

**CITY OF BALTIMORE
COUNCIL BILL 13-0232
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Baltimore Development Corporation)

Introduced and read first time: June 3, 2013

Assigned to: Taxation, Finance and Economic Development 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, Department of Public Works, Baltimore City Parking Authority Board, Department of Finance, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Harbor Point Development District - Amending Ordinance 10-401**

3 FOR the purpose of enlarging the boundaries of the development district known as “Harbor Point
4 Development District” by including additional properties; revising Exhibit 1 to include these
5 additional properties; deleting and changing certain parcel references that do not affect the
6 boundaries of the development district; repealing provisions related to state obligations and
7 clarifying certain related provisions; providing for a special effective date; and generally
8 relating to the establishment of the Harbor Point Development District.

9 BY authority of

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

14 BY repealing and reordaining with amendments

15 Ordinance 10-401
16 The Recitals and Sections 1 through 3, 5 through 7, and 10

17 **Recitals**

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

25 The Act also authorizes the City, subject to certain requirements, to borrow money
26 by issuing and selling bonds for the purpose of financing and refinancing the
27 development of industrial, commercial, or residential areas in Baltimore City.

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

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1 The Act provides, however, that no bonds may be issued by the City until an
2 ordinance is enacted that (i) designates an area or areas within the City as a
3 “development district” and (ii) provides that, until the bonds have been fully paid,
4 the property taxes on real property within the development district shall be divided
5 as provided in the Act.

6 Pursuant to the Act and Ordinance 10-401, passed by the City Council effective on
7 December 9, 2010 (“Ordinance 10-401”), the City established a development
8 district known as the Harbor Point Development District (the “Original Harbor
9 Point Development District”) to facilitate the development of the Project (as such
10 term is defined in Ordinance 10-401, as amended by this Ordinance).

11 The City wishes to expand the Original Harbor Point Development District by
12 including an additional parcel (collectively, the “Harbor Point Development
13 District”) for the purpose of providing funds for costs of certain infrastructure and
14 other improvements and related costs permitted by the Act, including, without
15 limitation, the Project. The City also wishes to modify certain parcel references
16 that do not affect the boundaries of the development district, repeal provisions
17 relating to state obligations, and make certain additional revisions.

18 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
19 laws of Baltimore City read as follows:

20 **Ordinance 10-401**

21 Recitals

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

29 The Act also authorizes the City, subject to certain requirements, to borrow money
30 by issuing and selling Bonds (as defined herein) for the purpose of financing and
31 refinancing the development of an industrial, commercial, or residential area in
32 Baltimore City. The Act provides, however, that no Bonds may be issued by the
33 City until an ordinance is enacted that (i) designates an area or areas within the City
34 as a “development district” and (ii) provides that, until the Bonds have been fully
35 paid, the property taxes on real property within the development district shall be
36 allocated as provided in the Act.

37 [The Act also authorizes the City, subject to certain requirements, to pledge tax
38 increment revenues to the payment by or reimbursement to the City for debt service
39 which the City is obligated to pay or has paid (whether such obligation is general
40 or limited) on State Obligations issued and sold by the Maryland Economic
41 Development Corporation (“MEDCO”) or any other State Issuer (as defined
42 herein) for the purpose of providing funds for the development of the development
43 district.]

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1 The City wishes to establish a development district within Baltimore City and to
2 establish a special, tax increment fund for that development district for the purpose
3 of providing funds for the costs of the infrastructure improvements and related costs
4 permitted by the Act, including, without limitation, street and road improvements,
5 site removal, the acquisition of land, costs of construction or rehabilitation of
6 buildings that are devoted to a governmental use or purpose, parking facilities that
7 are publicly owned or privately owned but serve a public purpose, and the
8 installation of utilities, construction of parks, including public recreational
9 facilities, PUBLIC RESTROOMS, and playgrounds, and other improvements relating to
10 the development of residential, commercial and office uses both to or from or
11 within the development district.

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

- 15 (a) "Act" means the Tax Increment Financing Act, as codified in
16 Article II, Section (62) of the Baltimore City Charter.
- 17 (b) "Assessable base" means the total assessable base of all real
18 property in the Development District subject to taxation, as
19 determined by the Supervisor of Assessments.
- 20 (c) (1) "Assessment ratio" means any real property tax assessment
21 ratio, however designated or calculated, that is used or
22 applied under applicable general law in determining the
23 assessable base.
- 24 (2) "Assessment ratio" includes the assessment percentage
25 provided under §8-103(c) of the State Tax-Property
26 Article, as amended, replaced, or supplemented from
27 time to time.
- 28 (d) "Bonds" means any bonds or bond, notes or note, or other
29 similar instruments or instrument issued by the City pursuant to
30 and in accordance with the Act.
- 31 (e) "City District Expenses" means the expenses of the City in
32 carrying out its duties under this Ordinance, including but not
33 limited to all costs and expenses of the City incurred in
34 connection with the establishment of the Development District,
35 the use of Tax Increment revenues, the issuance of Bonds [or
36 State Obligations], and the discharge of its duties under any
37 Bond indenture or INDENTURES [Contribution Agreement],
38 including the costs of any employees of the City and legal
39 expenses associated with those duties, and in any way related to
40 the administration of the Development District.

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1 [(f) "Contribution Agreement" means one or more contribution
2 agreements or such other agreements executed by the City
3 and a State Issuer, pursuant to which the City will evidence
4 a pledge of certain tax and other revenues for the purpose of
5 securing the payment of debt service on State Obligations,
6 the replenishment of any reserve fund, and the payment of
7 other costs with respect to the State Obligations, including,
8 without limitation, any City District Expenses, State Issuer
9 Expenses, and other administrative costs.]

10 (F) [(g)] "Development District" means the area in the City
11 designated in Section 3 of this Ordinance as a development
12 district under the Act.

13 [(h) "MEDCO" means the Maryland Economic Development
14 Corporation.]

15 [(i) "Obligations" means, collectively, any Bonds and any State
16 Obligations.]

17 (G) [(j)] "Original assessable base" means, COLLECTIVELY:

18 (1) the assessable base as of January 1, 2009, OF THE
19 PROPERTIES DESIGNATED AS WARD 03, SECTION 07,
20 BLOCK 1825, LOTS 001, 002, 003A, AND 006; BLOCK
21 1817, LOTS 001 AND 004; AND BLOCK 1816, LOT 001;
22 AND

23 (2) THE ASSESSABLE BASE AS OF JANUARY 1, 2012, OF THE
24 PROPERTIES DESIGNATED AS WARD 03, SECTION 07,
25 BLOCK 1825, LOT 003; BLOCK 1817, LOTS 010 AND
26 010A; BLOCK 1816, LOT 001A; AND BLOCK 1815, LOTS
27 001 AND 002.

28 (H) [(k)] "Original full cash value" means the dollar amount that is
29 determined by dividing the original assessable base by the
30 assessment ratio used to determine the original assessable
31 base.

32 (I) [(l)] "Original taxable value" means, for any tax year, the dollar
33 amount that is the lesser of:

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

36 (2) the original assessable base.

37 (J) [(m)] "Project" means the following improvements and
38 activities that are to be completed in accordance with all
39 required City approvals:

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- 1 (1) the design and construction of street and road
2 improvements to, from or within the Development
3 District, including, without limitation, the installation of
4 curbs, gutters, STREETS, BRIDGES, sidewalks, lighting and
5 landscaping, and the improvements which are designed
6 to improve traffic flow to and from the Development
7 District;
- 8 (2) the installation of utilities, including, without limitation,
9 water, sewer, lighting, PUBLICLY-OWNED DUCTBANKS,
10 and stormwater management facilities, the construction
11 of parks, including public recreational facilities AND
12 PUBLIC RESTROOMS, plazas, promenades, and transit
13 piers, and the construction of other necessary
14 improvements to, from, or within the Development
15 District and other facilities;
- 16 (3) the acquisition by purchase, lease, or condemnation of
17 land or other property, or an interest in them, in the
18 Development District or as necessary for a right-of-way
19 or other easement to or from the Development District;
- 20 (4) the acquisition, design, construction, reconstruction,
21 renovation, and development of buildings that are to be
22 devoted to a governmental use or purpose or will
23 provide units of affordable housing and condemning or
24 otherwise acquiring structures, real or personal
25 property, rights, rights-of-way, franchises, easements,
26 and interests in furtherance of this purpose;
- 27 (5) structured and surface parking facilities that are (i)
28 publicly owned or (ii) privately owned but serve a
29 public purpose;
- 30 (6) site removal, including site preparation, earthwork,
31 clearing, grading, and filling;
- 32 (7) surveys and studies; and
- 33 (8) the acquisition, construction, renovation, and
34 development of other related infrastructure
35 improvements and the financing or refinancing of any
36 related costs as permitted by the Act that are necessary
37 for the completion of the foregoing for their intended
38 public purposes.
- 39 [(n) "State Issuer" means MEDCO, the State of Maryland, or any
40 agency, department, or political subdivision thereof.]
- 41 [(o) "State Issuer Expenses" means administrative costs and other
42 expenses related to the State Obligations of the State Issuer
43 permitted by the Act and approved by the Director of

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1 Finance to be paid by the City pursuant to a Contribution
2 Agreement.]

3 [(p) "State Obligations" means any bonds or bond, notes or note, or
4 other similar instruments or instrument issued by a State
5 Issuer, the proceeds of which have been used for any of the
6 purposes specified in this Ordinance or the Act.]

7 (K) [(q) "Tax increment" means for any tax year, the amount by
8 which the assessable base as of January 1 preceding that tax
9 year exceeds the original taxable value, divided by the
10 assessment ratio used to determine the original taxable
11 value.

12 (L) [(r) "Tax Increment Fund" means the special fund established
13 by Section 4 of this Ordinance.

14 (M) [(s) "Tax year" means the period from July 1 of a calendar
15 year through June 30 of the next calendar year.

16 SECTION 2. AND BE IT FURTHER ORDAINED, That the Mayor and City Council of
17 Baltimore finds and determines that the establishment of the Development District,
18 the creation of the Tax Increment Fund for the Development District, the issuance of
19 Bonds from time to time, and the pledge of amounts, subject to appropriation, on
20 deposit in the Tax Increment Fund to the payment of debt service on and other costs
21 related to any Bonds [or, pursuant to a Contribution Agreement, any State
22 Obligations], all for the purpose of providing funds for the financing and
23 refinancing of a portion of the costs of the Project, accomplishes the purposes of the
24 Act, serves public purposes, including the direct and indirect enhancement of the
25 taxable base of the City, the creation of new employment opportunities, the
26 encouragement of additional economic activities, the development or
27 redevelopment of slum, blighted or deteriorated areas, the undertaking of urban
28 renewal projects, and the facilitation of planned improvements to the Development
29 District, and generally promotes the health, welfare, and safety of the residents of
30 the State of Maryland and of the City of Baltimore.

31 SECTION 3. AND BE IT FURTHER ORDAINED, That the contiguous area consisting
32 of the properties designated as Ward 03, Section 07, Block 1825, Lots 001, 002,
33 003, 003A, and 006; Block 1817, Lots 001, [and] 004, 010, AND 010A; [and]
34 Block 1816, [Lot] LOTS 001 AND 001A; AND BLOCK 1815, LOTS 001 AND 002 [and
35 properties that are expected to be designated Ward 03, Section 07, Block 1815, Lot
36 002-2; and Block 1816, Lot 003 and Lot 004 (as the same may be renumbered or
37 redesignated as a result of any subdivision or resubdivision of such property)],
38 together with the adjoining roads, highways, alleys, rights-of-way and other similar
39 property, shown on the map attached to this Ordinance as REVISED Exhibit 1, and
40 made a part of this Ordinance, is designated [as a development district to be
41 known] as the "Harbor Point Development District."
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SECTION 5. AND BE IT FURTHER ORDAINED, That:

- (a) For each tax year that begins after the effective date of this Ordinance, the Director of Finance shall divide the property taxes on real property within the Development District so that:
 - (1) the portion of the taxes that would be produced by the rate at which taxes are levied each year by the City upon the original taxable value shall be allocated to and, when collected, paid into the funds of the City in the same manner as taxes levied and collected by the City on all other property are paid; and
 - (2) the portion of the taxes representing the levy on the tax increment that would normally be paid to the City shall be paid into the Tax Increment Fund, to be applied in accordance with the provisions of this Ordinance, any ordinance authorizing the issuance of Bonds [or State Obligations], and the Act.
- (b) The City acknowledges that neither the rate at which taxes are levied on real property within the Development District nor the manner of assessment of the value of real property within the Development District may vary from the rate or manner of assessment that otherwise would have applied if the Development District were not designated and the Tax Increment Fund not created.

SECTION 6. AND BE IT FURTHER ORDAINED, That:

- (a) If no Bonds [or State Obligations] are outstanding with respect to the Development District, money in the Tax Increment Fund may be:
 - (1) used for any other purposes described in the Act, including the payment or reimbursement of costs of the Project;
 - (2) accumulated for payment of debt service on Bonds [or, pursuant to a Contribution Agreement, debt service on State Obligations, to be subsequently issued under the Act or by a State Issuer, respectively];
 - (3) used to pay or reimburse the City for debt service or other related costs that the City is obligated to pay or has paid (whether as a general or limited obligation of the City) on any Bonds issued by the City [or State Obligations issued by any State Issuer], the proceeds of which have been used for any of the purposes specified in the Act; or

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

3 (b) In the case of Sections 6(a)(2) and (a)(3) above, the use must be
4 approved by appropriate action of the Mayor and City Council,
5 and in the case of Sections 6(a)(1) and (a)(4), the use must be
6 approved by the appropriate action of the Board of Finance,
7 which action may generally specify the purpose for which the
8 Tax Increment Fund may be used and the maximum amount that
9 may be applied for that purpose, without specifying the actual
10 amounts to be applied.

11 SECTION 7. AND BE IT FURTHER ORDAINED, That:

12 (a) If any BONDS [Obligations] are outstanding with respect to the
13 Development District, money in the Tax Increment Fund may be
14 used in any fiscal year as provided in Section 6 of this
15 Ordinance and in any indenture authorizing the issuance of such
16 BONDS [Obligations], but only to the extent that:

17 (1) the amount in the Tax Increment Fund exceeds the debt
18 service payable on the BONDS [Obligations] and the
19 amounts necessary to replenish any reserves and to pay
20 any City District Expenses[, State Issuer Expenses,] and
21 administrative costs in that fiscal year, and is not
22 otherwise restricted so as to prohibit its use; and

23 (2) the use is not prohibited by any ordinance authorizing the
24 issuance of the Bonds [or the State Obligations] and the
25 pledge of amounts on deposit in the Tax Increment Fund.

26 (b) In each case, the use must be approved by appropriate action of the Board of
27 Finance, which action may generally specify the purpose for which the Tax
28 Increment Fund may be used and the maximum amount that may be applied for
29 that purpose, without specifying the actual amounts to be applied.
30

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31 SECTION 10. AND BE IT FURTHER ORDAINED, That this Ordinance may be
32 amended by a subsequent ordinance of the Mayor and City Council of Baltimore,
33 which ordinance may enlarge or reduce the size of the Development District or
34 provide for a future pledge of the Tax Increment Fund other than as contemplated
35 under this Ordinance. However, no ordinance may be effective to reduce the size
36 of the Development District so long as there are any outstanding BONDS
37 [Obligations] secured by the Tax Increment Fund, unless the ordinance authorizing
38 the issuance of the Bonds [or the pledge of revenue pursuant to a Contribution
39 Agreement to the payment of the State Obligations] permits the City to reduce the
40 area constituting the Development District, the holders of such BONDS
41 [Obligations] or an authorized representative on their behalf consents to the
42 reduction, or the indenture authorizing the issuance of such BONDS [Obligations]
43 permits the reduction.

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1 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
2 affirms and ratifies the establishment of the Harbor Point Development District, the creation of a
3 Tax Increment Fund for such Development District and the issuance of bonds from time to time, all
4 for the purposes set forth in Ordinance 10-401, as amended hereby, and except as hereby
5 specifically amended, Ordinance 10-401, is hereby confirmed and ratified in all respects and shall
6 remain in full force and effect according to its terms.

7 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
8 finds and determines that the expansion of the Harbor Point Development District and the issuance
9 of Bonds from time to time, for the purpose of providing funds for the financing of infrastructure
10 improvements and the acquisition of land within and outside the Development District,
11 accomplishes the purposes of the Act, serves public purposes, including the direct and indirect
12 enhancement of the taxable base of Baltimore City and the facilitation of planned improvements to
13 the Harbor Point area, and generally promotes the health, welfare, and safety of the residents of the
14 State of Maryland and of the City of Baltimore.

15 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are
16 severable. If any provision, sentence, clause, section or other part of this Ordinance is held or
17 determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstances,
18 that illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of the
19 remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application
20 to other persons or circumstances. It is the intent of the Mayor and City Council of Baltimore that
21 this Ordinance would have been passed even if the illegal, invalid, unconstitutional, or
22 inapplicable provision, sentence, clause, section, or other part had not been included in this
23 Ordinance, and as if the person or circumstances to which this Ordinance or part are inapplicable
24 had been specifically exempted.

25 **SECTION 5. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
26 enacted.

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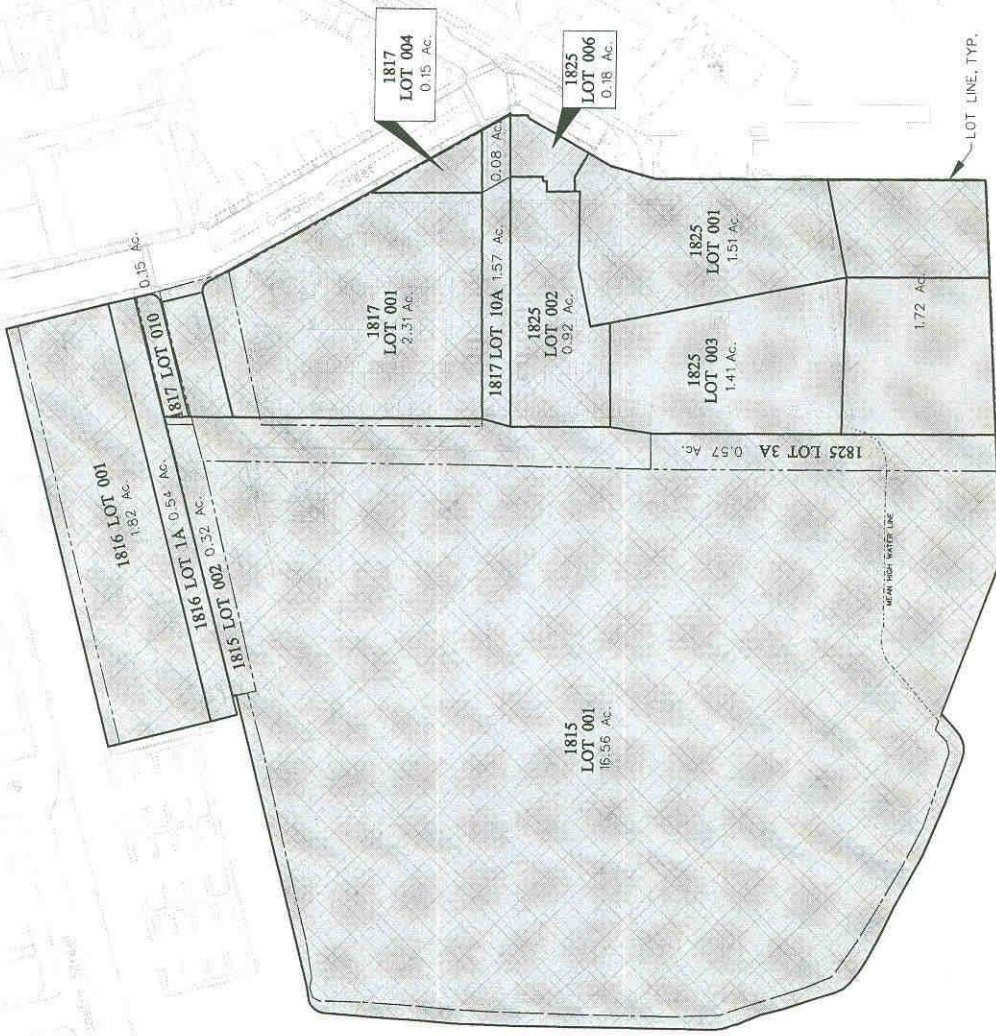
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REVISED EXHIBIT 1

Map of Development District
(See next page)

GENERAL NOTE:

EXISTING TOPOGRAPHIC SITE FEATURES SUCH AS (BUILDINGS, ROADS, PROPERTY BOUNDARIES, FENCE LINES AND SHORELINE PERIMETER) ARE BASED ON SURVEYS PERFORMED BY GREENBORNE & OMARA, INC. DATED JAN. 2004, MORRIS, RITCHIE ASSOC., DATED JUNE 1993/MAY 2006, DANIEL CONSULTANTS, INC. DATED MARCH 1999 & BOWMAN CONSULTING, DATED JAN. 2010.



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HARBOR POINT
 TIF DEVELOPMENT DISTRICT

MAY 21, 2013

CS-1