

**CITY OF BALTIMORE
COUNCIL BILL 10-0594
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)
Introduced and read first time: September 20, 2010
Assigned to: Taxation, Finance and Economic Development Committee

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Harbor Point Development District**

3 FOR the purpose of designating a “development district” to be known as the “Harbor Point
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; providing for a special effective date; and generally providing for
8 matters relating to the designation and operation of the development district and the
9 establishment and use of the special, tax increment fund to provide for the payment by or
10 reimbursement to the City for debt service which the City is obligated to pay or has paid
11 (whether such obligation is general or limited) on any special obligation bonds or notes
12 issued by the City or any State Obligations (as defined herein) issued in connection with the
13 development district, the replenishment of any reserve fund, and the payment of certain
14 expenses and administrative costs related to the operation of the development district.

15 By authority of
16 Article II - General Powers
17 Section (62)
18 Baltimore City Charter
19 (1996 Edition)

20 **Recitals**

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

27 The Act also authorizes the City, subject to certain requirements, to borrow money by issuing
28 and selling Bonds (as defined herein) for the purpose of financing and refinancing the

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

Council Bill 10-0594

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

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

12 The City wishes to establish a development district within Baltimore City and to establish a
13 special, tax increment fund for that development district for the purpose of providing funds for
14 the costs of the infrastructure improvements and related costs permitted by the Act, including,
15 without limitation, street and road improvements, site removal, the acquisition of land, costs of
16 construction or rehabilitation of buildings that are devoted to a governmental use or purpose,
17 parking facilities that are publicly owned or privately owned but serve a public purpose, and the
18 installation of utilities, construction of parks, including public recreational facilities and
19 playgrounds, and other improvements relating to the development of residential, commercial and
20 office uses both to or from or within the development district.

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

23 (a) “Act” means the Tax Increment Financing Act, as codified in Article II, Section (62)
24 of the Baltimore City Charter.

25 (b) “Assessable base” means the total assessable base of all real property in the
26 Development District subject to taxation, as determined by the Supervisor of
27 Assessments.

28 (c) (1) “Assessment ratio” means any real property tax assessment ratio, however
29 designated or calculated, that is used or applied under applicable general law in
30 determining the assessable base.

31 (2) “Assessment ratio” includes the assessment percentage provided under §8-103(c)
32 of the State Tax-Property Article, as amended, replaced, or supplemented from
33 time to time.

34 (d) “Bonds” means any bonds or bond, notes or note, or other similar instruments or
35 instrument issued by the City pursuant to and in accordance with the Act.

36 (e) “City District Expenses” means the expenses of the City in carrying out its duties
37 under this Ordinance, including but not limited to all costs and expenses of the City
38 incurred in connection with the establishment of the Development District, the use of
39 Tax Increment revenues, the issuance of Bonds or State Obligations, and the
40 discharge of its duties under any Bond indenture or Contribution Agreement,
41 including the costs of any employees of the City and legal expenses associated with

Council Bill 10-0594

1 those duties, and in any way related to the administration of the Development
2 District.

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

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

12 (h) "MEDCO" means the Maryland Economic Development Corporation.

13 (i) "Obligations" means, collectively, any Bonds and any State Obligations.

14 (j) "Original assessable base" means the assessable base as of January 1, 2009.

15 (k) "Original full cash value" means the dollar amount that is determined by dividing the
16 original assessable base by the assessment ratio used to determine the original
17 assessable base.

18 (l) "Original taxable value" means, for any tax year, the dollar amount that is the lesser
19 of:

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

22 (2) the original assessable base.

23 (m) "Project" means the following improvements and activities that are to be completed
24 in accordance with all required City approvals:

25 (1) the design and construction of street and road improvements to, from or
26 within the Development District, including, without limitation, the installation
27 of curbs, gutters, sidewalks, lighting and landscaping, and the improvements
28 which are designed to improve traffic flow to and from the Development
29 District;

30 (2) the installation of utilities, including, without limitation, water, sewer,
31 lighting, and stormwater management facilities, the construction of parks,
32 including public recreational facilities, plazas, promenades, and transit piers,
33 and the construction of other necessary improvements to, from, or within the
34 Development District and other facilities;

35 (3) the acquisition by purchase, lease, or condemnation of land or other property,
36 or an interest in them, in the Development District or as necessary for a
37 right-of-way or other easement to or from the Development District;

Council Bill 10-0594

- 1 (4) the acquisition, design, construction, reconstruction, renovation, and
2 development of buildings that are to be devoted to a governmental use or
3 purpose or will provide units of affordable housing and condemning or
4 otherwise acquiring structures, real or personal property, rights, rights-of-way,
5 franchises, easements, and interests in furtherance of this purpose;
- 6 (5) structured and surface parking facilities that are (i) publicly owned or
7 (ii) privately owned but serve a public purpose;
- 8 (6) site removal, including site preparation, earthwork, clearing, grading, and
9 filling;
- 10 (7) surveys and studies; and
- 11 (8) the acquisition, construction, renovation, and development of other related
12 infrastructure improvements and the financing or refinancing of any related
13 costs as permitted by the Act that are necessary for the completion of the
14 foregoing for their intended public purposes.

- 15 (n) “State Issuer” means MEDCO, the State of Maryland, or any agency, department, or
16 political subdivision thereof.
- 17 (o) “State Issuer Expenses” means administrative costs and other expenses related to the
18 State Obligations of the State Issuer permitted by the Act and approved by the
19 Director of Finance to be paid by the City pursuant to a Contribution Agreement.
- 20 (p) “State Obligations” means any bonds or bond, notes or note, or other similar
21 instruments or instrument issued by a State Issuer, the proceeds of which have been
22 used for any of the purposes specified in this Ordinance or the Act.
- 23 (q) “Tax increment” means for any tax year, the amount by which the assessable base as
24 of January 1 preceding that tax year exceeds the original taxable value, divided by the
25 assessment ratio used to determine the original taxable value.
- 26 (r) “Tax Increment Fund” means the special fund established by Section 4 of this
27 Ordinance.
- 28 (s) “Tax year” means the period from July 1 of a calendar year through June 30 of the
29 next calendar year.

30 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
31 finds and determines that the establishment of the Development District, the creation of the Tax
32 Increment Fund for the Development District, the issuance of Bonds from time to time, and the
33 pledge of amounts, subject to appropriation, on deposit in the Tax Increment Fund to the
34 payment of debt service on and other costs related to any Bonds or, pursuant to a Contribution
35 Agreement, any State Obligations, all for the purpose of providing funds for the financing and
36 refinancing of a portion of the costs of the Project, accomplishes the purposes of the Act, serves
37 public purposes, including the direct and indirect enhancement of the taxable base of the City,
38 the creation of new employment opportunities, the encouragement of additional economic
39 activities, the development or redevelopment of slum, blighted or deteriorated areas, the
40 undertaking of urban renewal projects, and the facilitation of planned improvements to the

Council Bill 10-0594

1 Development District, and generally promotes the health, welfare, and safety of the residents of
2 the State of Maryland and of the City of Baltimore.

3 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the contiguous area consisting of the
4 properties designated as Ward 03, Section 07, Block 1825, Lots 001, 002, 003A, and 006; Block
5 1817, Lots 001 and 004; and Block 1816, Lot 001 and properties that are expected to be
6 designated Ward 03, Section 07, Block 1815, Lot 002-2; and Block 1816, Lot 003 and Lot 004
7 (as the same may be renumbered or redesignated as a result of any subdivision or resubdivision
8 of such property), together with the adjoining roads, highways, alleys, rights-of-way and other
9 similar property, shown on the map attached to this Ordinance as Exhibit 1, and made a part of
10 this Ordinance, is designated as a development district to be known as the “Harbor Point
11 Development District.”

12 **SECTION 4. AND BE IT FURTHER ORDAINED,** That a special fund is established for the
13 Development District to be known as the “Harbor Point Development District Tax Increment
14 Fund.” The Director of Finance and other officers and employees of the City shall take all
15 necessary steps to establish the Tax Increment Fund as a separate fund to be held by or for the
16 account of the City.

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

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

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

25 (2) the portion of the taxes representing the levy on the tax increment that would
26 normally be paid to the City shall be paid into the Tax Increment Fund, to be
27 applied in accordance with the provisions of this Ordinance, any ordinance
28 authorizing the issuance of Bonds or State Obligations, and the Act.

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

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

35 (a) If no Bonds or State Obligations are outstanding with respect to the Development
36 District, money in the Tax Increment Fund may be:

37 (1) used for any other purposes described in the Act, including the payment or
38 reimbursement of costs of the Project;

Council Bill 10-0594

1 (2) accumulated for payment of debt service on Bonds or, pursuant to a
2 Contribution Agreement, debt service on State Obligations, to be
3 subsequently issued under the Act or by a State Issuer, respectively;

4 (3) used to pay or reimburse the City for debt service or other related costs that
5 the City is obligated to pay or has paid (whether as a general or limited
6 obligation of the City) on any Bonds issued by the City or State Obligations
7 issued by any State Issuer, the proceeds of which have been used for any of
8 the purposes specified in the Act; or

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

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

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

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

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

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

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

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

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

Council Bill 10-0594

1 **SECTION 10. AND BE IT FURTHER ORDAINED,** That this Ordinance may be amended by a
2 subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge
3 or reduce the size of the Development District or provide for a future pledge of the Tax
4 Increment Fund other than as contemplated under this Ordinance. However, no ordinance may
5 be effective to reduce the size of the Development District so long as there are any outstanding
6 Obligations secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of
7 the Bonds or the pledge of revenue pursuant to a Contribution Agreement to the payment of the
8 State Obligations permits the City to reduce the area constituting the Development District, the
9 holders of such Obligations or an authorized representative on their behalf consents to the
10 reduction, or the indenture authorizing the issuance of such Obligations permits the reduction.

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

21 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
22 is enacted.

Council Bill 10-0594

1

Exhibit 1

2

Map of Development District