown as being repaid over thirty years. The principal payments are structured such that debt service increases by two percent each year during the amortization period of the bonds. Interest is assumed to be 7.0% per year on the outstanding bonds. Administrative expenses of the District are estimated at \$30,000 per year, adjusted annually for inflation at two percent per year. This results in annual obligations of \$1,220,000 per year in 2011. This amount increases by approximately two percent each year.

## **Determination of Special Taxes**

Special taxes must be levied in a reasonable manner. The reasonable basis for the special taxes levied in the Savage Towne Centre Special Taxing District is based on the following:

- (i) the public improvements to be funded with the proceeds of the bonds for the benefit of the District provide a special benefit to the property in the District and the special benefit to the property subject to the special taxes exceeds the cost of the special taxes;
- (ii) the amount of special taxes to be levied each year is equal to the amount required to repay the bonds issued to finance the public improvements plus required debt service coverage and administration expenses of the District; and
- (iii) special taxes are allocated to parcels within the special taxing district in a manner that reasonably represents the benefit each parcel will receive from the improvements to be provided by the District.

## **Special Benefit**

The property in the District will receive a special benefit from the construction of the public parking garage. The public parking garage is replacing surface parking that currently exists. The new development, the property that will be subject to the special taxes, will be on the land that is now surface parking and that will be owned by the Developer as a result of the construction of the public parking garage. Without the construction of the public parking garage, the new development could not take place. The new development is made possible by the construction of the public parking garage. The new parking garage is being built specifically for the benefit of the property that will be subject to the special taxes in that the parking is being constructed to make the land available so that the proposed development can occur on this property. As a result, the property in the District subject to the special taxes receives a special benefit from the improvements to be made for the special taxing district.

The special benefit of the public parking garage and the related infrastructure improvements will be equal to or greater than the cost of the special taxes levied on the property. The value of special benefit is confirmed by two means. First, the owner of the property in the District and the contract purchaser (the Developer) have requested the County to impose special

taxes on the property for the purpose of providing the public parking garage. It is reasonable to believe the owner and the contract purchaser are acting in their interest and making this request because the benefit they receive from the public parking garage exceeds the cost of the special taxes.

Second, the special taxes are being levied to provide improvements that are necessary for the highest and best use of the property (i.e., the use of the property that is most valuable, including any costs associated with that use). Highest and best use can be defined as "the reasonably probable and legal use of property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value." (*Dictionary of Real Estate Appraisal, Third Edition.*) The six criteria for highest and best use are (i) reasonably probable, (ii) legally permissible, (iii) physically possible, (iv) appropriately supported (v) financially feasible, and (vi) maximally productive.

The owner and the contract purchaser in the District have analyzed various options for the use of the property, taking into consideration the legally permitted uses, the physical constraints of the site, financial parameters and market demand. The owner and the contract purchaser are understandably interested in maximizing their return on the property. Based on this analysis, the highest and best uses of the property, including any costs required for those uses, are the proposed uses for the property. The proposed uses of the property will require the public parking garage to make the remainder of the State's property available for development. Without these improvements, the property could not be put to its highest and best use.

The highest and best use of the property requires costs to be incurred to construct the public parking garage. The value added to the property by these improvements exceeds the costs of the parking garage or this use would not be the highest and best use of the property (i.e., a use that did not require costs to be incurred for the public parking garage would be the highest and best use of the property).

The financing provided by the District is long-term financing and pays interest to the bond holders that is exempt from income taxes, resulting in a lower rate than other available financing on comparable terms. The terms of the bonds also facilitate financing for improvements that benefit multiple uses of the property. Additionally, the special taxing district is necessary to make tax increment bond financing available for the project. As a result of these and other advantageous terms, the financing provided by the District is the most beneficial means of financing the public parking garage.

In summary, the special taxes result in a special benefit to the property for the following reasons:

1. The public parking garage to be funded with the proceeds of the bonds for the benefit of the District is required to free up the land for the development of the property to its highest and best use;
2. The highest and best use of the property is the use of the property that is most valuable (including any costs associated with the use of the property);

3. The financing provided by the District is the most beneficial means of financing the improvements;
4. As a result, the special benefits to the property from the improvements to be provided by the District will be equal to or greater than the cost of the special taxes that will finance the improvements necessary to achieve the highest and best use of the property.

#### Annual Special Tax Levy

As shown on Exhibit B, the annual obligations of the District for the first tax year would be \$1,220,000. Special taxes for the District are set in this same amount. Since debt service and administrative expenses are projected to increase by two percent per year, the special taxes also increase by two percent per year. The special taxes will be reduced pursuant to the rate and method of apportionment of special taxes for any reductions in debt service, including reductions due to a lower interest rate or savings in administrative expenses.

The maximum special tax on all of the property in the District is set in a manner consistent with the estimate of the annual debt service on the bonds to be issued to finance the public improvements plus administrative expenses and is therefore set in a reasonable manner.

The actual debt service on the bonds may be less than estimated herein. The "Rate and Method of Apportionment of Special Taxes" provides for the maximum special tax to be reduced based on the actual debt service on the bonds, administrative expenses, and necessary coverage, so that the special taxes actually collected do not exceed the amount necessary to repay the bonds and to pay related administrative expenses.

#### Allocation of Special Taxes

Special taxes are allocated to property in the District in a manner to reasonably reflect the benefit each property type will receive from the improvements to be provided by the District. This section explains the allocation of benefit from the public improvements to the property in the District.

For purposes of allocating special taxes, property is classified into one of four classes; defined as residential, retail, office and hotel. There are four special tax classes identified within the District, as shown by Table C. The special taxes within each class are the same per expected residential unit, per 1,000 building square feet of office space, or per 1,000 building square feet of retail space, or per guest room. That is, each residential unit is taxed the same, each 1,000 square feet of office is taxed the same, each 1,000 square feet of retail is taxed the same, and each guest room is taxed the same.

The method used to allocate special taxes to these four classes is based on the estimated value of the property in the District as developed and fully able to utilize the improvements. Future estimated value reasonably reflects the increase in value to property that will result from the improvements. Property with higher value is reasonably assumed to be able to benefit more from the improvements, reflected by the higher value, and property with lower values able to

benefit less from the improvements, reflected by the lower value.

The relative estimated future value of property in each class is used to calculate an equivalent unit factor. Equivalent unit factors are shown by Table C. These factors are simply the ratio of future estimated value of property in each class, with a unit of residential property being equal to one equivalent unit.

**Table C**  
**Equivalent Unit Factors**

<b>Special Tax Class</b>	<b>Estimated Value</b>	<b>Equivalent Units</b>
Residential	\$157,889	1.00
Office	\$143,000	0.91
Retail	\$120,427	0.76
Hotel	\$88,712	0.56

Values were estimated on the basis of research conducted by MuniCap and shown in projections prepared for the County. Values were estimated using multiple approaches to value, including income capitalization and replacement cost and were compared to values of other comparable properties, as estimated by the Maryland State Department of Assessments and Taxation. The property tax assessor for the County was also interviewed and reviewed and commented on the estimates of value.

Special taxes for the entire District are \$1,220,000 for the first tax year, as explained above. These special taxes are allocated to each property on the basis of the equivalent units for the uses of that property compared to the total equivalent units of all property within the District.

For any year, the actual special taxes collected may not exceed the adjusted maximum special tax. The adjusted maximum special tax is the maximum special tax less the special tax credit, which is equal to the tax increment revenues collected from a parcel for that fiscal year. Special taxes will be collected in these amounts, unless collection of such amount would exceed the amount necessary to fund the special tax requirement. In this event, the special tax will be collected proportionately from each parcel to the extent necessary to fund the special tax requirement.

#### **Summary of Reasonable Basis of the Special Taxes**

Special taxes are levied on the taxable property in the District according to the provisions of the "Rate and Method of Apportionment of Special Taxes." The Act requires special taxes to be levied in a manner that is reasonable. This report explains the reasonable basis of the special taxes. The reasonable basis may be summarized as follows:

1. The public improvements to be funded with the proceeds of the bond for the benefit of the District provide a special benefit to the property in the District that will be subject to the special taxes, and this special benefit exceeds the cost of the special taxes;

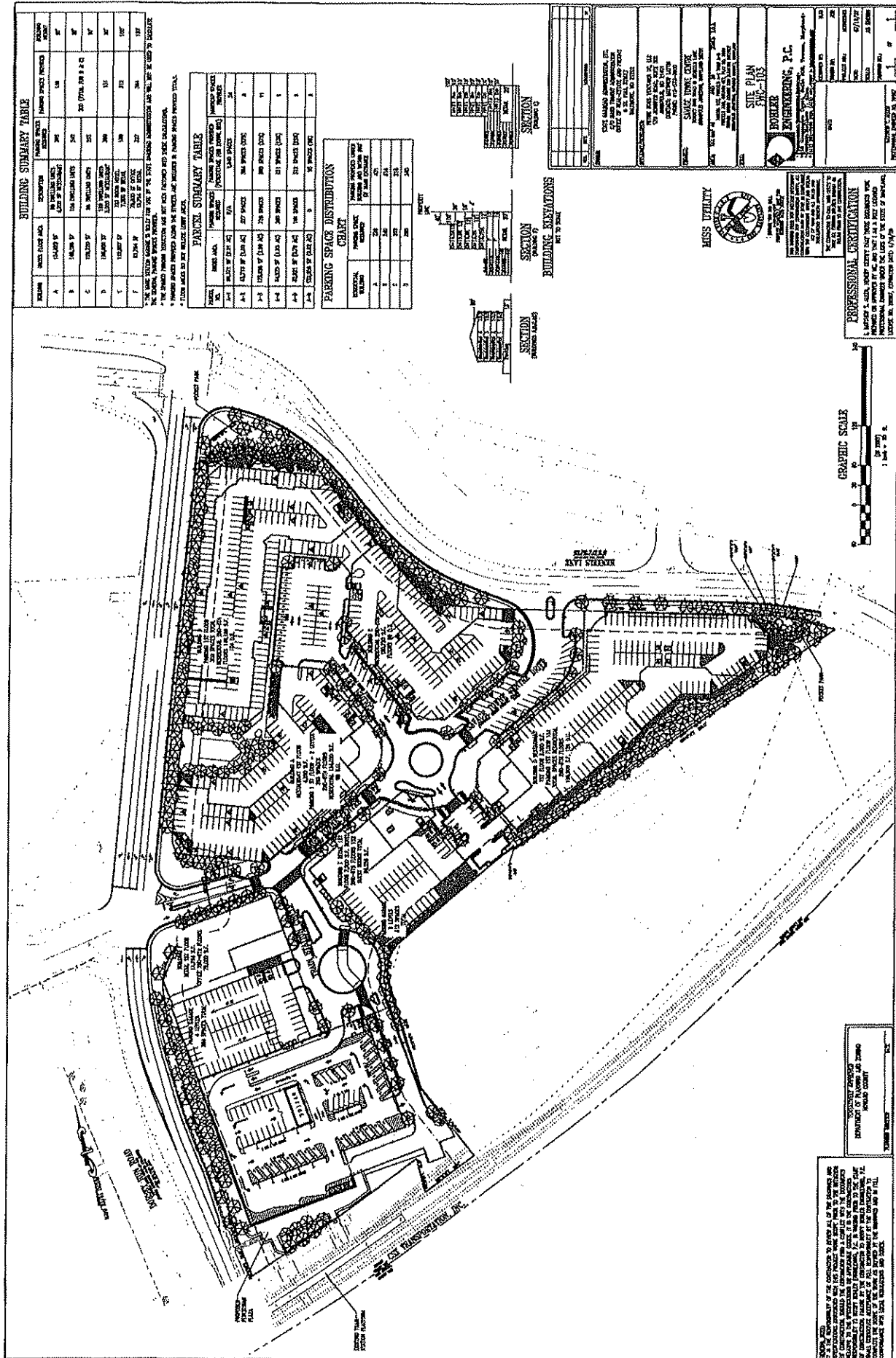


2. The amount of special taxes to be levied and collected each year is equal to the amount required to repay the bonds, which are issued to finance the public improvements; and

3. The allocation of the special taxes reasonably reflects the relative benefit received by the property from the improvements provided by the District.

For these reasons, the special taxes are levied on the taxable property in the District in a reasonable manner.

## Exhibit A: Site Map



**Exhibit B**

**Savage Towne Centre Special Taxing District  
Howard County, Maryland**

**Projected Annual Obligations  
(Projected Debt Service and Administrative Expenses)**

<b>Tax Year Beginning</b>	<b>Principal</b>	<b>Interest</b>	<b>Administrative Expenses</b>	<b>Annual Obligation</b>
1-Jul-10	\$0	\$1,190,000	\$30,000	\$1,220,000
1-Jul-11	\$21,000	\$1,190,000	\$30,600	\$1,241,600
1-Jul-12	\$41,000	\$1,188,530	\$31,212	\$1,260,742
1-Jul-13	\$62,000	\$1,185,660	\$31,836	\$1,279,496
1-Jul-14	\$86,000	\$1,181,320	\$32,473	\$1,299,793
1-Jul-15	\$111,000	\$1,175,300	\$33,122	\$1,319,422
1-Jul-16	\$138,000	\$1,167,530	\$33,785	\$1,339,315
1-Jul-17	\$167,000	\$1,157,870	\$34,461	\$1,359,331
1-Jul-18	\$198,000	\$1,146,180	\$35,150	\$1,379,330
1-Jul-19	\$232,000	\$1,132,320	\$35,853	\$1,400,173
1-Jul-20	\$269,000	\$1,116,080	\$36,570	\$1,421,650
1-Jul-21	\$309,000	\$1,097,250	\$37,301	\$1,443,551
1-Jul-22	\$351,000	\$1,075,620	\$38,047	\$1,464,667
1-Jul-23	\$397,000	\$1,051,050	\$38,808	\$1,486,858
1-Jul-24	\$447,000	\$1,023,260	\$39,584	\$1,509,844
1-Jul-25	\$500,000	\$991,970	\$40,376	\$1,532,346
1-Jul-26	\$558,000	\$956,970	\$41,184	\$1,556,154
1-Jul-27	\$619,000	\$917,910	\$42,007	\$1,578,917
1-Jul-28	\$686,000	\$874,580	\$42,847	\$1,603,427
1-Jul-29	\$757,000	\$826,560	\$43,704	\$1,627,264
1-Jul-30	\$834,000	\$773,570	\$44,578	\$1,652,148
1-Jul-31	\$917,000	\$715,190	\$45,470	\$1,677,660
1-Jul-32	\$1,005,000	\$651,000	\$46,379	\$1,702,379
1-Jul-33	\$1,100,000	\$580,650	\$47,307	\$1,727,957
1-Jul-34	\$1,203,000	\$503,650	\$48,253	\$1,754,903
1-Jul-35	\$1,312,000	\$419,440	\$49,218	\$1,780,658
1-Jul-36	\$1,430,000	\$327,600	\$50,203	\$1,807,803
1-Jul-37	\$1,557,000	\$227,500	\$51,207	\$1,835,707
1-Jul-38	\$1,693,000	\$118,510	\$52,231	\$1,863,741
1-Jul-39	\$0	\$0	\$0	\$0