



# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland 21202

## 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 **Tide Point Special Obligation Bonds**

FOR the purpose of providing for the issuance of special obligation bonds or notes in an amount not exceeding \$35,000,000 for the purpose of financing public and other infrastructure improvements; providing for the method and sources of payment for these special obligation bonds or notes; authorizing the Board of Finance to specify, prescribe, determine, provide for and approve the details, forms, documents or procedures in connection with the special obligation bonds or notes and any other matters necessary or desirable in connection with the authorization, issuance, sale and payment of these special obligation bonds or notes; providing for a special effective date; and generally relating to the issuance and payment of special obligation bonds or notes.

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

### Recitals

Article II, Section (62) of the Baltimore City Charter (the "Tax Increment Act") authorizes the Mayor and City Council of Baltimore to establish a "development district" (as defined in the Tax Increment 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 Tax Increment Act) for the development district are deposited, for the purpose of providing funds for the development of the development district.

Pursuant to Ordinance No. 03-642 ("Ordinance 03-642") enacted on December 8, 2003, as amended by Ordinance No. 11-553, enacted on November 22, 2011, and as further amended by an ordinance enacted prior to or simultaneously with this Ordinance (collectively, the "Development District Ordinance"), the City has: (i) designated the North Locust Point Development District (the "Development District"); (ii) created the North Locust Point Development District Tax Increment

Fund; (iii) provided that until special obligation bonds or notes issued with respect to the Development District have been fully paid, the property taxes on real property in the Development District shall be divided as provided in the Tax Increment Act; and (iv) made other findings and determinations with respect to the Development District.

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 District Act) and a special fund into which the special taxes levied in the special taxing district are deposited, for the purpose of providing financing, refinancing, or reimbursement for the cost of infrastructure improvements.

Pursuant to Ordinance No. 04-850 (“Ordinance 04850”), effective on November 29, 2004, the City has: (i) designated the North Locust Point Special Taxing District (the “NLP Special Taxing District”); (ii) created the North Locust Point Special Tax Fund; (iii) authorized the levy of a special tax on all real property within the NLP Special Taxing District; and (iv) made certain other findings and determinations with respect to the NLP Special Taxing District.

Pursuant to an ordinance enacted prior to or simultaneously with this Ordinance (the “Special Taxing District Ordinance”), the City has (i) designated an additional special taxing district entitled the Tide Point Special Taxing District (the “Special Taxing District”); (ii) created the Tide Point Special Tax Fund; (iii) authorized the levy of a special tax on all real property within the Special Taxing District; and (iv) made certain other findings and determinations with respect to the Special Taxing District. The boundaries of the Special Taxing District are included within the boundaries of the NLP Special Taxing District.

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

The Special Taxing District Act authorizes the City, subject to certain requirements, to borrow money by issuing and selling bonds for the purpose of providing financing, refinancing, or reimbursement for the cost of infrastructure improvements.

Pursuant to Ordinance 04-851 (“Ordinance 04-851”), effective on November 29, 2004, the City authorized the issuance of special obligation bonds or notes in an amount not to exceed \$3,000,000 to provide funds for the development of public and other infrastructure improvements in and in the vicinity of the Development District and the NLP Special Taxing District involving the construction of road bed improvements; road paving; necessary storm water management, ductbank, water line and other utility improvements; signalization for a new railway crossing; relocation of railway tracks and the recreation of related railway stacking capacity; related land acquisition within and outside the Development District and the NLP Special Taxing District; and engineering and design fees in connection with the foregoing. On or about August 25, 2005, pursuant to the Tax Increment Act, the Special Taxing District Act, Ordinance 03-642, Ordinance 04-850, Ordinance 04-851, and a prior resolution adopted by the Board of Finance on July 25, 2005, the City issued its Mayor and City Council of Baltimore, Special Obligation Bonds (North Locust Point Project) Series 2005 (the “2005 Bonds”) in an aggregate principal amount of \$2,977,000.

The City wishes to authorize the issuance of special obligation bonds or notes to provide funds for the development of public and other infrastructure improvements in and in the vicinity of the Development District and the Special Taxing District involving the design and construction (including redesign or reconstruction) of roads and related improvements, including road bed improvements, lighting, landscaping, signage and decorations; road paving; necessary storm water management, ductbank, water line and other utility improvements; signalization for a new railway crossing; relocation of railway tracks and the recreation of related railway stacking capacity; structured or surface parking facilities that are either publicly owned or privately owned but serve a public purpose; additional

road improvements and sidewalks, including a pedestrian bridge; the design, construction, reconstruction, renovation, equipping, and development of park, athletic, or playground facilities, including (but not limited to) walking and biking paths and trails and playing fields and courts, or buildings that are to be devoted to a governmental use or purpose; site removal, including demolition and site preparation; additional facilities, including a pier and bulkhead improvements and promenade improvements; the acquisition, construction, renovation and development of other related public and other infrastructure improvements that are necessary for the completion of such improvements for their intended public purposes; related land acquisition within and outside the Development District and the Special Taxing District; and engineering, project, and design fees and other related costs permitted by the Act in connection with the foregoing.

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) “2005 Bonds” means the City’s Mayor and City Council of Baltimore, Special Obligation Bonds (North Locust Point Project) Series 2005 issued in an aggregate principal amount of \$2,977,000.
- (b) “2012 Bonds” means any bond, note, or other similar instrument issued by the Mayor and City Council of Baltimore under the Acts and authorized by this Ordinance.
- (c) “Acts” means, collectively, the Tax Increment Act and the Special Taxing District Act.
- (d) “Bond” means any bond, note, or other similar instrument issued by the Mayor and City Council of Baltimore under the Acts, including without limitation, the 2005 Bonds and the 2012 Bonds.
- (e) “City expenses” means:
  - (1) the fees and expenses of any fiscal agent or trustee employed by the City in connection with the bonds;
  - (2) the expenses of the City in carrying out its duties under the indenture, including:
    - (i) the expenses incurred in levying and collecting the special tax;
    - (ii) the expenses incurred in complying with arbitrage rebate requirements and obligated person disclosure requirements associated with applicable federal and state securities law, including the costs of any employees of the City and fees of any professionals retained by the City to provide these services; and
    - (iii) all other costs and expenses of the City and the bond trustee incurred in connection with the discharge of their duties under the indenture, including legal expenses associated with those duties, and in any way related to the administration of the Special Taxing District.
- (f) “Development District” means the North Locust Point Development District.
- (g) “Includes” or “including” means by way of illustration and not by way of limitation.
- (h) “Indenture” means any indenture or (collectively) indentures under which the 2012 Bonds are issued that are approved by the Board of Finance pursuant to Section 9 of this Ordinance.
- (i) “Infrastructure improvements” means the following public and other infrastructure improvements completed in accordance with all required City approvals:

- (1) the design and construction (including redesign or reconstruction) of roads, including removal of existing paving, new paving and installation of curbs, gutters, sidewalks, lighting, landscaping, signage, and decorations, and utilities (including, but not limited to, water, sanitary sewer, storm sewer, and ductbank);
  - (2) the design and construction of necessary signalization for a railway crossing;
  - (3) the relocation of existing railway tracks and the recreation of related railway stacking capacity;
  - (4) structured or surface parking facilities that are either publicly owned or privately owned but serve a public purpose;
  - (5) additional road improvements and sidewalks, including a pedestrian bridge;
  - (6) the design, construction, reconstruction, renovation, equipping, and development of parks, athletic, or playground facilities, including walking and biking paths and trails and playing fields and courts, or buildings that are to be devoted to a governmental use or purpose;
  - (7) additional facilities, including pier and bulkhead improvements and promenade improvements;
  - (8) site removal, including demolition and site preparation;
  - (9) the acquisition of land whether inside or outside the Special Taxing District for the infrastructure improvements identified in Paragraph (i)(1)(8); and
  - (10) the acquisition, construction, renovation and development of other related public and other infrastructure improvements that are necessary for the completion of these infrastructure improvements for their intended public purposes.
- (j) “Ordinance 04-851” means Ordinance 04-851, effective on November 29, 2004, pursuant to which the 2005 Bonds were issued.
- (k) “Rate and Method” means the Rate and Method of Apportionment of the Special Taxes attached to the Special Taxing District Ordinance as Exhibit 2.
- (l) “Special tax” means the special tax authorized to be levied and collected in the Special Taxing District by the Special Taxing District Ordinance.
- (m) “Special Tax Fund” means the Tide Point Special Tax Fund.
- (n) “Special tax revenues” means the revenues and receipts from the special tax, including amounts deposited in the Special Tax Fund and any other fund into which all or any of these revenues and receipts are deposited after they are appropriated by the Mayor and City Council of Baltimore.
- (o) “Special Taxing District” means the Tide Point Special Taxing District.
- (p) “Special Taxing District Act” means Article II, Chapter (62A) of the Baltimore City Charter.
- (q) “Special Taxing District Ordinance” means the Ordinance of the Mayor and City Council designating the Special Taxing District.

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

(s) “Tax Increment Act” means Article II, Chapter (62) of the Baltimore City Charter.

(t) “Tax Increment Fund” means the North Locust Point Development District Tax Increment Fund.

(u) “Tax Increment Ordinance” means the Ordinance of the Mayor and City Council designating the Development District, as amended from time to time.

(v) “Tax increment revenues” means the revenues and receipts from the taxes representing the levy on the tax increment that would normally be paid to the City, including amounts deposited in the Tax Increment Fund or any other fund into which all or any part of these revenues and receipts are deposited after they are appropriated by the Mayor and City Council of Baltimore.

(w) “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 issuance of the 2012 Bonds from time to time for the purpose of providing funds to finance the infrastructure improvements:

(a) accomplishes the purposes of the Acts;

(b) serves public purposes, including the direct and indirect enhancement of the taxable base of the City and the facilitation of planned improvements to the North Locust Point area, the creation of new employment opportunities, the encouragement of additional economic activities, the undertaking of urban renewal projects and the furtherance of economic development conducted pursuant to comprehensive plans; and

(c) 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:

(a) The 2012 Bonds may be issued from time to time in one or more issues or series and as one or more instruments in an aggregate principal amount not to exceed \$35,000,000.

(b) The proceeds of the 2012 Bonds may be utilized solely for the following purposes, as the Board of Finance determines pursuant to Section 9 of this Ordinance:

(1) to finance all or part of the costs of the infrastructure improvements;

(2) to establish one or more debt service reserve fund or funds for the 2012 Bonds;

(3) to fund capitalized interest on the 2012 Bonds; and

(4) to pay costs and expenses of issuing the 2012 Bonds, including any City Expenses.

(c) The 2012 Bonds may be issued pursuant to the provisions of the indenture at any time or from time to time. Each issue or series of the 2012 Bonds shall be identified by the year of issue or by other designation.

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

(a) The tax increment revenues shall continue to be pledged to the payment of the principal of and interest on the 2005 Bonds as more particularly set forth in the Indenture of Trust dated as of August 1, 2005 (the "2005 Indenture"), by and between the City and the trustee named therein and Ordinance 04-851; provided that the tax increment revenues are not irrevocably pledged to the payment of the principal of and interest on the 2005 Bonds, and the obligation to pay the principal of and interest on the 2005 Bonds from the tax increment revenues is subject to annual appropriation by the City.

(b) The tax increment revenues are also pledged on a subordinate basis to the payment of the principal of and interest on the 2012 Bonds; such that the payment of the principal of and interest on the 2012 Bonds shall be made only from tax increment revenues remaining, if any, after the payment of principal of and interest on the 2005 Bonds and any other amounts required by the 2005 Indenture. However, the tax increment revenues are not irrevocably pledged to the payment of the principal of and interest on the 2012 Bonds, and the obligation to pay the principal of and interest on the 2012 Bonds from the tax increment revenues is subject to annual appropriation by the City.

(c) The tax increment revenues may also be pledged by the City to the payment of additional bonds issued by the City under the Tax Increment Act relating to the Development District, subject to the provisions of the indenture.

(d) If any bonds are outstanding, the tax increment revenues may not be used for the purposes set forth in Section 6 of the Tax Increment Ordinance unless the amount in the Tax Increment Fund exceeds:

- (1) the debt service payable on the bonds in that fiscal year and any debt service payable on the bonds in any prior fiscal year that remains unpaid;
- (2) the amount required to replenish any debt service reserve fund established for the bonds; and
- (3) the amount of City expenses due and payable and to become due and payable in that fiscal year.

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

(a) Provision may be made for municipal bond insurance or any other type of financial guaranty of the 2012 Bonds.

(b) The 2012 Bonds may be secured, as the Board of Finance determines under Section 9 of this Ordinance, through:

- (1) the establishment of debt service reserve funds;
  - (2) the establishment of additional sinking funds; or
  - (3) the pledge of other assets and revenues toward the payment of the principal and interest on the 2012 Bonds.
- (c) The 2012 Bonds are special obligations of the City. They do not constitute a general obligation debt of the

City or a pledge of the City's full faith and credit or taxing power.

SECTION 6. AND BE IT FURTHER ORDAINED, That the 2012 Bonds will be payable:

- (a) first, from capitalized interest and any other available amount in the funds and accounts created by the indenture;
- (b) second, from the tax increment revenues, subject to annual appropriation by the City, Section 4(b) of this Ordinance, and any applicable provisions of the indenture pursuant to which the 2012 Bonds are issued; and
- (c) third, to the extent set forth in the Rate and Method and in accordance with any applicable terms of the indenture pursuant to which the 2012 Bonds are issued, from the special tax revenues, subject to annual appropriation by the City.

SECTION 7. AND BE IT FURTHER ORDAINED, That:

- (a) A special tax shall be levied in accordance with the Rate and Method and any applicable terms of the indenture pursuant to which the 2012 Bonds were issued. The amount of the special tax required to be levied in any tax year to provide for the payment of City expenses may be reduced to the extent that amounts are held under the indenture, or amounts are otherwise made available to the City, are available for the payment of City expenses in that tax year.
- (b) The City covenants to levy the special tax, in accordance with the Rate and Method, up to the maximum special tax provided in the Rate and Method, at a rate and amount at least sufficient to pay the principal of and interest on the 2012 Bonds, to replenish any debt service reserve fund for the 2012 Bonds and to pay City expenses (to the extent these expenses are not otherwise provided for), to the extent described in the Rate and Method. The special tax also may be levied with respect to refunding bonds issued under the Special Taxing District Act without notice to or the consent of the property owners in the Special Taxing District as provided in the indenture.
- (c) The special tax revenues are pledged to the payment of the principal of and interest on the 2012 Bonds. However, the special tax revenues are not irrevocably pledged to the payment of the principal of and interest on the 2012 Bonds, and the obligation to pay the principal of and interest on the 2012 Bonds from the special tax revenues is subject to annual appropriation by the City.

SECTION 8. AND BE IT FURTHER ORDAINED, That:

- (a) The 2012 Bonds shall be executed in the name of the City and on its behalf by the Mayor, by manual or facsimile signature. The corporate seal of the City or a facsimile of it shall be impressed or otherwise reproduced on the 2012 Bonds and attested by the Custodian or Alternate Custodian of the City Seal by manual, or facsimile signature.
- (b) Each of the following documents shall be executed in the name of the City and on its behalf by the Mayor or Director of Finance, by manual signature and, if necessary, the corporate seal of the City or a facsimile of it shall be impressed or otherwise reproduced on the documents and attested by the Custodian or Alternate Custodian of the City Seal, by manual signature:
  - (1) the indenture to be entered into between the City and a trustee to be selected, if applicable to the particular series of bonds;
  - (2) any development agreement to be entered into among the City, any other governmental entity, if necessary,

and any developer to provide for the construction of the infrastructure improvements; and

(3) any other documents the Board of Finance considers necessary for the issuance, sale and delivery of the 2012 Bonds.

(c) If any officer whose signature or countersignature or a facsimile of whose signature or countersignature appears on the 2012 Bonds or any other document ceases to be an officer before the delivery of the 2012 Bonds or any other document, the signature or countersignature or the facsimile shall nevertheless be valid and sufficient for all purposes, as if the officer had remained in office until delivery.

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

SECTION 9. AND BE IT FURTHER ORDAINED, That the Board of Finance shall specify and prescribe by resolution any of the following as it deems appropriate to finance the infrastructure improvements:

- (a) the principal amount of the 2012 Bonds to be issued;
- (b) the rate or rates of interest the 2012 Bonds are to bear or the method for determining the same;
- (c) the manner in which and the terms upon which the 2012 Bonds are to be sold;
- (d) the manner in which and the times and places that the interest on the 2012 Bonds is to be paid;
- (e) the time or times that the 2012 Bonds may be executed, issued, and delivered;
- (f) the form and tenor of the 2012 Bonds and the denominations in which the 2012 Bonds may be issued;
- (g) the manner in which and the times and places that the principal of the 2012 Bonds is to be paid, within the limitations set forth in the Acts;
- (h) provisions pursuant to which any or all of the 2012 Bonds may be called for redemption prior to their stated maturity dates;
- (i) the terms and provisions of any indenture, any development agreement, and all other documents to be executed by or on behalf of the City and any person in connection with the issuance of the 2012 Bonds, including, but not limited to, provisions concerning the priority of payments from the Tax Increment Fund; the collection of special taxes; the application of the special tax revenues; and, as authorized by the Special Taxing District Ordinance, alternative provisions with regard to the procedure, sale, and lien priority in case of delinquency in payment of the special taxes, and providing for additional security for the 2012 Bonds;
- (j) provisions establishing sinking funds or debt service reserve funds for the 2012 Bonds;
- (k) provisions pledging other assets and revenues towards the payment of the principal of and interest on the 2012 Bonds;



(l) provision for municipal bond insurance or any other type of financial guaranty of the 2012 Bonds;

(m) whether the interest on any or all of the 2012 Bonds will or will not be excludable from gross income for federal income tax purposes; and

(n) any other provisions not inconsistent with the Charter (including the Acts), the Tax Increment Ordinance, the Special Taxing District Ordinance, this Ordinance and other applicable law as the Board of Finance determines to be necessary or desirable to finance the infrastructure improvements.

SECTION 10. AND BE IT FURTHER ORDAINED, That:

(a) Before the 2012 Bonds 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 2012 Bonds are fully repaid or have been defeased.

SECTION 11. AND BE IT FURTHER ORDAINED, That:

(a) This Section 11 applies to any 2012 Bonds issued and sold on the basis that the interest on such 2012 Bonds will be excludable from gross income for federal income tax purposes (the "Tax-Exempt 2012 Bonds"). Notwithstanding anything in this Ordinance to the contrary, 2012 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 such 2012 Bonds in order to preserve the status of the interest on the Tax-Exempt 2012 Bonds as excludable 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 the Tax-Exempt 2012 Bonds in any manner that would cause the interest on the TaxExempt 2012 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 with respect to the TaxExempt 2012 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 the Tax-Exempt 2012 Bonds.

(d) The Director of Finance may prepare, execute and deliver for the Tax-Exempt 2012 Bonds:

- (1) a tax regulatory agreement and no arbitrage certificate with respect to the Tax-Exempt 2012 Bonds, in the form the Director of Finance approves; and
- (2) any other documents the Director of Finance considers necessary to assure the registered owners of the Tax-Exempt 2012 Bonds that interest on the Tax-Exempt 2012 Bonds will be and remain excludable from gross income for federal income tax purposes.

SECTION 12. AND BE IT FURTHER ORDAINED, That any approvals, authorizations, or activities provided in this Ordinance do not constitute and may not be deemed to constitute or imply that the City Council, the Mayor, or any department, office or agency of the City has given or will give, any approval, authorization or consent to any action or activity within or required for the development of the Development District and the Special Taxing District, including any land use approval, requirements for the provision of public utilities or services, or any other administrative, judicial, quasi-judicial, or legislative approval, authorization or consent.

SECTION 13. 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 City 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 14. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

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