



Legislation Text

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)

A BILL ENTITLED

AN ORDINANCE concerning
Harbor Point Development District - Amending Ordinance 10-401

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

BY authority of
Article II - General Powers
Section (62)
Baltimore City Charter
(1996 Edition)

BY repealing and reordaining with amendments
Ordinance 10-401
The Recitals and Sections 1 through 3, 5 through 7, and 10

Recitals

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

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

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

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

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

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

Ordinance 10-401

Recitals

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

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

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

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

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

- (a) "Act" means the Tax Increment Financing Act, as codified in Article II, Section (62) of the Baltimore City Charter.
- (b) "Assessable base" means the total assessable base of all real property in the Development District subject to taxation, as determined by the Supervisor of Assessments.
- (c) (1) "Assessment ratio" means any real property tax assessment ratio, however designated or calculated, that is used or applied under applicable general law in determining the assessable base.
- (2) "Assessment ratio" includes the assessment percentage provided under §8103(c) of the State Tax-Property Article, as amended, replaced, or supplemented from time to time.
- (d) "Bonds" means any bonds or bond, notes or note, or other similar instruments or instrument issued by the City pursuant to and in accordance with the Act.
- (e) "City District Expenses" means the expenses of the City in carrying out its duties under this Ordinance, including but not limited to all costs and expenses of the City incurred in connection with the establishment of the Development District, the use of Tax Increment revenues, the issuance of Bonds [or State Obligations], and the discharge of its duties under any Bond indenture or INDENTURES [Contribution Agreement], including the costs of any employees of the City and legal expenses associated with those duties, and in any way related to the administration of the Development District.
- [(f) "Contribution Agreement" means one or more contribution agreements or such other agreements executed by the City and a State Issuer, pursuant to which the City will evidence a pledge of certain tax and other revenues for the purpose of securing the payment of debt service on State Obligations, the replenishment of any reserve fund, and the payment of other costs with respect to the State Obligations, including, without limitation, any City District Expenses, State Issuer Expenses, and other administrative costs.]
- (F) [(g)] "Development District" means the area in the City designated in Section 3 of this Ordinance as a development district under the Act.
- [(h) "MEDCO" means the Maryland Economic Development Corporation.]
- [(i) "Obligations" means, collectively, any Bonds and any State Obligations.]
- (G) [(j)] "Original assessable base" means, COLLECTIVELY:
- (1) the assessable base as of January 1, 2009, OF THE PROPERTIES DESIGNATED AS WARD 03, SECTION 07, BLOCK 1825, LOTS 001, 002, 003A, AND 006; BLOCK 1817, LOTS 001 AND 004; AND BLOCK 1816, LOT 001; AND
- (2) THE ASSESSABLE BASE AS OF JANUARY 1, 2012, OF THE PROPERTIES DESIGNATED AS WARD

03, SECTION 07, BLOCK 1825, LOT 003; BLOCK 1817, LOTS 010 AND 010A; BLOCK 1816, LOT 001A; AND BLOCK 1815, LOTS 001 AND 002.

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

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

- (1) the product of the original full cash value times the assessment ratio applicable to that tax year; or
- (2) the original assessable base.

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

- (1) the design and construction of street and road improvements to, from or within the Development District, including, without limitation, the installation of curbs, gutters, STREETS, BRIDGES, sidewalks, lighting and landscaping, and the improvements which are designed to improve traffic flow to and from the Development District;
- (2) the installation of utilities, including, without limitation, water, sewer, lighting, PUBLICLY-OWNED DUCTBANKS, and stormwater management facilities, the construction of parks, including public recreational facilities AND PUBLIC RESTROOMS, plazas, promenades, and transit piers, and the construction of other necessary improvements to, from, or within the Development District and other facilities;
- (3) the acquisition by purchase, lease, or condemnation of land or other property, or an interest in them, in the Development District or as necessary for a right-of-way or other easement to or from the Development District;
- (4) the acquisition, design, construction, reconstruction, renovation, and development of buildings that are to be devoted to a governmental use or purpose or will provide units of affordable housing and condemning or otherwise acquiring structures, real or personal property, rights, rights-of-way, franchises, easements, and interests in furtherance of this purpose;
- (5) structured and surface parking facilities that are (i) publicly owned or (ii) privately owned but serve a public purpose;
- (6) site removal, including site preparation, earthwork, clearing, grading, and filling;
- (7) surveys and studies; and
- (8) the acquisition, construction, renovation, and development of other related infrastructure improvements and the financing or refinancing of any related costs as permitted by the Act that are necessary for the completion of the foregoing for their intended public purposes.

[(n)] "State Issuer" means MEDCO, the State of Maryland, or any agency, department, or political subdivision thereof.]

[(o)"State Issuer Expenses" means administrative costs and other

expenses related to the State Obligations of the State Issuer permitted by the Act and approved by the Director of Finance to be paid by the City pursuant to a Contribution Agreement.]

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

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

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

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

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

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

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

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

SECTION 7. AND BE IT FURTHER ORDAINED, That:

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

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

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

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

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

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

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

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

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

REVISED EXHIBIT 1

Map of Development District
(See next page)

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DevDistamt/HarborPoint/nbr

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