

**CITY OF BALTIMORE
COUNCIL BILL 06-0523
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)
Introduced and read first time: October 16, 2006
Assigned to: Taxation and Finance Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Planning Commission, Baltimore Development Corporation, Department of Housing and Community Development, Baltimore City Parking Authority Board, Department of Finance, Department of Public Works, Department of Transportation, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Mondawmin Mall Development District**

3 FOR the purpose of designating a “development district” to be known as the “Mondawmin Mall
4 Development District”; providing for and determining various matters in connection with the
5 establishment of the development district; creating a special, tax increment fund for the
6 development district; allocating certain property taxes to that fund; making certain findings
7 and determinations; and generally relating to the designation and operation of the
8 development district, the establishment and use of the tax increment fund and the issuance
9 and payment of special obligation bonds issued in connection with the development district.

10 BY authority of
11 Article II - General Powers
12 Section (62)
13 Baltimore City Charter
14 (1996 Edition)

15 **Recitals**

16 The Tax Increment Financing Act, Article II, Section (62) of the Baltimore City Charter (the
17 “Act”) authorizes the Mayor and City Council of Baltimore to establish a “development district”
18 (as defined in the Act) and a special tax increment fund into which the revenues and receipts
19 from the real property taxes representing the levy on the “tax increment” (as defined in the Act)
20 for the development district are deposited, for the purpose of providing funds for the
21 development of the development district.

22 The Act also authorizes the City, subject to certain requirements, to issue and deliver bonds
23 for the purpose of financing and refinancing the development of an industrial, commercial, or
24 residential area in Baltimore City. The Act provides, however, that no bonds may be issued by
25 the City until an ordinance is enacted that (i) designates an area or areas within the City as a
26 “development district” and (ii) provides that, until the bonds have been fully paid, the property
27 taxes on real property within the development district shall be divided as provided in the Act.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 06-0523

1 Mondawmin Business Trust, a Maryland business trust (the “Developer”) has indicated its
2 intention to redevelop the Mondawmin Mall (the “Mall”) retail space located in Baltimore City.
3 A section of the Mall is owned by Mondawmin Business Trust and a small section of the Mall is
4 owned by Northwest Associates, a Maryland general partnership. The redevelopment of the
5 Mall will be carried out by Mondawmin Business Trust. The Developer will initially use its own
6 funds to redevelop the Mall. The bonds issued to finance or refinance the Infrastructure
7 Improvements will be held in escrow until the satisfaction of certain conditions, including
8 completion of the Mall redevelopment and the Infrastructure Improvements.

9 The Mayor and City Council wishes to establish a development district within the City and to
10 establish a tax increment fund for that development district for the purpose of providing funds
11 for the development of infrastructure improvements relating to the redevelopment of the Mall in
12 the development district.

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That for
14 the purposes of this Ordinance, the following terms have the meanings indicated:

- 15 (a) “Act” means the Tax Increment Financing Act, as codified in Article II, Section (62)
16 of the Baltimore City Charter.
- 17 (b) “Assessable base” means the total assessable base of all real property in the
18 Development District subject to taxation, as determined by the Supervisor of
19 Assessments.
- 20 (c) (1) “Assessment ratio” means any real property tax assessment ratio, however
21 designated or calculated, that is used or applied under applicable general law in
22 determining the assessable base.
- 23 (2) “Assessment ratio” includes the assessment percentage provided under §8-103(c)
24 of the State Tax-Property Article, as amended, replaced, or supplemented from
25 time to time.
- 26 (d) “Bond” means any bond, note, or other similar instrument issued by the Mayor and
27 City Council of Baltimore under the Act.
- 28 (e) “Development District” means the area in the City designated in Section 3 of this
29 Ordinance as a development district under the Act.
- 30 (f) “Infrastructure improvements” means the following infrastructure improvements
31 constructed in accordance with all required City approvals:
- 32 (1) the design and construction of roads, including removal of existing paving, new
33 paving and installation of curbs, gutters, sidewalks, lighting, landscaping, and
34 utilities (including sanitary sewer, storm water, gas, water, fire suppression,
35 electric and traffic signal work);
- 36 (2) site removal, including regrading and preparation, the removal of excess soil; and
37 demolition of buildings;

Council Bill 06-0523

1 (3) the design, construction and renovation of parking lots and/or structured parking,
2 including paving and the installation of curbs, gutters, sidewalks, utilities, lighting
3 and landscaping; and

4 (4) the design, acquisition, construction, renovation and development of other
5 infrastructure improvements that are necessary for the completion of the
6 foregoing infrastructure improvements for their intended public purposes.

7 (g) “Original assessable base” means the assessable base as of January 1, 2005.

8 (h) “Original full cash value” means the dollar amount that is determined by dividing the
9 original assessable base by the assessment ratio used to determine the original
10 assessable base.

11 (i) “Original taxable value” means, for any tax year, the dollar amount that is the lesser
12 of:

13 (1) the product of the original full cash value times the assessment ratio applicable to
14 that tax year; or

15 (2) the original assessable base.

16 (j) “Tax increment” means for any tax year, the amount by which the assessable base as
17 of January 1 preceding that tax year exceeds the original taxable value, divided by the
18 assessment ratio used to determine the original taxable value.

19 (k) “Tax Increment Fund” means the special fund established by Section 4 of this
20 Ordinance.

21 (l) “Tax year” means the period from July 1 of a calendar year through June 30 of the
22 next calendar year.

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
24 finds and determines that the establishment of the Mondawmin Mall Development District, the
25 creation of a Tax Increment Fund for that District and the issuance of bonds from time to time,
26 all for the purpose of providing funds for the financing of infrastructure improvements,
27 accomplishes the purposes of the Act, serves public purposes, including the direct and indirect
28 enhancement of the taxable base of the City and the facilitation of planned improvements to the
29 Mondawmin Mall development, and generally promotes the health, welfare, and safety of the
30 residents of the State of Maryland and of the City of Baltimore.

31 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the contiguous area consisting of the
32 properties designated as Ward 15, Section 19, Block 3262F, Lots 001, 002, 003, and 005 (as the
33 same may be renumbered or redesignated), together with the adjoining roads, highways, alleys,
34 rights-of-way and other similar property, shown on the map attached to this Ordinance as Exhibit
35 1, and made a part of this Ordinance, is designated as a development district to be known as the
36 “Mondawmin Mall Development District.”

37 **SECTION 4. AND BE IT FURTHER ORDAINED,** That a special fund is established for the
38 Development District to be known as the “Mondawmin Mall Development District Tax
39 Increment Fund.” The Director of Finance and other officers and employees of the City shall

Council Bill 06-0523

1 take all necessary steps to establish the Tax Increment Fund as a separate fund to be held by or
2 for the account of the City.

3 **SECTION 5. AND BE IT FURTHER ORDAINED, That:**

4 (a) For each tax year that begins after the effective date of this Ordinance, the Director of
5 Finance shall divide the property taxes on real property within the Development
6 District so that:

7 (1) the portion of the taxes that would be produced by the rate at which taxes are
8 levied each year by the City upon the original taxable value shall be allocated to
9 and, when collected, paid into the funds of the City in the same manner as taxes
10 levied and collected by the City on all other property are paid; and

11 (2) the portion of the taxes representing the levy on the tax increment that would
12 normally be paid to the City shall be paid into the Tax Increment Fund, to be
13 applied in accordance with the provisions of the Act.

14 (b) The City acknowledges that neither the rate at which taxes are levied on real property
15 within the Development District nor the manner of assessment of the value of real
16 property within the Development District may vary from the rate or manner of
17 assessment that otherwise would have applied if the Development District were not
18 designated and the Tax Increment Fund not created.

19 **SECTION 6. AND BE IT FURTHER ORDAINED, That:**

20 (a) If no bonds are outstanding with respect to the Development District, money in the
21 Tax Increment Fund may be:

22 (1) used for any other purposes described in the Act;

23 (2) accumulated for payment of debt service on bonds to be subsequently issued
24 under the Act;

25 (3) used to pay or reimburse the City for debt service that the City is obligated to pay
26 or has paid (whether as a general or limited obligation of the City) on bonds
27 issued by the City or by the State of Maryland or any agency, department or
28 political subdivision of the State, the proceeds of which have been used for any of
29 the purposes specified in the Act; or

30 (4) paid to the City to provide funds to be used for any legal purpose.

31 (b) In each case, the use must be approved by appropriate action of the Board of Finance,
32 which action may generally specify the purpose for which the Tax Increment Fund
33 may be used and the maximum amount that may be applied for that purpose, without
34 specifying the actual amounts to be applied.

Council Bill 06-0523

SECTION 7. AND BE IT FURTHER ORDAINED, That:

(a) If any bonds are outstanding with respect to the Development District, money in the Tax Increment Fund may be used in any fiscal year as provided in Section 6 of this Ordinance and in the indenture authorizing the issuance of the bonds, but only to the extent that:

(1) the amount in the Tax Increment Fund exceeds the debt service payable on the bonds in that fiscal year and is not otherwise restricted so as to prohibit its use; and

(2) the use is not prohibited by the ordinance authorizing the issuance of the bonds.

(b) In each case, the use must be approved by appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

SECTION 8. AND BE IT FURTHER ORDAINED, That the Director of Finance may do all acts and things and execute all documents and certificates relating to the Development District and the Tax Increment Fund.

SECTION 9. AND BE IT FURTHER ORDAINED, That any approvals, authorizations, or activities provided in this Ordinance do not constitute and may not be deemed to constitute or imply that the City Council, the Mayor, or any department, office or agency of the City has given or will give, any approval, authorization or consent to any action or activity within or required for the development of the Development District, including any land use approval, requirements for the provision of public utilities or services, or any other administrative, judicial, quasi-judicial, or legislative approval, authorization, or consent.

SECTION 10. AND BE IT FURTHER ORDAINED, That this Ordinance may be amended by a subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge or reduce the Development District. However, no ordinance may be effective to reduce the size of the Development District so long as there are any outstanding bonds secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of the bonds permits the City to reduce the area constituting the Development District, the holders of the bonds or an authorized representative on their behalf consents to the reduction or the indenture authorizing the issuance of the bonds permits the reduction.

SECTION 11. AND BE IT FURTHER ORDAINED, That the provisions of this Ordinance are severable. If any provision, sentence, clause, section or other part of this Ordinance is held or determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, that illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances. It is the intent of the Mayor and City Council that this Ordinance would have been passed even if the illegal, invalid, unconstitutional, or inapplicable provision, sentence, clause, section, or other part had not been included in this Ordinance, and as if the person or circumstances to which this Ordinance or part are inapplicable had been specifically exempted.

Council Bill 06-0523

1 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th
2 day after the date it is enacted.

Council Bill 06-0523

1

Exhibit 1

2

Map of Development District