

CITY OF BALTIMORE
COUNCIL BILL 16-0670
(First Reader)

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)
Introduced and read first time: May 16, 2016
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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Port Covington Bond Issuance**

3 FOR the purpose of authorizing the issuance of special obligation bonds and the pledge, subject to
4 appropriation, of Tax Increment Revenues and Special Tax Revenues (as such terms are
5 defined herein) to the payment of debt service thereon; authorizing the pledge by the City,
6 subject to appropriation, of the Tax Increment Revenues and Special Tax Revenues pursuant
7 to a Contribution Agreement (defined herein) to provide for the payment by the State Issuer
8 (defined herein) of the principal of and interest on the applicable State Obligations (defined
9 herein) and other related costs; providing that such bonds or State Obligations may be issued
10 from time to time and in one or more issues or series in an aggregate principal amount not
11 exceeding \$660,000,000 for the purpose of financing infrastructure improvements and related
12 costs, including, without limitation, the Project (defined herein), and other necessary
13 improvements to, from, or within the development district, and certain other infrastructure
14 improvements permitted by the Acts (defined herein); providing for the method and sources
15 of payment for such special obligation bonds; authorizing the Board of Finance to specify,
16 prescribe, determine, provide for and approve the details, forms, documents or procedures in
17 connection with such special obligation bonds and any other matters necessary or desirable in
18 connection with the authorization, issuance, sale, and payment of such special obligation
19 bonds; providing for the execution and delivery by the City of a Contribution Agreement with
20 respect to State Obligations; authorizing the Board of Finance to specify, prescribe,
21 determine, provide for, and approve the method and sources of such pledge, the details,
22 forms, documents, or procedures in connection with such pledge, and any other matters
23 necessary or desirable in connection with such pledge; providing for a special effective date;
24 providing that the City, in each fiscal year in which any such bonds are outstanding, use its
25 best efforts to obtain the appropriation of the Tax Increment Revenues and the Special Tax
26 Revenues in the amounts and at the times specified in a trust agreement or agreements or in
27 one or more Contribution Agreements between the City and a bank or trust company
28 appointed as trustee thereunder; and generally relating to the issuance and payment of special
29 obligation bonds or such pledge of Tax Increment Revenues and Special Tax Revenues,
30 subject to appropriation, pursuant to a Contribution Agreement for the payment of debt
31 service on State Obligations and other related costs.

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

Council Bill 16-0670

1 By authority of
2 Article II - General Powers
3 Section (62) and (62A)
4 Baltimore City Charter
5 (1996 Edition)

6 **Recitals**

7 Article II, Section (62) of the Baltimore City Charter (the “Tax Increment Act”) authorizes the
8 Mayor and City Council of Baltimore (the “City”) to establish a “development district” (as
9 defined in the Tax Increment Act) and a special, tax increment fund into which the revenues and
10 receipts from the real property taxes representing the levy on the “tax increment” (as defined in
11 the Tax Increment Act) for the development district are deposited for the purpose of providing
12 funds for the development of the development district.

13 Pursuant to an Ordinance enacted prior to or simultaneously with this Ordinance (the “Tax
14 Increment Ordinance”), the City has:

- 15 (i) designated the Port Covington Development District (the “Development District”);
- 16 (ii) created the Port Covington Development District Tax Increment Fund;
- 17 (iii) provided that until any special obligation Bonds or State Obligations (as each is defined
18 herein) issued with respect to the Development District have been fully paid, the property
19 taxes on real property in the Development District shall be divided as provided in the Tax
20 Increment Act; and
- 21 (iv) made other findings and determinations with respect to the Development District.

22 Article II, Section (62A) of the Baltimore City Charter (the “Special Taxing District Act”) authorizes the City to establish a “special taxing district” (as defined in the Special Taxing
23 District Act) and a special fund into which the special taxes levied in and collected from the
24 special taxing district are deposited, for the purpose of providing financing, refinancing, or
25 reimbursement for the cost (as defined in the Special Taxing District Act) of infrastructure
26 improvements (as defined in the Special Taxing District Act).
27

28 Pursuant to an Ordinance enacted prior to or simultaneously with this Ordinance (the “Special
29 Taxing District Ordinance”), the City has:

- 30 (i) designated the Port Covington Special Taxing District (the “Special Taxing District”);
- 31 (ii) created the Port Covington Special Tax Fund (the “Special Tax Fund”);
- 32 (iii) authorized the levy of a special tax on all real and personal property within the Special
33 Taxing District pursuant to the Rate and Method (defined herein); and
- 34 (iv) made certain other findings and determinations with respect to the Special Taxing
35 District.

Council Bill 16-0670

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

8 The Tax Increment Act also authorizes the City, subject to certain requirements, to use the tax
9 increment revenues to pay or reimburse the City for debt service which the City is obligated to
10 pay or has paid (whether such obligation is general or limited) on Bonds or, under a Contribution
11 Agreement, to a State Issuer (defined herein) for the payment of principal of and interest on
12 applicable State Obligations (defined herein) for the purpose of providing funds for the
13 development of the development district.

14 The Special Taxing District Act authorizes the City, subject to certain requirements, to borrow
15 money by issuing and selling Bonds (defined herein), for the purpose of providing financing,
16 refinancing, or reimbursement for the cost of the infrastructure improvements.

17 The Special Taxing District Act also authorizes the City, subject to certain requirements, to use
18 the special tax revenues to pay or reimburse the City for debt service which the City is obligated
19 to pay or has paid (whether such obligation is general or limited) on Bonds or, under a
20 Contribution Agreement, to a State Issuer (as defined herein) for the payment of principal of and
21 interest on applicable State Obligations (as defined herein) for the purpose of providing
22 financing, refinancing, or reimbursement for the cost of infrastructure improvements.

23 The City wishes to authorize the issuance of special obligation bonds to provide funds for the
24 Project (as hereinafter defined) in the Districts (as hereinafter defined). The City also wishes to
25 provide for the execution of a Contribution Agreement and the pledge by the City, subject to
26 appropriation, of the Tax Increment Revenues and Special Tax Revenues pursuant to such
27 Contribution Agreement to provide for the payment by the State Issuer of the principal of and
28 interest on the applicable State Obligations and other related costs in order to permit the issuance
29 of State Obligations to provide funds for the costs of the Project.

30 The City also wishes to determine various matters in connection with the foregoing, including
31 authorizing the Board of Finance to undertake additional actions in connection with the issuance
32 of Bonds and State Obligations to finance the costs of the Project.

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

35 (a) “Acts” means the Tax Increment Act and the Special Taxing District Act.

36 (b) “Bonds” means any bonds, notes, or other similar instruments issued by the Mayor
37 and City Council of Baltimore pursuant to and in accordance with the Acts.

38 (c) “City Expenses” means the expenses of the City in carrying out its duties under this
39 Ordinance, the Tax Increment Ordinance, the Special Taxing District Ordinance, and
40 any Contribution Agreement, including but not limited to:

Council Bill 16-0670

- 1 (1) the fees and expenses of any fiscal agent or trustee employed by the City incurred
2 in connection with any Bonds;
- 3 (2) the expenses of the City in carrying out its duties under any Indenture, including
4 but not limited to:
- 5 (i) the expenses incurred in levying and collecting the Special Tax;
- 6 (ii) any expenses incurred in complying with arbitrage rebate requirements; and
- 7 (iii) any costs and expenses incurred in complying with obligated person
8 disclosure requirements associated with applicable federal and state securities
9 law, including the costs of any employees of the City and fees of any
10 professionals retained by the City to provide these services; and
- 11 (3) all other costs and expenses of the City incurred in connection with the discharge
12 of its duties under any Indenture, including the costs of any employees of the City
13 and legal expenses associated with those duties, and in any way related to the
14 administration of the Special Taxing District or the Development District.
- 15 (d) “Contribution Agreement” means one or more contribution agreements or such other
16 agreements executed by the City and a State Issuer, pursuant to which the City will
17 evidence a pledge, subject to appropriation, of the Tax Increment Revenues and
18 Special Tax Revenues to provide for the payment by the State Issuer of the principal
19 of and interest on the applicable State Obligations, the replenishment of any reserve
20 fund for the State Obligations, and the payment of other costs with respect to the State
21 Obligations, including, without limitation, any City Expenses, State Issuer Expenses,
22 and other administrative costs.
- 23 (e) “Development District” means the Port Covington Development District established
24 by the Tax Increment Ordinance.
- 25 (f) “Districts” means the Development District and the Special Taxing District.
- 26 (g) “Includes” or “including” means by way of illustration and not by way of limitation.
- 27 (h) “Indenture” or “Indentures” means the indenture or indentures, as applicable, under
28 which any Bonds or State Obligations are issued.
- 29 (i) “MEDCO” means the Maryland Economic Development Corporation.
- 30 (j) “Project” shall have the meaning set forth in Schedule I attached hereto.
- 31 (k) “Rate and Method” shall have the meaning set forth in the Special Taxing District
32 Ordinance.
- 33 (l) “Special Tax” means the special tax authorized to be levied and collected in the
34 Special Taxing District by the Special Taxing District Ordinance.
- 35 (m) “Special Tax Fund” means the Port Covington Special Tax Fund.

Council Bill 16-0670

- 1 (n) “Special Tax Revenues” means the revenues and receipts from the Special Tax,
2 including amounts deposited in the Special Tax Fund and any other fund into which
3 all or any of these revenues and receipts are deposited after they are appropriated by
4 the City.
- 5 (o) “Special Taxing District” means the Port Covington Special Taxing District.
- 6 (p) “Special Taxing District Act” means Article II, Chapter (62A) of the Baltimore City
7 Charter.
- 8 (q) “Special Taxing District Ordinance” means the Ordinance of the City designating the
9 Special Taxing District.
- 10 (r) “State Issuer” means MEDCO, the State of Maryland, or any agency, department, or
11 political subdivision thereof.
- 12 (s) “State Issuer Expenses” means administrative costs and other expenses related to any
13 State Obligations of the State Issuer approved by the Director of Finance to be paid by
14 the City if required by a Contribution Agreement.
- 15 (t) “State Obligations” means any bonds or bond, notes or note, or other similar
16 instruments or instrument issued by a State Issuer, the proceeds of which have been
17 used to finance a portion of the costs of the Project as permitted by the Acts.
- 18 (u) “Tax Increment” means, for any tax year, the amount by which the assessable base (as
19 defined in the Tax Increment Ordinance) as of January 1 preceding that tax year
20 exceeds the original taxable value (as defined in the Tax Increment Ordinance),
21 divided by the assessment ratio (as defined in the Tax Increment Ordinance) used to
22 determine the original taxable value.
- 23 (v) “Tax Increment Act” means Article II, Chapter (62) of the Baltimore City Charter.
- 24 (w) “Tax Increment Fund” means the Port Covington Development District Tax
25 Increment Fund.
- 26 (x) “Tax Increment Ordinance” means the Ordinance of the City designating the
27 Development District.
- 28 (y) “Tax Increment Revenues” means the revenues and receipts from the taxes
29 representing the levy on the Tax Increment in any tax year that would normally be
30 paid to the City, including amounts deposited in the Tax Increment Fund or any other
31 fund into which all or any part of these revenues and receipts are deposited after they
32 are appropriated by the City.
- 33 (z) “Tax year” means the period from July 1 of a calendar year through June 30 of the
34 next calendar year.

35 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the City finds and determines that (a) the
36 issuance of Bonds and the pledge of certain Tax Increment Revenues and Special Tax Revenues
37 for the benefit of Bonds and (b) the issuance of State Obligations and the pledge by the City,

Council Bill 16-0670

1 subject to appropriation, of the Tax Increment Revenues and Special Tax Revenues pursuant to a
2 Contribution Agreement to provide for the payment by the State Issuer of the principal of and
3 interest on the applicable State Obligations and other related costs, in each case, from time to
4 time for the purpose of providing funds to finance a portion of the costs of the Project:

5 (1) accomplishes the purposes of the Acts;

6 (2) serve public purposes, including but not limited to the direct and indirect
7 enhancement of the taxable base of the City, the development or redevelopment of
8 environmentally damaged areas, the creation of new employment opportunities, the
9 encouragement of additional economic activities, the undertaking of urban renewal
10 projects, the facilitation of planned improvements in the area, and the furtherance of
11 economic development conducted pursuant to comprehensive plans that will be
12 created in accordance with appropriate zoning and land use legislation to be enacted;
13 and

14 (3) generally promotes the health, welfare, and safety of the residents of the State of
15 Maryland and of the City of Baltimore.

16 SECTION 3. AND BE IT FURTHER ORDAINED, That:

17 (a) (1) The City authorizes the issuance from time to time of one or more issues or series
18 of Bonds by the City. Bonds may be approved from time to time by the Board of
19 Finance and may be issued pursuant to the provisions of an Indenture or
20 Indentures, at any time and from time to time, and in one or more issues or series
21 and as one or more instruments, for the purposes set forth in subparagraph (b) of
22 this Section. Each issue or series of Bonds shall be identified by the year of issue
23 or by other designation. Such details shall be set forth in a resolution to be
24 adopted by the City or the City's Board of Finance in connection with the issuance
25 of the Bonds. Prior to issuance of Bonds, the City shall have complied with the
26 requirements of subsection (d) of the Tax Increment Act and subsection (e) of the
27 Special Taxing District Act.

28 (2) The City authorizes the issuance from time or time of one or more issues or series
29 of State Obligations by a State Issuer. State Obligations may be approved from
30 time to time by the Board of Finance and may be issued pursuant to the provisions
31 of an Indenture or Indentures, at any time and from time to time, and in one or
32 more issues or series and as one or more instruments, for the purposes set forth in
33 subparagraph (b) of this Section. Each issue or series of State Obligations shall be
34 identified by the issuer and the year of issue or by other designation. Such details
35 shall be set forth in a resolution to be adopted by the City, the City's Board of
36 Finance or a State Issuer in connection with the issuance of State Obligations.
37 Prior to issuance State Obligations, the City shall have complied with the
38 requirements of subsection (d) of the Tax Increment Act and subsection (e) of the
39 Special Taxing District Act.

40 (3) The aggregate principal amount of outstanding Bonds and State Obligations shall
41 not exceed \$660,000,000.

Council Bill 16-0670

1 (b) The proceeds of Bonds or State Obligations may be utilized solely for the following
2 purposes, as the Board of Finance determines pursuant to Section 10 of this
3 Ordinance:

4 (1) to finance all or part of the costs of the Project;

5 (2) to establish one or more debt service reserve funds for the Bonds and State
6 Obligations;

7 (3) to fund capitalized interest on the Bonds and State Obligations;

8 (4) to pay costs and expenses of issuing the Bonds and State Obligations, including
9 any City Expenses and State Issuer Expenses; and

10 (5) to pay the principal of and interest on loans, money advanced, or indebtedness
11 incurred by the Mayor and City Council of Baltimore for any of the purposes of
12 the Acts.

13 (c) This Ordinance provides for, but does not require, the City to execute a Contribution
14 Agreement. The City shall not incur any obligation to any State Issuer until a
15 Contribution Agreement is executed and delivered on behalf of the City, and then
16 only to the extent provided in such Contribution Agreement or other documents
17 executed and delivered in connection with the Contribution Agreement.

18 SECTION 4. AND BE IT FURTHER ORDAINED, That:

19 (a) (1) The Tax Increment Revenues are authorized to be pledged to the payment of the
20 principal of and interest on the Bonds. However, the Tax Increment Revenues
21 shall not be irrevocably pledged to the payment of principal and interest on such
22 Bonds, and shall be subject to annual appropriation by the City.

23 (2) The Tax Increment Revenues are authorized to be pledged by the City, pursuant to
24 a Contribution Agreement, to provide for the payment by the State Issuer of the
25 principal of and interest on the applicable State Obligations and other related
26 costs. However, the Tax Increment Revenues shall not be irrevocably pledged to
27 the payment of the City's obligations under any Contribution Agreement to
28 provide for the payment by a State Issuer of principal and interest on any such
29 State Obligations, and any such payment obligation shall be subject to annual
30 appropriation by the City.

31 (b) (1) The Special Tax Revenues are authorized to be pledged to the payment of the
32 principal of and interest on Bonds. However, the Special Tax Revenues shall not
33 be irrevocably pledged to the payment of such principal and interest on such
34 Bonds, and shall be subject to annual appropriation by the City; and

35 (2) The Special Tax Revenues are authorized to be pledged by the City pursuant to a
36 Contribution Agreement, to provide for the payment by the State Issuer of the
37 principal of and interest on the applicable State Obligations and other related
38 costs. However, the Special Tax Revenues shall not be irrevocably pledged to the
39 payment of the City's obligations under any Contribution Agreement to provide

Council Bill 16-0670

1 for the payment by a State Issuer of principal and interest on any such State
2 Obligations, and any such payment obligation shall be subject to annual
3 appropriation by the City.

4 (c) If any Bonds or State Obligations are outstanding, the Tax Increment Revenues may
5 not be used for the purposes set forth in Section 6 of the Tax Increment Ordinance
6 unless the amount in the Tax Increment Fund exceeds:

7 (1) the debt service payable on the outstanding Bonds in that fiscal year and any debt
8 service payable on the outstanding Bonds in any prior fiscal year that remains
9 unpaid and any amount necessary to satisfy the City's obligations under any
10 Contribution Agreement;

11 (2) the amount required to replenish any debt service reserve fund or funds
12 established for (i) any Bonds or (ii) if required under a Contribution Agreement,
13 any State Obligations; and

14 (3) the amount of any City Expenses and State Issuer Expenses, if required under a
15 Contribution Agreement, due and payable and to become due and payable in that
16 fiscal year.

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

18 (a) Any Bonds issued pursuant to this Ordinance are special obligations of the City and
19 do not constitute a general obligation debt of the City or a pledge of the City's full
20 faith and credit or taxing power; and

21 (b) Any pledge by the City of the Tax Increment Revenues and Special Tax Revenues
22 pursuant to a Contribution Agreement to provide for the payment by the State Issuer
23 of the principal of and interest on the applicable State Obligations and other related
24 costs are special obligations of the City and do not constitute a general obligation debt
25 of the City or a pledge of the City's full faith and credit or taxing power.

26 **SECTION 6. AND BE IT FURTHER ORDAINED, That the Bonds and State Obligations shall be**
27 **payable from:**

28 (a) capitalized interest and any other available amount in the funds and accounts created
29 by the Indenture or Indentures pursuant to which such Bonds or State Obligations
30 were issued, as applicable,

31 (b) the Tax Increment Revenues, subject to annual appropriation by the City, and

32 (c) to the extent the Tax Increment Revenues are not sufficient to pay any debt service on
33 any Bonds or to satisfy the City's obligations under any Contribution Agreement, to
34 replenish any debt service fund or funds for any Bonds, or if required under a
35 Contribution Agreement, any State Obligations, and to pay any City Expenses or State
36 Issuer Expenses, if required under a Contribution Agreement, from the Special Tax
37 Revenues, levied and collected in accordance with the Rate and Method and subject
38 to annual appropriation by the City;

Council Bill 16-0670

1 *provided, however,* that, in each instance, the obligations of the City to pay debt service on any
2 Bonds or amounts under any Contribution Agreement are payable from the revenues set forth
3 above, only to the extent such revenues are specifically pledged.

4 **SECTION 7. AND BE IT FURTHER ORDAINED, That:**

- 5 (a) Special Taxes shall be levied and collected in accordance with the Rate and Method
6 and shall be sufficient to pay debt service on any Bonds, to replenish any debt service
7 reserve fund for such Bonds or State Obligations, if required to satisfy the City's
8 obligations under any Contribution Agreement, and to pay any City Expenses and
9 State Issuer Expenses.
- 10 (b) The amount of the Special Tax required to be levied in any tax year to provide for the
11 payment of City Expenses may be reduced to the extent that amounts held under any
12 Indenture, or amounts otherwise available to the City, are available for the payment of
13 City Expenses in that tax year.
- 14 (c) The amount of the Special Tax required to be levied in any tax year to provide for the
15 satisfaction of the City's obligations and to pay State Issuer Expenses, as each may be
16 required by a Contribution Agreement, may be reduced to the extent that amounts
17 held under any Indenture, or amounts otherwise available to the City, for the payment
18 of the City's obligations under the Contribution Agreement are available for the
19 payment of State Issuer Expenses in that tax year.
- 20 (d) The City covenants to levy and collect the Special Tax in accordance with the Rate
21 and Method, up to the maximum special tax provided in the Rate and Method, at a
22 rate and amount at least sufficient to (1) pay principal of and interest on any Bonds,
23 (2) replenish any debt service reserve fund for any Bonds, (3) make payments under a
24 Contribution Agreement for the payment by the State Issuer of debt service on State
25 Obligations, including replenishment of any debt service reserve fund for any State
26 Obligations, if required under a Contribution Agreement, and (4) pay any City
27 Expenses or State Issuer Expenses, if required under a Contribution Agreement (to
28 the extent these expenses are not otherwise provided for), to the extent capitalized
29 interest and other amounts available under any Indenture, the Tax Increment
30 Revenues, and any amounts in the Tax Increment Fund are insufficient.
- 31 (e) The Special Tax also may be levied and collected with respect to Bonds or State
32 Obligations issued to refund outstanding Bonds or State Obligations, as applicable,
33 that were issued under the Special Taxing District Act without notice to or the
34 consent of the property owners in the Special Taxing District as provided in the
35 Indenture pursuant to which such Bonds or State Obligations were issued.
- 36 (f) (1) The Special Tax Revenues are authorized to be pledged to the payment of the
37 principal of and interest on Bonds; *provided, however,* that the Special Tax
38 Revenues may not be irrevocably pledged, and any obligation to pay principal of
39 and interest on any Bonds shall be subject to annual appropriation by the City; and
- 40 (2) The Special Tax Revenues are authorized to be pledged by the City pursuant to a
41 Contribution Agreement to provide for the payment by the State Issuer of the
42 principal of and interest on the applicable State Obligations and other related

Council Bill 16-0670

1 costs; *provided, however*, that the Special Tax Revenues may not be irrevocably
2 pledged, and any payment obligations of the City under any Contribution
3 Agreement shall be subject to annual appropriation by the City.

4 **SECTION 8. AND BE IT FURTHER ORDAINED**, That:

5 (a) Each of the following documents shall be executed in the name of the City, and on its
6 behalf by the Mayor or Director of Finance, by manual or facsimile signature, and if
7 necessary the corporate seal of the City or a facsimile of it shall be impressed or
8 otherwise reproduced on the document and attested by the custodian of the City Seal
9 by manual or facsimile signature:

10 (1) Upon issuance of any Bonds, the Indenture to be entered into between the City
11 and a trustee to be selected and the development agreement(s) to be entered into
12 among the City, any other governmental entity, if necessary, and the developer(s)
13 of the Districts to provide for the construction by the developer(s) of the Project;

14 (2) Upon issuance of any State Obligations, the Contribution Agreement and the
15 development agreement(s) to be entered into among the City, the State Issuer, or
16 any other governmental entity, if necessary, and the developer(s) of property in the
17 Districts to provide for the construction by the developer(s) of the Project; and

18 (3) any other documents the Board of Finance considers necessary for the issuance,
19 sale, and delivery of Bonds or State Obligations.

20 (b) If any officer whose signature or countersignature appears on the Bonds or any
21 document ceases to be an officer before the delivery of the Bonds or such other
22 document, the signature or countersignature shall nevertheless be valid and sufficient
23 for all purposes, as if the officer had remained in office until delivery.

24 (c) The Mayor, the Director of Finance, the custodian of the City Seal, and other officials
25 of the City are authorized and empowered to do all acts and things and execute all
26 documents and certificates as the Board of Finance determines to be necessary to
27 carry out the provisions of this Ordinance, subject to the limitations set forth in the
28 Acts, the Tax Increment Ordinance, the Special Taxing District Ordinance, and this
29 Ordinance.

30 **SECTION 9. AND BE IT FURTHER ORDAINED**, That the Board of Finance shall prescribe or
31 approve by resolution any of the following as it deems appropriate to finance the Project:

32 (a) the principal amount of the Bonds or State Obligations to be issued, such principal not
33 to exceed in the aggregate (including all outstanding Bonds and State Obligations) the
34 maximum amount set forth in this Ordinance;

35 (b) the rate or rates of interest the Bonds or State Obligations are to bear or the method
36 for determining the same, provided that the rate or rates of interest shall not exceed a
37 maximum of 9%;

38 (c) the manner in which and the terms upon which the Bonds or State Obligations are
39 privately placed or publicly sold;

Council Bill 16-0670

- 1 (d) the manner in which and the times and places that the interest on Bonds or interest on
2 State Obligations is to be paid and the manner in which any unpaid interest or
3 principal may accrue or be forgiven;
- 4 (e) the time or times that Bonds or State Obligations, or any series of Bonds and State
5 Obligations, may be executed, issued, delivered, or transferred;
- 6 (f) the form and tenor of Bonds or State Obligations and the denominations in which
7 Bonds or State Obligations may be issued;
- 8 (g) the manner in which and the times and places that the principal of Bonds and
9 principal on State Obligations is to be paid, within the limitations set forth in the
10 Acts;
- 11 (h) provisions pursuant to which any or all Bonds or State Obligations may be called for
12 redemption prior to their stated maturity dates;
- 13 (i) the terms and provisions of any Indenture, development agreement(s), Contribution
14 Agreement to be executed by or on behalf of the City, or other documents to be
15 executed by or on behalf of the City and any person in connection with the issuance of
16 Bonds or State Obligations, including, provisions providing for additional security for
17 the Bonds and State Obligations;
- 18 (j) provisions establishing sinking funds or debt service reserve funds for Bonds or State
19 Obligations;
- 20 (k) provisions regarding (i) the amounts of the Tax Increment Revenues and the Special
21 Tax Revenues pledged to pay the debt service on Bonds, to satisfy the City's payment
22 obligations under any Contribution Agreement, to replenish any debt service fund or
23 funds established for any Bonds or, if required by a Contribution Agreement, any
24 State Obligations, and to pay City Expenses and State Issuer Expenses, if required by
25 a Contribution Agreement, and (ii) the priority or order in which such amounts shall
26 be used to pay such debt service on the Bonds, to satisfy the City's payment
27 obligations under the Contribution Agreement to replenish any debt service fund or
28 funds for any Bonds or, if required by a Contribution Agreement, any State
29 Obligations, and to pay City Expenses and State Issuer Expenses, if required by a
30 Contribution Agreement;
- 31 (l) provision for municipal bond insurance or any other type of financial guaranty of
32 Bonds or State Obligations;
- 33 (m) whether the interest on any Bonds or State Obligations may be or may not be
34 excludable from gross income for federal income tax purposes; and
- 35 (n) any other provisions not inconsistent with the Charter (including the Acts), the Tax
36 Increment Ordinance, the Special Taxing District Ordinance, this Ordinance and other
37 applicable law as the Board of Finance determines to be necessary or desirable to
38 finance the Project.

Council Bill 16-0670

SECTION 10. AND BE IT FURTHER ORDAINED, That:

(a) Before any Bonds or State Obligations are issued, the Director of Finance shall record among the Land Records of the City, at the cost of the Special Taxing District, a declaration that:

(1) encumbers all real property located in the Special Taxing District, except for property exempt by law or the Special Taxing District Ordinance; and

(2) designates that property as subject to the Special Taxing District.

(b) The declaration shall terminate when the Director of Finance records a release stating that all Bonds and State Obligations are fully repaid or have been defeased.

SECTION 11. AND BE IT FURTHER ORDAINED, That:

(a) This Section 11 applies to any Bonds issued and sold on the basis that the interest on such Bonds will be excludable from gross income for federal income tax purposes. Notwithstanding anything in this Ordinance to the contrary, Bonds may be issued and sold on the basis that the interest on them will not be excludable from gross income for federal income tax purposes.

(b) The City covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of § 103 and §§ 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended, applicable to any such Bonds in order to preserve the status of the interest on such Bonds as excluded from gross income for federal income tax purposes.

(c) Without limiting the generality of subsection (b), the City:

(1) will not use or permit the use of any of the proceeds of any such Bonds in any manner that would cause the interest on such Bonds to be included in gross income for federal income tax purposes;

(2) periodically will determine the rebate amount and timely pay any rebate amount or installment of any rebate amount due on such Bonds, to the United States of America; and

(3) will prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, or any successor or additional form required by the Internal Revenue Service for such Bonds.

(d) The Director of Finance may prepare, execute, and deliver for such Bonds:

(1) a tax regulatory agreement and no arbitrage certificate with respect to such Bonds in the form the Director of Finance approves; and

(2) any other documents the Director of Finance considers necessary to assure the owners of such Bonds that interest on such Bonds will be and remain excludable from gross income for federal income tax purposes.

Council Bill 16-0670

1 **SECTION 12. AND BE IT FURTHER ORDAINED,** That any approvals, authorizations, or
2 activities provided in this Ordinance do not constitute and may not be deemed to constitute or
3 imply that the City Council, the Mayor, or any department, office or agency within or related to
4 the City has given or will give any approval, authorization, or consent to any action or activity
5 within or required for the development of the Districts, including any land use approval,
6 requirements for the provision of public utilities or services, approvals relating to the
7 construction or other development of the improvements that constitute the Project, or any other
8 administrative, judicial, quasi-judicial, or legislative approval, authorization, consent, or any
9 necessary amendments to underlying zoning laws and maps, urban renewal plans, Planned Unit
10 Developments or Master Plans required to develop the Project.

11 **SECTION 13. AND BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are
12 severable. If any provision, sentence, clause, section, or other part of this Ordinance is held or
13 determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstances,
14 that illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of
15 the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their
16 application to other persons or circumstances. It is the intent of the City that this Ordinance
17 would have been passed even if the illegal, invalid, unconstitutional, or inapplicable provision,
18 sentence, clause, section, or other part had not been included in this Ordinance, and as if the
19 person or circumstances to which this Ordinance or part are inapplicable had been specifically
20 exempted.

21 **SECTION 14. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect when it is
22 enacted.

Council Bill 16-0670

SCHEDULE I

Description of Project (the “Project”)

The Project means the following infrastructure improvements, to be constructed in accordance with all required City approvals:

1. The design, installation, development, construction or reconstruction, renovation, improvement, realignment of street, road, and bridge improvements to, from, or within the Development District, and other related costs, including (without limitation):
 - a. streets and roads that contain pedestrian walks, bike paths, and improvements related thereto, bridges that contain rails or rail lines, or a necessary bridge over existing rail lines and rail structures;
 - b. intersections, curbs, gutters, sidewalks, lighting, which may include structures or improvements relating to transit, pedestrians, and bicycles,
 - c. any other improvements which are designed to improve traffic flow to and from the Development District or otherwise necessary to the foregoing;
2. The design, installation, development, construction and reconstruction, renovation, improvement and equipping of utilities, and any necessary environmental remediation related thereto, and other related costs, including (without limitation):
 - a. water, sewer and sewage facilities, lighting, underdrains, electrical service, ductbanks, and stormwater management facilities,
 - b. water meter vaults and sanitary lift stations, and
 - c. stormwater management facilities, including (without limitation), wetlands, structural improvements, foliage, and micro-bioretenion facilities;
3. The design, installation, development, construction and reconstruction, renovation, improvement, installation, and equipping of public parks and open spaces and other related costs, including (without limitation):
 - a. public recreational and athletic fields and facilities, including required earthwork, foliage, equipment, and multimodal structures and facilities,
 - b. public plaza, public restrooms, shade structures, and comfort stations,
 - c. promenades, piers, pier decks, docks, wharfs, and landings for public use, and
 - d. all improvements necessary for and environmental remediation related to the safe access to and public use of the foregoing improvements, such as bulkhead structures (whether new or replacement), relieving platforms and other marine work, pile-driving, all structural and support elements and work related thereto, and vehicular connections necessary for safety and access;
4. The cost of purchasing, leasing, or otherwise acquiring land or other property, or an interest in them, in the designated development district area or as necessary for a right-of-way or other easement to or from the development district area;

Council Bill 16-0670

- 1 5. Site removal, including (without limitation) demolition, site preparation, earthwork, clearing,
2 grading and filling, improvements to the shoreline and in the intertidal zone to stabilize and
3 protect public areas and prevent shoreline erosion, erosion and sediment control, soil cut, infill or
4 removal, capping to protect public areas, and necessary environmental remediation;

- 5 6. Surveys and studies, including (without limitation) designs, plans, drawings, specifications, and
6 estimates of cost and of revenues, in each case related to the foregoing; and

- 7 7. The acquisition, construction, reconstruction, renovation, design, and development of other
8 related infrastructure improvements as permitted by the Acts that are necessary for the
9 completion of the foregoing for their intended public purposes.