

[Senate, July 29, 2000 — Substituted by the Senate (Wilkerson) as a further amendment to House, No. 5405 relative to the construction and financing of infrastructure and other improvements in the city of Boston and around Fenway Park.]

The Commonwealth of Massachusetts

In the Year Two Thousand.

AN ACT RELATIVE TO THE CONSTRUCTION AND FINANCING OF INFRASTRUCTURE AND OTHER IMPROVEMENTS IN THE CITY OF BOSTON AND AROUND FENWAY PARK.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. The general court hereby finds that:
- 2 (a) the construction within the city of Boston of a new open air
- 3 ballpark of sufficient size and with adequate support facilities to
- 4 attract, retain and accommodate professional teams shall signifi-
- 5 cantly enhance the economic development and the general welfare
- 6 of the commonwealth;
- 7 (b) the continuation and expansion of such activities shall stim-
- 8 ulate hotel, restaurant, recreation, entertainment and retail sales
- 9 activity in the ballpark development area and in the city of
- 10 Boston, which shall in turn promote the overall economic devel-
- 11 opment of the commonwealth, enhance employment opportunities
- 12 for its citizens, increase tourism and increase the tax base;
- 13 (c) the continuation and expansion of such activities shall
- 14 enhance the public pride and spirit within the commonwealth and
- 15 within the city of Boston;
- 16 (d) the current open air ballpark in the city of Boston is inade-
- 17 quate for the purposes for which it was designed and a new ball-
- 18 park is required to attract and retain those athletic events which
- 19 shall promote the economic health of the commonwealth and
- 20 encourage further private development, including development of
- 21 other commercial facilities;

22 (e) private industry is prepared to make a substantial additional
23 investment to construct the new ballpark in the city of Boston;

24 (f) the acquisition and financing by the city of Boston of a suit-
25 able site within the city for the new ballpark is in furtherance of a
26 public purpose and shall provide an essential stimulus to the
27 development of the ballpark and the economic health and develop-
28 ment of the city and the community adjacent to the ballpark;

29 (g) the construction of the new ballpark in the city of Boston
30 and the further development of the city and the community adja-
31 cent to the ballpark requires the construction of a parking garage
32 by the city of Boston;

33 (h) the construction of a new ballpark in the city of Boston and
34 its use as a venue for professional sports events also requires the
35 construction, development, modernization and improvement of
36 substantial support facilities to the ballpark including roadways,
37 pedestrian walkways, bridges, public transportation facilities,
38 lighting and other utilities and similar improvements; and

39 (i) the financing of such improvements by the commonwealth is
40 in furtherance of a public purpose, shall promote and enhance
41 public safety and convenience and shall provide an essential stim-
42 ulus to the construction of the new ballpark and related facilities
43 for economic development by private industry and the economic
44 development of communities adjacent to the ballpark.

1 SECTION 2.

xxxx-xxxx For the executive office for transportation and construction
for essential infrastructure improvements in the city of
Boston, pursuant to section 8, described in the memo-
randum as defined in section 3, to promote the public
safety and convenience, including, but not be limited to,
the reconstruction of Kilmarnock street intersecting
it with Brookline avenue, the redirection and extension
of Yawkey way to Beacon street, the relocation of Van
Ness street north of its present location, the construc-
tion of a so-called "Rear Access Drive" connecting
Boylston street to Lansdowne street through a relo-
cated Van Ness street, the construction of a new exten-
sion of Ipswich street to connect Boylston street with
Lansdowne street, the reconstruction of Maitland
street, the reconfiguration of the roadways comprising
the "Sears Rotary", so-called, including, but not lim-
ited to, portions of Park drive, the Riverway, the
Fenway, Brookline avenue, and Boylston street, road,
utility, traffic signalization, and streetscape improve-

ments to the public roadways within and around the ballpark development area and the parking facility development area, including, but not limited to, Boylston street, Brookline avenue, the Riverway, the Fenway, Park drive, and Audubon circle, streetscape improvements to Kenmore square, traffic controls and signals, lighting, sign barriers, pedestrian and bicycle enhancements, including, but not limited to, bridges, underpasses, and walkways throughout the ballpark development area, improvements to the Muddy river watershed area, the expansion of the Kenmore square and Fenway rapid transit stations and Green Line service, including renovation projects required by the Americans with Disabilities Act, the acquisition and improvement of the abandoned spur tracks located between Fenway station and Beacon street, the reconstruction of Yawkey station and the trackwork servicing the Fenway, Kenmore and Longwood Medical area, and the relocation and construction of utilities along and within the public way; provided that none of the planning, design, development, construction, improvement or any combination of the aforesaid is within the boundaries of the ballpark; provided that not more than \$150,000 be allocated to study the feasibility, design and cost of exit and entrance ramps from the Massachusetts turnpike in the area of the parking facility project..... 100,000,000.

1 SECTION 3. (a) As used in this act, the following words shall
2 have the following meanings unless the context clearly indicates
3 another or different meaning:

4 "Ballpark", an approximately 44,000 seat, open air ballpark
5 designed primarily to house major league baseball and other
6 events, together with facilities ancillary thereto to support such
7 ballpark and such events, all as more fully described in the eco-
8 nomic development plan.

9 "Ballpark development area", the area within the city of Boston
10 bounded and described as follows: beginning at the intersection of
11 the centerline of Brookline avenue and the centerline of Boylston
12 street, thence easterly following the centerline of Boylston street
13 to the intersection with the centerline of Ipswich street, then
14 northerly and easterly along the centerline of Ipswich street to the
15 intersection with the centerline of Lansdowne street, then westerly
16 along the centerline of Lansdowne street to the intersection with
17 the centerline of Brookline avenue, then southwesterly along the
18 centerline of Brookline avenue to the point of beginning.

19 "Ballpark site finance fund", the fund established by section 7.

20 "Ballpark site project", the acquisition by the corporation
21 within the ballpark development area by gift, grant, purchase,

22 exchange, lease or by the exercise of eminent domain in accor-
23 dance with chapter 79 or chapter 80A of the General Laws of all
24 lands or other property, and rights, air rights, sub-surface rights,
25 easements and interests therein described in the economic devel-
26 opment plan necessary as and for a site for the ballpark; the relo-
27 cation of persons and businesses therein and the demolition and
28 removal of structures thereon; the remediation of environmental
29 and other hazards thereon; the preparation thereof for the con-
30 struction thereon of the ballpark to the extent provided in the
31 ground lease therefor from the corporation to the developer as
32 provided in this act; and the lease of such site to the developer as
33 provided in this act and in the economic development plan.

34 “BRA”, the Boston redevelopment authority established pur-
35 suant to section 4 of chapter 121B of the General Laws and
36 chapter 652 of the acts of 1960.

37 “City”, the city of Boston.

38 “Corporation”, the Economic Development and Industrial
39 Corporation of Boston created and existing under the development
40 act or, if said corporation shall be abolished, the board, body or
41 commission succeeding to the principal functions thereof or to
42 whom the powers given by this act to said corporation shall be
43 given by law.

44 “Cost”, as applied to the ballpark site project and the parking
45 facility project shall have the meaning given such term in the
46 development act.

47 “Developer”, Boston Red Sox Baseball Club Limited
48 Partnership, or any designee thereof or any successor to or
49 assignee or designee of the foregoing.

50 “Development act”, Chapter 1097 of the acts of 1971 as
51 amended.

52 “Economic development plan”, the economic development plan
53 describing the ballpark site project and the parking facility project
54 prepared by the corporation pursuant to section 4.

55 “EOTC”, the Executive Office for Transportation and
56 Construction.

57 “Fenway parking management zone”, the area within the city of
58 Boston within a one mile radius centered at the northeast corner of
59 the intersection of Yawkey way and Van Ness street.

60 “Infrastructure improvements”, the planning, design, develop-
61 ment, construction, improvement, or any combination of the fore-

62 going, of those facilities and other improvements in the city to
63 promote the public safety and convenience, approved by the sec-
64 retary of administration and finance and the collector-treasurer of
65 the city, that are described in the memorandum, including, but not
66 be limited to, the reconstruction of Kilmarnock street intersecting
67 it with Brookline avenue, the redirection and extension of Yawkey
68 way to Beacon street, the relocation of Van Ness street north of its
69 present location, the construction of a so-called "Rear Access
70 Drive" connecting Boylston street to Lansdowne street through a
71 relocated Van Ness street, the construction of a new extension of
72 Ipswich street to connect Boylston street with Lansdowne street,
73 the reconstruction of Maitland street, the reconfiguration of the
74 roadways comprising the "Sears Rotary", including, but not lim-
75 ited to, portions of Park drive, the Riverway, the Fenway,
76 Brookline avenue, and Boylston street, road, utility, traffic signal-
77 ization and streetscape improvements to the public roadways
78 within and around the ballpark development area and the parking
79 facility development area, including, but not limited to, Boylston
80 street, Brookline avenue, the Riverway, the Fenway, Park drive,
81 and Audubon circle, streetscape improvements to Kenmore
82 square, traffic controls and signals, lighting, sign barriers, pedes-
83 trian and bicycle enhancements, including, but not limited to,
84 bridges, underpasses, and walkways throughout the ballpark
85 development area, improvements to the Muddy river watershed
86 area, the expansion of the Kenmore square and Fenway rapid
87 transit stations and Green Line service, including renovation pro-
88 jects required by the Americans with Disabilities Act, the acquisi-
89 tion and improvement of the abandoned spur tracks located
90 between Fenway station and Beacon street, the reconstruction of
91 Yawkey station and the trackwork servicing the Fenway,
92 Kenmore, and Longwood Medical area, and the relocation and
93 construction of utilities along and within the public way; provided
94 that none of the planning, design, development, construction,
95 improvement or any combination of the aforesaid is within the
96 boundaries of the ballpark.

97 "MBTA", Massachusetts Bay Transportation Authority.

98 "MDC", Metropolitan District Commission.

99 "Memorandum", the memorandum filed with the secretary of
100 administration and finance and the collector-treasurer of the city
101 pursuant to section 8, as the same may be amended from time to

102 time with the approval of such officers, including the text of the
103 report entitled "Fenway Area Proposed Transportation
104 Improvements" prepared by Howard/Stein Hudson Associates and
105 Vanasse and Associates, regarding infrastructure improvements to
106 be undertaken in connection with the ballpark by EOTC, the
107 MBTA, the MDC or other public agencies.

108 "Parking facility development area", the area within the city of
109 Boston bounded and described as follows: beginning at the inter-
110 section of the centerline of Brookline avenue and the centerline of
111 Overland street, thence northerly and westerly following the cen-
112 terline of Overland street to a line intersecting with the southwesterly
113 border of Maitland street, then northerly along the
114 southwesterly border of Maitland street to the intersection with
115 the centerline of Beacon street, then northeasterly along the cen-
116 terline of Beacon street to the intersection with a line coterminous
117 with the northerly border of the Massachusetts turnpike extension,
118 then southeasterly along the northerly border of the Massachusetts
119 turnpike extension to a line coterminous with the centerline of
120 Brookline avenue; then southwesterly along the centerline of
121 Brookline avenue to the point of beginning.

122 "Parking facility project", the acquisition by the corporation
123 within the parking facility development area by gift, grant, pur-
124 chase, exchange, lease or by the exercise of eminent domain in
125 accordance with chapter 79 or chapter 80A of the General Laws of
126 all lands or other property, and rights, air rights, sub-surface
127 rights, easements and interests therein described in the economic
128 development plan necessary for a site for, and the planning,
129 design, acquisition, construction, furnishing, equipping and fur-
130 nishing, or any combination thereof, thereon and the operation, or
131 the lease to or operation by others, including the developer, of a
132 parking garage containing not more than 3,000 vehicle spaces,
133 together with associated support facilities therefor and the devel-
134 opment of available commercial space therein or in the air rights
135 over such facility, as more fully described in the economic devel-
136 opment plan.

137 "Special receipts", the receipts described in section 6.

1 SECTION 4. (a) Subject to section 10 hereof, the corporation
2 may undertake, or contract with the BRA for the BRA to under-
3 take, in whole or in part, the ballpark site project and the parking

4 facility project in accordance with the development act.
5 Notwithstanding any provision of the development act or any
6 other general or special law to the contrary, the ballpark develop-
7 ment area and the parking facility development area are each
8 hereby found and declared to be an “economic development area”
9 within the meaning of section 1 of the development act and the
10 ballpark site project and the parking facility project, and the use
11 thereof by the corporation and the developer as contemplated by
12 this act, shall each be an “economic development project” for all
13 purposes of the development act. To carry out and effectuate the
14 foregoing purposes, the corporation shall have and may exercise
15 all of the powers granted to the corporation under the develop-
16 ment act and may exercise within the ballpark development area
17 and the parking facility development area and with respect to the
18 ballpark site project and the parking facility project all powers,
19 and shall have all immunities, consistent with this act, granted to
20 operating agencies, including without limitation redevelopment
21 authorities, as defined in chapter 121B of the General Laws and
22 granted to an industrial development financing authority existing
23 under chapter 40D of the General Laws. In the event of any con-
24 flict between the provisions of the development act and the provi-
25 sions of this act, the provisions of this act shall prevail.

26 (b) In consideration of the acquisition and lease of the ballpark
27 site to the developer as provided in this act, all properties and
28 interests held within the ballpark development area and the
29 parking facility development area by the developer necessary for
30 the ballpark site project or the parking facility project shall be
31 conveyed to the corporation without further consideration. It is
32 hereby declared that, for purposes of any constitutional entitle-
33 ment to damages in the event of a taking, all properties and inter-
34 ests held within the ballpark development area by the city or the
35 Boston water and sewer commission or their successors and
36 assigns, are being held by said city and commission, respectively,
37 in a governmental and not a proprietary capacity and it is not the
38 intent of this act to confer on the city or said commission any
39 rights to damages for such taking.

40 Any taking of property within the ballpark development area or
41 the parking facility development area held by the city or said com-
42 mission or any other governmental body shall be effective

43 notwithstanding any inconsistent prior public use. The corporation
44 shall make relocation payments or provide relocation assistance to
45 persons and businesses displaced as a result of carrying out the
46 ballpark site project and the parking facility project and shall
47 otherwise provide relocation assistance as provided in
48 chapter 79A and chapter 121B of the General Laws. Notwith-
49 standing anything in this act to the contrary, the Massachusetts
50 turnpike authority shall convey to the corporation all lands and
51 other properties held by such authority within the parking facility
52 development area and required by the corporation for purposes of
53 this act upon payment of the fair market value of such lands and
54 other properties as reasonably determined by the secretary of
55 administration and finance and the collector-treasurer of the city.
56 Notwithstanding the provisions of any general or special law to
57 the contrary, the provisions of section 39M of chapter 30,
58 chapter 30B, sections 44A to 44M, inclusive, of chapter 149 of the
59 General Laws and any other general or special law, regulation or
60 ordinance or by-law providing for the advertising, bidding or
61 awarding of contracts, for design or construction or for improve-
62 ments to property shall not apply to the ballpark, the ballpark site
63 project or the parking facility project.

64 (c) The corporation and the developer shall prepare or cause to
65 be prepared an environmental impact report regarding the ballpark
66 site project and the parking facility project, the ballpark and the
67 infrastructure improvements required by this act. The environ-
68 mental impact report shall be prepared jointly on behalf of the
69 corporation, the developer and any other person or agency
70 involved in the ballpark site project and the parking facility pro-
71 ject and the infrastructure improvements. The environmental
72 impact report shall be prepared in accordance with the provisions
73 of section 62B of chapter 30 of the General Laws.
74 Notwithstanding the provisions of any general or special law to
75 the contrary, the secretary of environmental affairs shall require
76 the corporation and the developer to prepare the report as a final
77 environmental impact report without any prior draft thereof. The
78 scope of the final environmental impact report shall be based upon
79 the submission of an expanded environmental notification form by
80 the corporation and the developer and the comments of said secre-
81 tary made not later than 30 days after the submission of the

82 expanded environmental notification form. Said secretary's com-
83 ments shall determine the form, content, level of detail and alter-
84 natives required for the report. Notwithstanding the provisions of
85 sections 62 to 62H, inclusive, of said chapter 30, the corporation,
86 the developer and such other persons and agencies may take all
87 actions, including, but not limited to, expenditure of funds pur-
88 suant to this act which are necessary or appropriate or required for
89 acquisition of lands and other properties within the ballpark devel-
90 opment area and the parking facility development area as pro-
91 vided in this act prior to the publication of the final environmental
92 impact report pursuant to this act and section 62C of said
93 chapter 30.

94 (d) Notwithstanding any provision of this section to the con-
95 trary, the corporation shall neither acquire any property within the
96 ballpark development area or the parking facility development
97 area as provided in this act nor institute any proceeding therefor
98 under chapter 79 or chapter 80A of the General Laws, prior to the
99 preparation by the corporation of an economic development plan
100 for the ballpark site project and the parking facility project and the
101 approval of such plan by the city council and the mayor as pro-
102 vided in section 6 of the development act. In addition to the
103 requirement of section 6 of the development act, the economic
104 development plan shall (1) be consistent with the general plan for
105 the city and any master plan for the area adjacent to the ballpark
106 development area and the parking facility development area and
107 be consistent with any definite objectives respecting appropriate
108 land uses, traffic, public transportation, public utilities, recre-
109 ational, educational and community facilities and other public
110 improvements; (2) be sufficiently complete to indicate the project
111 boundaries, such land acquisition, demolition and removal of
112 structures, and such redevelopment and general public improve-
113 ments, as may be proposed to be carried out on the site of the ball-
114 park and within the parking facility development area, and
115 proposed land uses, maximum densities and building require-
116 ments, including preliminary project designs and a description of
117 the project programs for such site and within such area; (3) indi-
118 cated or be accompanied by materials indicating the proposed
119 method for relocation of persons and organizations to be displaced
120 by the ballpark site project and the parking facility project;

121 (4) describe the economic impacts of the ballpark, the ballpark
122 site project and the parking facility project, including job creation,
123 local business opportunities and related development; (5) indicate
124 cost estimates of the ballpark site project and the parking facility
125 project and a financing plan therefor, including an acquisition plan
126 for the sites thereof and identification of parcels to be acquired
127 and the estimated cost thereof, (6) include proposals for neighbor-
128 hood participation in the development of the ballpark and the
129 parking facility project; (7) may provide for the sharing of net
130 operating income of the parking facility project between the cor-
131 poration and the developer; and (8) consider and describe mea-
132 sures to mitigate environmental and neighborhood impacts of the
133 ballpark and the ballpark site project and such other planning and
134 urban design issues as the corporation shall determine are pre-
135 sented by the ballpark and the ballpark site project.

136 (e) Notwithstanding subsection (d), the second paragraph of
137 section 6 of the development act shall not apply to the ballpark,
138 the ballpark site project, the parking facility project or the infra-
139 structure improvements provided that in undertaking the construc-
140 tion of the ballpark, the ballpark site project, the parking facility
141 project and the infrastructure improvements, the developer, the
142 corporation and EOTC, as applicable, shall take all steps legally
143 allowed to hire Boston residents in accordance with the hiring
144 goals as contained in the Boston Jobs for Boston Residents Policy,
145 so called, city of Boston code: ordinances, section 12-10. The
146 developer, the corporation and EOTC shall also comply with the
147 city's policy and standards relative to contracting with minority
148 and women-owned business enterprises pursuant to the city of
149 Boston code: ordinances, section 4-4. Copies of all reports
150 required by the city pursuant to said section 12-10 and said
151 section 4-4 shall be forwarded to the clerks of the house and
152 senate and to the committee on state administration.

153 (f) The developer shall prepare quarterly reports which shall
154 include, but not be limited to: (1) the total dollars expended on the
155 project to date, (2) the number of contracts entered into to date;
156 (3) the number of contracts entered into with minority businesses;
157 (4) the number of contracts entered into with women-owned busi-
158 nesses; (5) the dollar value of contracts entered into with minority
159 businesses; (6) the dollar value of contracts entered into with
160 women-owned businesses; (7) the total number of employees

161 working on the project; (8) the total number of employees
162 working on the project, broken down by race, ethnicity and
163 gender; and (9) the total number of Boston residents working on
164 the project. The quarterly reports shall be submitted to the secre-
165 tary of administration and finance, the secretary of EOTC, the
166 house and senate committees on ways and means, the clerk of the
167 house of representatives, the clerk of the senate, and the house
168 committee on long term debt and capital expenditures.

1 SECTION 5. (a) The city shall have no obligation for any costs
2 incurred by the corporation to carry out the parking facility pro-
3 ject as contemplated by this act. All costs incurred by the corpora-
4 tion to carry out the ballpark site project as contemplated by this
5 act shall be borne by the city. The city shall raise and appropriate,
6 or may borrow as provided in section 11 of the development act
7 and in chapter 643 of the acts of 1983, as amended, and shall
8 agree with the corporation to raise and appropriate or borrow,
9 such sums as may be necessary to defray any such costs of the
10 ballpark site project; provided, however, that the amount so
11 appropriated or borrowed shall not exceed \$140,000,000. Any
12 costs incurred by the corporation to carry out the ballpark site pro-
13 ject in excess of such amounts shall be borne by the developer.

14 (b) Subject to section 16 of chapter 44 of the General Laws and
15 chapter 643 of the acts of 1983, bonds and notes issued by the city
16 under authority of this act shall bear on their face the words, City
17 of Boston Ballpark Development Loan, Act of 2000. Each issue
18 shall constitute a separate loan and, except as provided in said
19 chapter 643, such loans shall be payable in not more than 30 years
20 from their dates. Debt incurred by the city under authority of this
21 act shall not be included in determining the limit of indebtedness
22 of the city as established by law, but shall, except as provided in
23 this act or in said chapter 643, be subject to the provisions of
24 chapter 44 of the General Laws. Notwithstanding the provisions
25 of section 4 or section 8 of said chapter 643 to the contrary, the
26 maturity date of notes issued by the city in anticipation of the
27 receipt of the proceeds of bonds authorized by this section shall
28 not exceed five years from the date of issue of such notes if notes
29 issued for less than five years may be refunded by the issue of
30 other notes maturing no later than five years from the date of issue
31 of the original loan.

1 SECTION 6. (a) Without limiting the powers conferred upon
2 the corporation in this act and in the development act, the corpora-
3 tion shall lease to the developer that part of the ballpark develop-
4 ment area acquired by the corporation as and for the site of the
5 ballpark on such terms and conditions, consistent with this act, as
6 the corporation and the developer shall agree and shall be
7 approved by the collector-treasurer of the city. The developer shall
8 pay annually to the corporation as consideration for the lease of
9 the ballpark site a sum equal to the total debt service incurred by
10 the city in such period on debt of the city issued in accordance
11 with section 5 on account of the ballpark site project, but in no
12 event more than \$12,100,000 annually, or, subsequent to the pay-
13 ment of all such debt, an amount equal to \$1 annually. All such
14 amounts received by the corporation shall be paid to the collector-
15 treasurer of the city for deposit in the ballpark site finance fund in
16 accordance with section 7.

17 (b) In order to provide for a portion of the amounts required to
18 make the payments hereunder to be made by the developer, the
19 developer shall impose, collect and pay over to the city as here-
20 inafter provided a facility betterment fee on the price of each
21 ticket sold for events held within the ballpark equal to 5 per cent
22 of such price and shall impose an additional facility betterment fee
23 on the price of each private suite in the ballpark equal to 15 per
24 cent of the license fee attributable to the price of such private suite
25 as determined by the developer and approved by the collector-
26 treasurer of the city. As a further source of funds to defray such
27 payments, an administrative parking fee equal to not more than \$5
28 for each parking space shall be imposed on all commercial
29 parking facilities within the Fenway parking management zone,
30 only on days during which professional baseball events are held in
31 the ballpark and no earlier than two hours before such events. The
32 terms and conditions of such administrative parking fee, the
33 assessment and collection thereof and any reasonable exemptions
34 therefrom shall be determined by rules, regulations or guidelines
35 issued by the collector-treasurer of the city, provided that such
36 rules, regulations or guidelines shall be designed to assure that the
37 Fenway parking management zone shall contain no less than
38 9,000 parking spaces subject to assessment for such administra-
39 tive parking fee and shall grant an exemption from such fee for

40 any space used by the faculty, students, staff or persons having
41 legitimate business at a college or university within said zone or
42 by employees of a hospital or health care facility who park their
43 motor vehicle during their working hours, or by a person visiting
44 any hospital or other health care facility in the city, as defined by
45 such regulations or guidelines, whose parking voucher has been
46 stamped or otherwise marked by such college, university, hospital
47 or other health care facility in a manner satisfactory to the col-
48 lector-treasurer to evidence such use or visitation. Notwith-
49 standing any general or special law to the contrary, commencing
50 with the fiscal year ending June 30, 2000, all receipts from the
51 excise imposed by chapter 64H of the General Laws upon sales at
52 retail by any vendor of meals, beverages and other tangible per-
53 sonal property or services in the ballpark and within the curblines
54 of the entire footprint of the ballpark in excess of the amount of
55 such receipts so collected for the fiscal year ended June 30, 2001,
56 but in no event in excess of \$1,500,000 annually, shall be paid to
57 the city and applied as hereinafter provided as a credit against the
58 obligation of the developer to pay rent for its lease of the site of
59 the ballpark. In addition, notwithstanding chapter 152 of the acts
60 of 1997 or any other general or special law to the contrary, com-
61 mencing 90 days following the effective date of this act, the
62 excise imposed by the city by section 3A of chapter 64G of the
63 General Laws shall be increased to the rate of 4.25 per cent and
64 all receipts equal to the .25 per cent increase thereof over the rate
65 of such excise currently in effect, but in no event in excess of \$1
66 million annually, shall be credited as hereinafter provided against
67 the obligations of the developer to pay rent for its lease of the site
68 of the ballpark. All sums imposed on account of such excise pur-
69 suant to section 3A of chapter 64G of the General Laws pursuant
70 to this paragraph shall remain in effect after the dissolution of the
71 ballpark site finance fund and shall be thereafter deposited in the
72 general fund of the city or otherwise as provided in law. All other
73 fees and excises described in this subsection shall expire upon the
74 dissolution of the ballpark site finance fund. The facility better-
75 ment fees, parking administrative fee and excise tax receipts
76 described in this paragraph shall be considered "special receipts"
77 for all purposes of this act.

78 (c) Notwithstanding anything in this act to the contrary, the cor-
79 poration shall credit the amount of all special receipts received by

80 the city in this act in any year against the obligations hereunder of
81 the developer to pay rent to the corporation for its lease of the site
82 of the ballpark on such terms and conditions as shall be approved
83 by the collector-treasurer of the city and specified in such lease.
84 The developer shall execute and deliver to the corporation or the
85 city such collateral, pledges, security agreements, guarantees,
86 mortgages, contracts, assignments, promissory notes and any
87 other encumbrances upon any of the developer's revenues and
88 assets, including any amounts due the developer from any revenue
89 sharing program of major league baseball, as shall be deemed by
90 the collector-treasurer of the city satisfactory to secure the obliga-
91 tions of the developer under this section.

1 SECTION 7. (a) On or before the first date of issuance by the
2 city of any bonds, notes or other indebtedness pursuant to
3 section 5, the collector-treasurer of the city shall set up on the
4 books of the city, or shall otherwise establish pursuant to the trust
5 or other security agreement, if any, securing any indebtedness
6 incurred under authority of said section 5, a separate fund entitled
7 the ballpark site finance fund. Such fund shall be maintained as
8 provided in this act by the collector-treasurer or, with the approval
9 of the mayor, by a corporate trustee under such trust or security
10 agreement.

11 (b) Notwithstanding any general or special law to the contrary,
12 on and after the date of establishment of the ballpark site finance
13 fund, all sums received by the city from or on account of the
14 special receipts described in section 6 shall be deposited in the
15 ballpark site finance fund. Except as otherwise provided in this
16 section, all amounts so deposited shall be used without further
17 appropriation solely to pay the cost of administration and collec-
18 tion of such amounts and to pay or provide for, the principal of
19 and premium and interest on all bonds, notes or the evidences of
20 indebtedness issued under authority of section 5, including the
21 establishment and maintenance of such reserves as may be pro-
22 vided for in any trust or other security agreement securing the
23 same and the costs of administration of such trust or other security
24 agreement. Subject to the provisions of any such trust or other
25 security agreement, and except as otherwise provided in the lease
26 of the site of the ballpark to the developer, as provided in this act

27 or any agreement between the city and the developer, any amount
28 deposited in the ballpark site finance fund in any fiscal year which
29 is determined by the collector-treasurer to be not required for the
30 purposes of the fund as set forth in this act may be withdrawn
31 therefrom and deposited in the general fund of the city.

32 (c) In accordance with section 9 of chapter 643 of the acts of
33 1983, any trust or security agreement directly or indirectly
34 securing indebtedness of the city incurred under authority of
35 section 5, in addition to other security provided by law, may
36 pledge or assign, and create a security interest in, all or any part of
37 the amounts deposited and held from time to time in the ballpark
38 site finance fund. Amounts deposited and held in the ballpark site
39 finance fund shall be deemed to be facility revenues within the
40 meaning of said chapter 643 and the ballpark site project and the
41 parking facility project shall each be deemed to be a revenue pro-
42 ducing facility for all purposes thereof.

43 (d) In order to increase the marketability of bonds and notes of
44 the city issued under authority of this act, and in consideration of
45 the acceptance of payment for any such bonds and notes, the com-
46 monwealth covenants with the purchasers and all subsequent
47 holders and transferees of any such bonds and notes that until all
48 such indebtedness, including all indebtedness issued to refund
49 such indebtedness, and the interest thereon, shall be paid or, if
50 earlier, shall be deemed to have been paid within the meaning of
51 any trust or other security agreement securing the same, the rate
52 of the special receipts described in section 6 shall not be reduced
53 below the amount in effect at the time of issue of any such indebt-
54 edness.

55 (e) The ballpark site finance fund shall be dissolved on June 30,
56 2003, if no indebtedness of the city issued under the authority of
57 section 5 shall then be outstanding, or otherwise when all such
58 indebtedness, including any indebtedness issued to refund any
59 such indebtedness and the interest thereon, shall be paid or, if ear-
60 lier, shall be deemed to have been paid within the meaning of any
61 trust or other security agreement securing the same. Except as
62 otherwise provided in the lease of the site of the ballpark to the
63 developer as provided in this act, or any agreement between the
64 city and the developer, any balance remaining in said ballpark site
65 finance fund on such date of dissolution shall be deposited in the
66 general fund of the city.

1 SECTION 8. (a) Within 90 days from the effective date of this
2 act, the corporation and the developer shall file a memorandum
3 with the secretary of administration and finance, the secretary of
4 EOTC, the house and senate committees on ways and means and
5 the collector-treasurer of the city describing those infrastructure
6 improvements which the developer and the corporation recom-
7 mend should be constructed in connection with the ballpark. The
8 memorandum, and the infrastructure improvements described
9 herein, shall be subject to the approval of the secretary of admin-
10 istration and finance and the collector-treasurer of the city, pro-
11 vided that the cost thereof shall in no event exceed \$100,000,000.
12 Following such approval, EOTC, either directly or by contract
13 with the MBTA, the MDC, the city, the developer or such other
14 agencies of the commonwealth or the city or other persons as
15 EOTC shall determine to be appropriate, shall undertake, carry
16 out and complete all such infrastructure improvements on such
17 terms and conditions and shall be provided in an agreement there-
18 fore between EOTC, the corporation and the developer approved
19 by the secretary of administration and finance and the collector-
20 treasurer of the city. All costs of such infrastructure improve-
21 ments, up to an amount not exceeding \$100,000,000, shall be
22 borne by the commonwealth as provided in this act.

23 (b) To meet the expenditures necessary in carrying out the pro-
24 visions of section 2 and this section, the state treasurer shall, upon
25 request of the governor, issue and sell bonds of the common-
26 wealth in an amount to be specified by the governor from time to
27 time, but not exceeding, in the aggregate, the sum of
28 \$100,000,000 to be in addition to those bonds previously autho-
29 rized which authorizations remain uncommitted or unobligated on
30 the effective date of this act. All such bonds issued by the com-
31 monwealth shall be general obligations of the commonwealth and
32 shall be designated on their face, Fenway Area Transportation
33 Improvement Loan, Act of 2000, and shall be issued for such
34 maximum term of years, not exceeding 20 years, as the governor
35 may recommend to the general court pursuant to Section 3 of
36 Article LXII of the Amendments to the Constitution of the
37 Commonwealth; provided, however, that all such bonds shall be
38 payable not later than June 30, 2026. All interest and payments on
39 account of the principal of such obligations shall be payable from
40 the Highway Fund.

1 SECTION 9. The state treasurer may borrow from time to time
2 on the credit of the commonwealth such sums as may be neces-
3 sary for the purpose of meeting payments authorized by section 2
4 and may issue and renew from time to time notes of the common-
5 wealth therefor bearing interest payable at such time and at such
6 rates as shall be fixed by the state treasurer. Such notes shall be
7 issued and may be renewed one or more times for such terms, not
8 exceeding five years, as the governor may recommend to the
9 general court in accordance with Section 3 of Article LXII of the
10 Amendments to the Constitution of the Commonwealth, but the
11 final maturities of the notes, whether original or renewal, shall not
12 be later than June 30, 2006. Notes and interest thereon issued
13 under the authority of this section shall be general obligations of
14 the commonwealth.

1 SECTION 10. (a) Notwithstanding any of the provisions of this
2 act to the contrary, the commonwealth shall have no authority or
3 obligation to pay for or finance any costs of infrastructure
4 improvements as provided in section 8, or issue any bonds or
5 notes in payment therefor as provided in said section 8, and the
6 corporation shall have no authority or obligation to undertake the
7 ballpark site project or the parking facility project, and the city
8 shall have no authority or obligation to pay for or finance any
9 costs of the ballpark site project or issue any bonds or notes in
10 payment therefor as provided in section 5 unless:

11 (1) the memorandum shall have been filed with the secretary of
12 administration and finance, the secretary of EOTC, the house and
13 senate committees on ways and means and the collector-treasurer
14 of the city and the terms thereof and of the infrastructure improve-
15 ments described therein shall have been approved by the secretary
16 of administration and finance and the collector-treasurer of the
17 city; provided, that the secretary of administration and finance
18 shall have filed with the house and senate committees on ways
19 and means prior to the expenditure of funds for infrastructure
20 improvements, itemized expenditures for each individual infra-
21 structure improvement as part of the infrastructure improvement
22 plan. The itemized expenditure account shall include, but not be
23 limited to, anticipated expenditures for each individual project,
24 objectives for each individual project as they relate to the overall
25 goals of the infrastructure improvement plan, accomplished infra-

26 structure improvements, expected future infrastructure improve-
27 ments and a comprehensive infrastructure improvement schedule.
28 Such reports shall be made available for review and comment to
29 the committees before the anticipated start date for each indi-
30 vidual project that is part of the infrastructure improvement plan.

31 (2) preliminary design drawings for the infrastructure improve-
32 ments shall have been submitted to and approved by the BRA and
33 the secretary of administration and finance;

34 (3) the developer shall have submitted plans to construct the
35 ballpark to the secretary of administration and finance and the
36 BRA and the developer shall have entered into an agreement with
37 the city and the commonwealth in form and substance satisfactory
38 to the secretary and the collector-treasurer of the city to construct
39 the ballpark and to use the same for the uses contemplated by this
40 act for so long as any bonds of the city or the commonwealth
41 authorized hereunder are outstanding and unpaid;

42 (4) the city council and mayor of the city shall have approved
43 the economic development plan as provided in section 4 of this
44 act and the borrowing by the city of funds for the ballpark site
45 project as provided in section 5;

46 (5) the developer shall have presented a finance plan for the
47 ballpark to the collector-treasurer of the city and the secretary of
48 administration and finance, including commitment letters from
49 lenders and others, providing evidence satisfactory to said col-
50 lector-treasurer and said secretary that the developer has or can
51 obtain all amounts necessary to design and construct the ballpark;
52 and

53 (6) the corporation and the developer shall have agreed to the
54 terms and conditions of a ground lease of the ballpark develop-
55 ment area as and for a site of the ballpark and such ground lease
56 shall have been approved by the collector-treasurer of the city.

57 (b) Satisfaction of the requirements shall be conclusively evi-
58 denced by a certificate of the secretary of administration and
59 finance and the collector-treasurer of the city to such effect filed
60 with the governor, the mayor, the clerks of the house of represen-
61 tatives and senate, the house and senate committees on ways and
62 means, and the house committee on long-term debt and capital
63 expenditures.

1 SECTION 11. The provisions of this act shall be deemed to
2 provide an exclusive, additional, alternative and complete method
3 for the doing of the things authorized hereby and shall be deemed
4 and construed to be supplemental and additional to, and not in
5 derogation of, powers conferred upon the corporation, the city and
6 EOTC by law; provided, however, that insofar as the provisions of
7 this act are inconsistent with the provisions of any general or
8 special law, administrative order or regulation or any limitation
9 imposed by a corporate or municipal charter, the provisions of this
10 act shall be controlling.

1 SECTION 12. This act, being necessary for the welfare of the
2 commonwealth and its inhabitants, shall be liberally construed to
3 effect the purposes hereof.

1 SECTION 13. This act shall be construed in all respects so as
2 to meet all constitutional requirements. In carrying out the pur-
3 poses and provisions of this act, all steps shall be taken which are
4 necessary to meet constitutional requirements whether or not such
5 steps are required by statute.

1 SECTION 13A. There shall be established by the developer a
2 full-time permanent position of community liaison to the project
3 whose primary responsibility shall be to address and respond to
4 the needs and concerns of the impacted residents and businesses
5 located in the Fenway neighborhood of the city of Boston. The
6 community liaison shall be a resident of the Fenway neighborhood
7 who shall be appointed by the developer.

1 SECTION 13B. The developer shall allow nonprofit commu-
2 nity groups from the impacted city neighborhood to sponsor not
3 less than three charitable events annually at the 600 Club in
4 Fenway park or its comparable replacement in the ballpark. The
5 community events shall be scheduled with the developer so that
6 they shall not compete with Fenway Park or ballpark events; at
7 least 50 per cent of the proceeds of the event shall be deposited
8 into the fund established by the BRA for the creation and preser-
9 vation of affordable housing into the Fenway neighborhood.

1 SECTION 13C. Section 35J of chapter 10 of the General Laws,
2 as appearing in the 1998 Official Edition, is hereby amended by
3 adding the following clause:—

4 (e) notwithstanding the provisions of the preceding paragraphs
5 or any other general or special law to the contrary, for any fiscal
6 year in which revenues deposited into the Massachusetts Tourism
7 Fund exceed the amounts deposited into said fund in the previous
8 fiscal year, 50 per cent of the increase in said revenues shall be
9 applied, subject to appropriation, to the Regional Tourism Facility
10 Fund, established pursuant to section 42 of chapter 23G.

1 SECTION 13D. Chapter 23G of the General Laws is hereby
2 amended by adding the following two sections:—

3 Section 42. (a) It is in the best public interest of the common-
4 wealth to promote the prosperity and general welfare of all citi-
5 zens by enhancing the attractiveness of all regions of the
6 commonwealth for cultural activities and tourism-related activities
7 by partially financing the construction, expansion, renovation or
8 repair of cultural, entertainment, public venues or other regional
9 tourism facilities which may stimulate further investment in the
10 arts, entertainment, humanities and interpretive sciences and may
11 result in increased employment or entrepreneurial opportunities
12 for the citizens of the commonwealth or increased tourism to the
13 region where the facility is located, including tourism from out-
14 side the commonwealth.

15 (b) There is hereby established and placed under the control of
16 the agency, the Regional Tourism Facilities Fund, hereinafter
17 referred to as the fund, to which shall be credited, subject to
18 appropriation, for any fiscal year in which revenues deposited into
19 the Massachusetts Tourism Fund exceed the amounts deposited
20 into said Massachusetts Tourism Fund in the previous fiscal year,
21 50 per cent of the increase in revenues beyond amounts received
22 the prior fiscal year received by said Massachusetts Tourism Fund
23 from the tax imposed by section 3 of chapter 64G, section 22 of
24 chapter 546 of the acts of 1969 or any appropriation made pur-
25 suant to section 35J of chapter 10. Notwithstanding the provisions
26 of the previous sentence, the fund shall also be credited with all
27 bond proceeds, federal funds, private contributions, loans or other
28 monies lawfully made available to said fund. The purpose of said

29 fund shall be to make loans or grants for infrastructure projects
30 and eligible projects. Applicants may apply for assistance from
31 the fund for a feasibility grant, grant or loan for the construction,
32 expansion, renovation or repair of cultural, entertainment, public
33 venues, regional tourism facilities or other commercial facilities
34 hereinafter referred to as a project, and the agency may make a
35 qualified investment in a project upon its finding that: (i) the pro-
36 ject is an eligible project or infrastructure project; (ii) there is a
37 demonstrated need for the project; (iii) the project will benefit
38 tourism in the local area; (iv) there is local support for the project;
39 and (v) if the project is in a community that has exercised its right
40 to impose a local option hotel-motel excise tax, pursuant to
41 section 3A of said chapter 64G, there is a commitment for partial
42 financing of the project through such local option hotel-motel
43 excise tax revenue. The agency shall hold said fund in a separate
44 account, segregated from all other agency funds. The agency may
45 invest and reinvest said fund and the income therefrom, except, as
46 hereinafter provided, only (i) in the making of qualified invest-
47 ments; (ii) in the investment of funds not required for immediate
48 disbursement in the purchase of such securities as may be lawful
49 investments for fiduciaries in the commonwealth; (iii) for the pay-
50 ment of binding obligations associated with the qualified invest-
51 ments which are secured by said fund as the same became
52 payable; and (iv) for the payment of principal or interest on quali-
53 fied investments secured by said fund or the payments of any
54 redemption premium required to be paid when such qualified
55 investments are redeemed prior to maturity. Not less than 50 per
56 cent of said fund shall be expended for cultural facilities projects
57 as defined herein. The agency shall award the first round of grants
58 from the fund in fiscal year 2002.

59 (c) As used in this section, the terms "construction", "costs of
60 the project" and "federal agency", shall, unless the context
61 requires otherwise, have the meanings set forth in section 1. As
62 used in this section, the following words shall, unless the context
63 requires otherwise, have the following meanings:

64 "Applicant", a public agency or private organization exempt
65 from income taxation pursuant to Section 501(C)(3) of Title 28 of
66 the Internal Revenue Code.

67 "Commercial facilities", a building or structure, or site owned
68 or used by a public, private, civic, educational or professional

69 organization or educational foundation concerned with the arts,
70 humanities, interpretive sciences or local arts and exempt from
71 income taxation pursuant to Section 501(C)(3) of Title 28 of the
72 Internal Revenue Code, which is accessible to the public
73 including, but not limited to, museums, historical sites, zoos,
74 aquariums, theaters, concert halls, exhibition spaces, classrooms,
75 auditoriums suitable for presentation of performing of visual arts.
76 This definition does not include public or private educational
77 institutions of early childhood, elementary, secondary, higher edu-
78 cational and vocational-technical education.

79 “Cultural organization”, a nonprofit organization, public or pri-
80 vate, which is primarily concerned with the arts, humanities, inter-
81 pretive sciences or local arts which is exempt from income
82 taxation. This definition does not include public or private educa-
83 tional institutions of early childhood, elementary, secondary,
84 higher educational and vocational-technical education.

85 “Council”, the members of the regional tourism facility fund
86 advisory council, established pursuant to section 43.

87 “Director”, the director of the Massachusetts development
88 finance agency.

89 “Eligible project”, a project for the acquisition, design, con-
90 struction, repair, renovation or deferred maintenance of a regional
91 tourism facility which furthers the purposes of this section.

92 “Feasibility grant”, a direct grant of monies from the fund, sub-
93 ject to matching grant requirements to an applicant for payment of
94 the costs and expenses related to the undertaking and completion
95 of a planning and feasibility study for a proposed project. No such
96 grant shall exceed \$50,000. The agency may award a feasibility
97 grant upon its findings that: (i) there is a likelihood that the pro-
98 posed project will qualify as an eligible project; and (ii) there is
99 local support for the proposed project.

100 “Fund”, the Regional Tourism Facilities Fund created by this
101 section.

102 “Grant”, a direct grant of monies from the fund to an applicant
103 for payment of the costs of a project; provided, that the amount of
104 any single grant awarded from the fund shall not exceed
105 \$7,000,000; provided further, that grants for a total value less than
106 \$1,000,000 shall be subject to a matching funding requirement of
107 dollar for dollar of the amount of the grant, provided further, that
108 grants for a total value in excess of \$1,000,000 and less than

109 \$2,500,000 shall be subject to a matching funding requirement of
110 at least two times the amount of the grant; provided further, that
111 grants for a total value in excess of \$2,500,000 and less than
112 \$5,000,000 shall be subject to a matching funding requirement of
113 at least three times the amount of the grant; provided, further, that
114 grants for a total value in excess of \$5,000,000 and less than
115 \$7,000,000 shall be subject to a matching funding requirement of
116 at least four times the amount of the grant; provided further, that
117 not less than 50 per cent of all grant funds expended in one fiscal
118 year from the Fund shall be for cultural facility projects as defined
119 herein.

120 “Infrastructure”, repairs to the roof, heating and cooling sys-
121 tems, physical plant, plumbing or foundation of an existing
122 facility and improvements to an existing facility which are neces-
123 sary to meet life and safety code requirements, so-called, or
124 improvements to an existing facility in order to comply with the
125 provision of the Americans with Disabilities Act, or improve-
126 ments needed to amenities including, but not limited to, light and
127 sound systems, theatre seating, expansion or renovation of rev-
128 enue generating equipment typical for the venue such as conces-
129 sion stands and new projection equipment.

130 “Loan”, a direct payment to an applicant from the fund for pay-
131 ment of up to 40 per cent of the cost of a project for an eligible
132 project, except that the amount of any single loan awarded from
133 the fund shall not exceed \$7,000,000.

134 “Public body”, the commonwealth and any body politic and
135 corporate of the commonwealth, including any political subdivi-
136 sion thereof or any consortium of any contiguous subdivisions and
137 any federal agency.

138 “Qualified investment”, a grant, including a feasibility grant,
139 loan, loan insurance or reinsurance, equity investment, guarantee
140 or other financing or credit enhancement device provided under
141 said fund for an eligible project.

142 “Regional tourism facility”, a building, structure or site owned
143 or used by a public or private organization, exempt from income
144 taxation pursuant to Section 501(C)(3) of Title 28 of the Internal
145 Revenue Code, which is accessible to the public and constitutes a
146 regional tourism attraction including, but not limited to, museums,
147 historical sites, zoos, aquarium and facilities for the performing or
148 visual arts.

149 (d) Notwithstanding the provisions of any general or special
150 law to the contrary, as a condition of accepting a grant from the
151 fund, an applicant shall agree that, whenever ownership of any
152 property which was purchased or improved with a grant from the
153 fund is transferred to another party, such grant shall be repaid
154 immediately to the fund. The amount of such repayment shall be
155 in the full amount of the grant.

156 (e) The agency may establish rules and regulations relative to
157 the fund. Copies of such rules and regulations, and any modifica-
158 tions or amendments thereto, shall be delivered to the chairmen of
159 the house and senate committees on ways and means and the
160 clerks of the house and senate.

161 Section 43. There shall be established a regional tourism facili-
162 ties board in this section called the board. The board shall be com-
163 prised of 15 members. Five members shall be appointed by the
164 governor including the director of the Massachusetts cultural
165 council or her designee, the director of the office of travel and
166 tourism or her designee, the director of the Massachusetts
167 Development Finance Agency or his designee. The speaker of the
168 house of representatives shall appoint five persons, one of whom
169 shall be from western Massachusetts and one from outside the
170 metropolitan Boston area. The president of the senate shall
171 appoint five persons, one of whom shall be from western
172 Massachusetts and one from outside of the metropolitan Boston
173 area. All members shall be appointed for a period of five years.
174 Members of the board shall serve without compensation, but may
175 be reimbursed for ordinary in-state travel expenses. The board
176 may establish a technical advisory panel to assist in reviewing
177 applications. The Massachusetts Development Finance Agency
178 shall provide administrative support for the board from the admin-
179 istrative funds allowed in this chapter.

180 All applications for grants or loans shall be reviewed by the
181 board and only those pre-approved by the board may receive con-
182 sideration by the Massachusetts Development Finance Agency for
183 final approval. Within 30 days, the agency shall provide the appli-
184 cant a written explanation for any proposals denied final approval.

1 SECTION 13E. Section 55 of chapter 121B of the General
2 Laws, as appearing in the 1998 Official Edition, is hereby

3 amended by striking out clause (d) and inserting in place thereof
4 the following clause:—

5 (d) The total amount of urban renewal assistance grants to be
6 paid under this section shall not exceed \$4,500,000 in any one
7 fiscal year or a total of \$70,000,000 in the aggregate.

1 SECTION 13F. The third paragraph of section 57 of
2 chapter 121B of the General Laws, as appearing in the 1998
3 Official Edition, is hereby amended by striking out clause (c) and
4 inserting in place thereof the following clause:—

5 (c) The total amount of urban renewal assistance grants to be
6 paid under this section shall not exceed \$2,000,000 in any one
7 fiscal year or a total of \$20,000,000 in the aggregate, including
8 amounts authorized by the department to be advanced for the esti-
9 mated expenses as provided in the first paragraph.

1 SECTION 14. This act shall take effect upon its passage.





