

**CITY OF BALTIMORE
COUNCIL BILL 08-0160
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)
Introduced and read first time: July 21, 2008
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 Housing and Community Development, Department of Public Works, Baltimore Development Corporation, Baltimore City Parking Authority Board, Department of Finance, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Westport Waterfront Development District**

3 FOR the purpose of designating a “development district” to be known as the “Westport
4 Waterfront Development District”; providing for and determining various matters in
5 connection with the establishment of the development district; creating a special, tax
6 increment fund for the development district; allocating certain property taxes to that fund;
7 making certain findings and determinations; providing for a special effective date; and
8 generally providing for matters relating to the designation and operation of the development
9 district and the establishment and use of the special, tax increment fund to provide for the
10 payment by or reimbursement to the City for debt service which the City is obligated to pay
11 or has paid (whether such obligation is general or limited) on any special obligation bonds or
12 notes issued by the City or any “state obligations” issued in connection with the development
13 district, the replenishment of any reserve fund, and the payment of certain expenses and
14 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
22 Charter (the “Act”) authorizes the Mayor and City Council of Baltimore (the
23 “City”) to establish a “development district” (as defined in the Act) and a special,
24 tax increment fund into which the revenues and receipts from the real property
25 taxes representing the levy on the “tax increment” (as defined in the Act) for the
26 development district are deposited for the purpose of providing funds for the
27 development of the development district.

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

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

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

16 MEDCO, pursuant to a resolution adopted on February 25, 2008, authorized the
17 issuance of its non-recourse, tax-exempt, limited obligation revenue bonds, from
18 time to time and in one or more issues or series, pursuant to the provisions of
19 Sections 5-201 through 5-217, inclusive, of Article 83A of the Annotated Code of
20 Maryland, as amended, for the purpose of financing and refinancing the costs of
21 the Project (as defined herein).

22 The City wishes to establish a development district within Baltimore City and to
23 establish a special, tax increment fund for that development district for the
24 purpose of providing funds for the costs of the infrastructure improvements and
25 related costs permitted by the Act, including, without limitation, street and road
26 improvements, the acquisition of land, construction of buildings or structures that
27 will provide affordable housing or otherwise be devoted to a governmental use or
28 purpose, and other improvements relating to the development of residential,
29 commercial and office uses both to or from or within the development district.

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

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

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

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

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

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- 1 (d) "Bond" means any bond, note, or other similar instrument issued by the Mayor and
2 City Council of Baltimore under the Act.
- 3 (e) "City expenses" shall have the meaning set forth in the Pledge Ordinance.
- 4 (f) "Contribution Agreement" means one or more contribution agreements or such other
5 agreements executed by the City and a State Issuer, pursuant to which the City will
6 evidence a pledge of certain tax revenues for the purpose of securing the payment of
7 debt service on State Obligations, the replenishment of any reserve fund, and the
8 payment of other costs with respect to the State Obligations, including, without
9 limitation, any City expenses, State Issuer Expenses, and other 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) "Original assessable base" means the assessable base as of January 1, 2007.
- 14 (j) "Original full cash value" means the dollar amount that is determined by dividing the
15 original assessable base by the assessment ratio used to determine the original
16 assessable base.
- 17 (k) "Original taxable value" means, for any tax year, the dollar amount that is the lesser
18 of:
- 19 (1) the product of the original full cash value times the assessment ratio applicable to
20 that tax year; or
- 21 (2) the original assessable base.
- 22 (l) "Pledge Ordinance" means the Ordinance of the City authorizing the pledge of
23 certain tax revenues for the purpose set forth therein.
- 24 (m) "Project" means the following improvements and activities completed in accordance
25 with all required City approvals:
- 26 (1) the design and construction of street and road improvements to, from or within
27 the Development District, including, without limitation, the installation of curbs,
28 gutters, sidewalks, lighting and landscaping, and the improvements to the
29 Waterview Avenue bridge which are designed to improve traffic flow to and from
30 the Development District;
- 31 (2) the installation of utilities, including, without limitation, water and sewer, and the
32 construction of bike trails, parks and playgrounds, and other necessary
33 improvements including lighting, stormwater management facilities and other
34 facilities;
- 35 (3) the acquisition by purchase, lease, or condemnation of land or other property, or
36 an interest in them, in the Development District or as necessary for a right-of-way
37 or other easement to or from the Development District;

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1 (4) the acquisition, design, construction, reconstruction, renovation, and development
2 of buildings that provide units of affordable housing and condemning or
3 otherwise acquiring structures, real or personal property, rights, rights-of-way,
4 franchises, easements, and interests in furtherance of this purpose;

5 (5) parking facilities;

6 (6) site removal, including site preparation, earthwork, clearing, grading, and filling;
7 and

8 (7) the acquisition, construction, renovation, and development of other related
9 infrastructure improvements and the financing or refinancing of any related costs
10 as permitted by the Act that are necessary for the completion of the foregoing for
11 their intended public purposes.

12 (n) “Revenues” means collectively the tax increment revenues and the special tax
13 revenues.

14 (o) “State Issuer” means MEDCO, the State of Maryland, or any agency, department, or
15 political subdivision thereof.

16 (p) “State Issuer Expenses” means administrative costs and other expenses related to the
17 State Obligations of the State Issuer permitted by the Act and approved by the
18 Director of Finance to be paid by the City pursuant to a contribution agreement.

19 (q) “State Obligations” means any bonds or bond, notes or note, or other similar
20 instruments or instrument issued by a State Issuer, the proceeds of which have been
21 used to finance a portion of the costs of the Project, including, without limitation,
22 bonds issued by MEDCO pursuant to the provisions of Sections 5-201 through 5-217,
23 inclusive, of Article 83A of the Annotated Code of Maryland, as amended.

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

27 (s) “Tax Increment Fund” means the special fund established by Section 4 of this
28 Ordinance.

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

31 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Mayor and City Council of Baltimore
32 finds and determines that the establishment of the Development District, the creation of the Tax
33 Increment Fund for the Development District and the pledge of amounts on deposit in the Tax
34 Increment Fund to the payment of debt service and other costs on or related to Bonds or State
35 Obligations pursuant to the Pledge Ordinance and the Contribution Agreement, all for the
36 purpose of providing funds for the financing and refinancing of a portion of the costs of the
37 Project, accomplishes the purposes of the Act, serves public purposes, including the direct and
38 indirect enhancement of the taxable base of the City and the facilitation of planned
39 improvements to the Development District, and generally promotes the health, welfare, and
40 safety of the residents of the State of Maryland and of the City of Baltimore.

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1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the contiguous area consisting of the
2 properties designated as Ward 25, Section 05, Block 7611, Lot 001 and Block 7612, Lots 001,
3 003, 005, 005A and 006 (as the same may be renumbered or redesignated as a result of any
4 resubdivision of such property), together with the adjoining roads, highways, alleys,
5 rights-of-way and other similar property, shown on the map attached to this Ordinance as
6 Exhibit 1, and made a part of this Ordinance, is designated as a development district to be known
7 as the “Westport Waterfront Development District.”

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

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

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

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

21 (2) the portion of the taxes representing the levy on the tax increment that would
22 normally be paid to the City shall be paid into the Tax Increment Fund, to be
23 applied in accordance with the provisions of this Ordinance, the Pledge Ordinance
24 and the Act.

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

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

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

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

35 (2) accumulated for payment of debt service on Bonds or State Obligations to be
36 subsequently issued under the Act or by a State Issuer, respectively;

37 (3) used to pay or reimburse the City for debt service or other related costs that the
38 City is obligated to pay or has paid (whether as a general or limited obligation of
39 the City) on any Bonds issued by the City or State Obligations issued by any State

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1 Issuer, the proceeds of which have been used for any of the purposes specified in
2 the Act; or

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

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

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

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

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

20 (2) the use is not prohibited by the ordinance authorizing the issuance of the Bonds or
21 the State Obligations or the pledge of amounts on deposit in the Tax Increment
22 Fund, including the limitation set forth in Section 4(b) of the Pledge Ordinance.

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

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

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

37 **SECTION 10. AND BE IT FURTHER ORDAINED,** That this Ordinance may be amended by a
38 subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge
39 or reduce the size of the Development District. However, no ordinance may be effective to
40 reduce the size of the Development District so long as there are any outstanding Bonds or State
41 Obligations secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of

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1 the Bonds or the State Obligations permits the City to reduce the area constituting the
2 Development District, the holders of the Bonds or the State Obligations or an authorized
3 representative on their behalf consents to the reduction or the indenture authorizing the issuance
4 of the Bonds or the State Obligations permits the reduction.

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

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

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1

EXHIBIT 1

2

Map of Development District