

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Lida E. Harkins

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing the Massachusetts Opportunity Rebuilding and Expansion infrastructure program.

PETITION OF:

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING THE MASSACHUSETTS OPPORTUNITY REBUILDING AND EXPANSION INFRASTRUCTURE PROGRAM.

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make to provide for infrastructure and economic investments in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 Laws are hereby amended by inserting after Chapter 23J the following
2 chapter: -- CHAPTER 23K. MORE INFRASTRUCTURE PROGRAM

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4

5 Section 1. As used in this chapter, the following words shall, unless the context clearly requires
6 otherwise, have the following meanings:-

7 “Agency”, the Massachusetts Development Finance Agency established pursuant to section 2 of
8 chapter 23G of the General Laws, as amended from time to time.

9 “Amended improvement plan” a plan describing any change to the improvement plan with
10 respect to the boundaries of a development zone, or material change to the method of assessing
11 costs, description of improvements, the maximum cost of the improvements, or method of

12 financing the improvements that is approved through the same procedures as the original
13 improvement plan adopted pursuant to this chapter.

14 “Assessing party”, shall mean the municipality, or other public instrumentality, as identified in
15 the improvement plan to assess any infrastructure assessments in the development zone.

16 “Cost”, shall include the cost of: (a) construction, reconstruction, renovation, demolition,
17 maintenance and acquisition of all lands, structures, real or personal property, rights, rights-of-
18 way, utilities, franchises, easements, and interests acquired or to be acquired by the public
19 facilities owner; (b) all labor and materials, machinery and equipment including machinery and
20 equipment needed to expand or enhance services from the municipality, the commonwealth or
21 any other political subdivision thereof to the development zone; (c) financing charges and
22 interest prior to and during construction, and for 1 year after completion of the improvements,
23 interest and reserves for principal and interest, including costs of municipal bond insurance and
24 any other type of credit enhancement or financial guaranty and costs of issuance; (d) extensions,
25 enlargements, additions, and enhancements to improvements; (e) architectural, engineering,
26 financial and legal services; (f) plans, specifications, studies, surveys and estimates of costs and
27 of revenues; (g) administrative expenses necessary or incident to the construction, acquisition,
28 and financing of the improvements; and (h) other expenses as may be necessary or incident to the
29 construction, acquisition, maintenance, and financing of the improvements.

30 “Development zone”, one or more parcels of real estate in the municipality described in the
31 improvement plan and to be benefited by the improvements and subject to infrastructure
32 assessments as described in the improvement plan.

33 “Infrastructure assessments”, assessments, betterments, special assessments, charges or fees as
34 described in this chapter and the improvement plan and assessed by the assessing party upon the
35 real estate within the development zone to defray the cost of improvements financed in
36 accordance with this chapter.

37 “Improvement plan”, a plan set forth in the petition for the establishment of a development zone
38 setting forth the proposed improvements, services and programs, revitalization strategy,
39 replacement and maintenance plan, the cost estimates for said improvements, and the
40 replacement and maintenance program, the identity of the public facilities owner or owners and
41 the administrator of the plan, the boundaries of the development zone, the analysis of any costs
42 of financing said improvements, the identification of the assessing party, the method and
43 structure of the infrastructure assessments, the selection of any or all of the assessing powers
44 listed in section 4 that shall be utilized by the assessing party within the development zone, the
45 description of the infrastructure development project within the development zone, the proposed
46 use of any bonds or notes to finance such project by the agency, the participation of the agency,
47 if any, in a district improvement financing program as described in section 7, and if so, a
48 description of any assessing powers to be utilized, and the estimates of the costs and expenses to
49 be levied and assessed on the real estate in the development zone.

50 “Improvements”, the acquiring, laying, constructing, improving and operating of capital
51 improvements to be owned by a public facilities owner, including, but not limited to, storm

52 drainage systems, dams, sewage treatment plants, sewers, water and well systems, roads, bridges,
53 culverts, tunnels, streets, sidewalks, lighting, traffic lights, signage and traffic control systems,
54 parking, including garages, public safety and public works buildings, parks, landscaping of
55 public facilities, cultural and performing arts facilities, recreational facilities, marine facilities
56 such as piers, wharfs, bulkheads and sea walls, transportation stations and related facilities,
57 shuttle transportation equipment, fiber and telecommunication systems, facilities to produce and
58 distribute electricity, including alternate energy sources such as co-generation and solar
59 installations, the investigation and remediation associated with the cleanup of actual or perceived
60 environmental contamination within the development zone in accordance with applicable
61 governmental regulations and provided that no such investigation or remediation shall impair the
62 rights of the public facilities owner or any other person to contribution or reimbursement from
63 any potentially responsible party for the costs thereof, and other improvements; provided that
64 improvements shall not include any improvements located in, or serving, so-called “gated
65 communities”, not including age restricted developments operated by non-profit organizations,
66 that prohibit access to the general public and any type of improvement that is specifically
67 prohibited in the United States internal revenue code from using tax-exempt financing.

68 “Infrastructure development project”, the acquisition, construction, expansion, improvement or
69 equipping of improvements serving any new or existing commercial, retail, industrial, or
70 residential facilities or mixed use project.

71 “Massachusetts opportunity rebuilding and expansion infrastructure program”, or “MORE
72 infrastructure”, a program established under this act, designed to finance infrastructure
73 improvements benefiting existing and new residential, commercial and industrial properties and
74 the citizens and businesses of the commonwealth.

75 “Municipal governing body”, in a city, the city council with the approval of the mayor, and in a
76 city having a Plan D or E form of charter, the city council with the approval of the city manager,
77 the town council in a town with a town council form of government, or otherwise the town
78 meeting and the board of selectmen in a town with a town meeting form of government, except
79 that in the case of a town when a petition or petition submitted with an amended improvement
80 plan, is signed by 100 percent of the persons owning real estate in the development zone, the
81 board of selectmen shall constitute the municipal governing body and may also in connection
82 with said petition, accept the provisions of this act.

83 “Municipality”, a city or town, or cities and towns, if the development zone, is located in more
84 than 1 municipality.

85 “Person”, any natural or corporate person, including bodies politic and corporate, public
86 departments, offices, agencies, authorities and political subdivisions of the commonwealth,
87 corporations, trusts, limited liability companies, societies, associations, and partnerships and
88 subordinate instrumentalities of any one or more political subdivisions of the commonwealth.

89 “Petition”, the document initiating the creation of a development zone as described in section 2
90 (b).

91 “Project”, an infrastructure development project.

92 “Public facilities owner”, means the municipality, the commonwealth or any other political
93 subdivision or public instrumentality, agency or public authority of the commonwealth, or any
94 instrumentality thereof as defined by the United States internal revenue code and the regulations,
95 rulings and other written determinations of the Internal Revenue Service thereunder, and
96 identified as such, in the improvement plan as the owner of the improvements described in an
97 improvement plan or an amended improvement plan.

98 Section 2. (a) Each municipality in the commonwealth, acting through its municipal governing
99 body, notwithstanding any general or special law, charter provision, by-law or ordinance to the
100 contrary, may adopt this chapter and is authorized to establish 1 or more development zones
101 pursuant to this chapter. In the event that 2 or more municipalities wish to jointly establish or
102 consolidate contiguous development zones, the municipal governing body of each such
103 municipality wherein said development zone shall be located, shall approve by a majority vote
104 the petition for the establishment of such a development zone.

105 (b) The establishment of a development zone shall be initiated by the filing of a petition signed
106 by a person or persons owning real estate within the proposed development zone in the office of
107 the clerk of the municipality and the office of the agency. The petition, at a minimum, shall
108 contain:

109 (1) a legal description of the boundaries of the development zone;

110 (2) the written consent to the establishment of the development zone or any amended
111 improvement plan, by both (i) the persons with the record ownership of at least 80 percent of the
112 acreage to be included in the development zone and (ii) persons owning at least 80 per cent of
113 the tax parcels within the development zone; provided that any real estate owned by the
114 commonwealth, or any agency, or any political subdivision thereof, included in the boundaries of
115 the development zone shall not be included in the count of persons owning tax parcels or acreage
116 in the development zone for the purposes of this clause;

117 (3) the name of the development zone;

118 (4) a map of the proposed development zone, showing its boundaries, and any current public
119 improvements as are already in existence which may be added to or modified by any
120 improvements;

121 (5) the estimated timetable for construction of the improvements and the maximum cost of
122 completing said improvements;

123 (6) the improvement plan for the development zone; and

124 (7) the procedure by which the municipality will be reimbursed for any costs incurred by it in
125 establishing the development zone, and for any administrative costs to be incurred in the

126 administration and collection of any infrastructure assessments imposed within the development
127 zone.

128 Section 3. (a) Upon receipt of a petition pursuant to section 2, the city council in the case of
129 cities, the town council in the case of towns with a town council form of government or the
130 board of selectmen in the case of a town with a town meeting form of government shall, within
131 60 days of said receipt, hold a public hearing on said petition. Written notification of such
132 hearing and a summary of the petition and the improvement plan, shall be provided by the clerk
133 of the municipality to the record owner of each tax parcel within the boundaries of the proposed
134 development zone no later than 14 days prior to such hearing, by mailing a notice to the address
135 listed in the municipality's property tax records. Notification of the hearing shall also be
136 published for 2 consecutive weeks in a newspaper of general circulation in the municipality, the
137 first such publication to be at least 14 days prior to the date of such hearing. Such public notice
138 shall state the proposed boundaries of the development zone, the improvements proposed to be
139 provided in the development zone, the proposed basis for determining any infrastructure
140 assessments with respect to such improvements, and the location or locations for viewing and
141 copying the petition including the improvement plan.

142 (b) A public hearing pursuant to subsection (a) shall be held to determine if the petition satisfies
143 the criteria of this chapter for a development zone, and to obtain public comment regarding the
144 improvement plan and the effect that the development zone will have on the owners of real
145 estate, tenants and other persons within said development zone, and on the municipality or
146 adjacent communities. Within 45 days after the conclusion of said public hearing, the city
147 manager with the approval of the city council in the case of a city under Plan D or E forms of
148 government, the mayor with the approval of the city council in the case of all other cities, the
149 town council in the case of towns with a town council form of government or otherwise the
150 board of selectmen in the case of a town with a town meeting form of government shall issue
151 recommendations on the petition; provided, however, that said recommendations shall include,
152 but shall not be limited to, the following findings:-

153 (1) whether the establishment of the development zone is consistent with any applicable
154 element or portion of any master plan of the municipality which shall be confirmed in writing by
155 the municipality's planning board ; and

156 (2) whether the proposed improvements in the development zone will be compatible with the
157 capacity and uses of existing local and regional infrastructure services and facilities.

158 (c) Within 21 days of the receipt of the recommendation required pursuant to subsection (b), the
159 municipal governing body, or in the case of a town with a town meeting form of government, the
160 next available town meeting, except that in the case of a petition in a town that is signed by all
161 the persons owning parcels within the proposed development zone, the board of selectmen,
162 without town meeting approval, shall vote on the petition to establish the development zone.

163 (d) Upon the approval of the petition by majority vote in accordance with subsection (c), notice
164 of such approval shall be promptly filed with the records of the clerk of the municipality, the

165 agency, and the secretary of the commonwealth. Upon such filing, the development zone shall
166 be deemed established.

167 (e) The public facilities owner shall have all the rights and powers necessary or convenient to
168 carry out and effectuate this chapter that are consistent with the improvement plan as approved
169 by the municipal governing body, including, but without limiting the generality of the foregoing,
170 the following:

171 (1) to make and enter into all manner of contracts and agreements necessary or incidental to the
172 exercise of any power granted by this chapter including agreements with the municipality, the
173 commonwealth, the agency and any other city, town or political entity or utility for the provision
174 of services that are necessary to the acquisition, construction, operation or financing of the
175 improvements within the development zone;

176 (2) to purchase or acquire by lease, lease-purchase, sale and lease-back, gift or devise, or to
177 obtain or grant options for the acquisition of any property, real or personal, tangible or
178 intangible, or any interest therein, in the exercise of its powers and the performance of its duties;
179 to acquire real estate or any interest therein, within the boundaries of the development zone
180 itself, if authorized in the improvement plan, and to acquire real estate or any interest therein
181 outside the boundaries of the development zone, necessary for the acquisition, construction, and
182 operation of the improvements or services relating thereto that are located within the
183 development zone or are related to, or provided by the public facilities owner;

184 (3) to construct, improve, extend, equip, enlarge, repair, maintain, and operate and administer
185 the improvements for the benefit of the development zone within, or without the development
186 zone; to acquire existing improvements or construct new improvements, including those located
187 under or over any roads, public ways or parking areas, and to enter upon and dig up any private
188 land within the development zone for the purpose of constructing said improvements and of
189 repairing the same;

190 (4) to accept gifts or goods of funds, property or services from any source, public or private, and
191 comply, subject to the provisions of this chapter and the terms and conditions hereof;

192 (5) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options for any
193 such purposes with respect to any of the improvements, real or personal, tangible or intangible,
194 within the development zone, or serving the development zone or any interest therein;

195 (6) to pledge or assign any money, infrastructure assessments or other revenues relating to any
196 improvements within, or related to the development zone, and any proceeds derived there from;

197 (7) to enter into contracts and agreements with the municipality, the agency, the commonwealth
198 or any political subdivisions thereof, the property owners of the development zone and any
199 public or private party with respect to all matters necessary, convenient or desirable for carrying
200 out the purposes of this chapter including, without limiting the generality of the foregoing, the
201 acquisition of existing improvements (including utilities or infrastructure outside the
202 development zone but benefiting the development zone), collection of revenue, data processing,

203 and other matters of management, administration and operation; to make other contracts of every
204 name and nature; and to execute and deliver all instruments necessary or convenient for carrying
205 out any of its purposes;

206 (8) to exercise the powers and privileges of, and to be subject to the limitations upon,
207 municipalities provided in sections 38 to 42K, inclusive, of chapter 40, chapter 80 and
208 chapter 83, in so far as such provisions may be applicable and are consistent with the provisions
209 of this chapter; provided, however, that any requirement in said chapters for a vote by the
210 governing body of a town or city or for a vote by the voters of a town or city, shall be satisfied
211 by a vote or resolution duly adopted by the board of directors, board of selectmen, city council or
212 town council as the case may be;

213 (9) to invest any funds in such manner and to the extent permitted under the General Laws for
214 the investment of such funds by the treasurer of a municipality;

215 (10) to employ such assistants, agents, employees and persons, including consulting experts as
216 may be deemed necessary in the public facilities owner's judgment, and to fix their
217 compensation, according to the terms of the improvement plan;

218 (11) to procure insurance against any loss or liability that may be sustained or incurred in
219 carrying out the purposes of this chapter in such amount as the public facilities owner shall deem
220 necessary and appropriate with 1 or more insurers who shall be licensed to furnish such
221 insurance in the commonwealth;

222 (12) to apply for any loans, grants or other type of assistance from the United States
223 Government, the commonwealth or any political subdivision thereof that are described in the
224 improvement plan or an amended improvement plan;

225 (13) to adopt an annual budget and to raise, appropriate, and assess funds in amounts necessary
226 to carry out the purposes for which development zone is formed as described in this chapter and
227 the improvement plan; and

228 (14) to do all things necessary, convenient or desirable for carrying out the purposes of this
229 chapter or the powers expressly granted or necessarily implied in this chapter.

230 Section 4. (a) Consistent with the improvement plan, the assessing party, is authorized and
231 empowered to fix, revise, charge, collect and abate infrastructure assessments, for the cost,
232 maintenance, operation ,and administration of the improvements imposed on the real estate,
233 leaseholds or other interests therein, located in the development zone. All real estate within a
234 development zone owned by the commonwealth or any political subdivision, political
235 instrumentality, agency or public authority thereof shall be exempt from such charges unless
236 such charges are specifically accepted by the commonwealth or such political subdivision,
237 political instrumentality, agency or public authority. In providing for the payment of the cost of
238 the improvements or for the use of the improvements, the assessing party may avail itself of the
239 provisions of the General Laws relative to the assessment, apportionment, division, fixing,
240 reassessment, revision, abatement and collection of infrastructure assessments by cities and

241 towns, or the establishment of liens therefore and interest thereon, and the procedures set forth in
242 sections 5 and 5A of chapter 254 of the General Laws for the foreclosure of liens arising under
243 section 6 of chapter 183A of the General Laws, as it shall deem necessary and appropriate for
244 purposes of the assessment and collection of infrastructure assessments. The assessing party
245 shall file copies of the improvement plan and any amendments thereof, and all schedules of
246 assessments with the appropriate registry of deeds and the municipality's assessors' records so
247 that notice thereof would be reported on a municipal lien certificate for any real estate parcel
248 located in a development zone. Notwithstanding any general or special law to the contrary, the
249 assessing party may pay the entire cost of any improvements, including the acquisition thereof,
250 during construction or after completion, or the debt service of notes or bonds used to fund such
251 costs, from infrastructure assessments, and may establish said infrastructure assessments prior to,
252 during, or within 1 year after completion of construction or acquisition of any
253 improvements. The assessing party may establish a schedule for the payment of infrastructure
254 assessments not to exceed 35 years. The assessing party may determine the circumstances under
255 which the infrastructure assessments may be increased, if at all, as a consequence of delinquency
256 or default by the owner of a parcel within the development zone. To provide for the collection
257 and enforcement of its infrastructure assessments, the assessing party is hereby granted all the
258 powers and privileges with respect thereto held by the municipality on the effective date of this
259 chapter or as otherwise provided in this chapter, to be exercised concurrently with the
260 municipality.

261 The infrastructure assessments of general application authorized by this chapter may only be
262 increased for administrative expenses in excess of the infrastructure assessments described in the
263 improvement plan, and shall be in accordance with the procedures to be established by the
264 assessing party for assuring that interested persons are afforded notice and an opportunity to
265 present data, views and arguments. The assessing party shall hold at least 1 public hearing on its
266 schedule of infrastructure assessments or any revision thereof prior to adoption by the assessing
267 party, notice of which shall be delivered to the municipality and be published in a newspaper of
268 general circulation in the municipality at least 14 days in advance of the hearing. No later than
269 the date of such publication, the assessing party shall make available to the public and deliver to
270 the municipality the proposed schedule of infrastructure assessments.

271 The infrastructure assessments established by the assessing party shall not be subject to
272 supervision or regulation by any department, division, commission, board, bureau, or agency of
273 the commonwealth or any of its political subdivisions, including without limitation, the
274 municipality, if it is not the assessing party, nor shall the assessing party be subject to the
275 provisions of sections 20A and 21C of chapter 59.

276 Notwithstanding any general or special law to the contrary, the assessing party may contract with
277 one or more persons for any services required by the assessing party regarding the assessment,
278 apportionment, division, fixing, reassessment, revision, collection and enforcement of
279 infrastructure assessments hereunder, and the fees, costs and other expenses thereof shall be
280 included in the calculation of the infrastructure assessments levied by the assessing party
281 hereunder.

282 The infrastructure assessments established by the assessing party in accordance with this chapter
283 shall be fixed and adjusted in respect of the aggregate thereof so as to provide revenues at least
284 sufficient to: (i) to pay the administrative expenses of the assessing party; (ii) to pay the
285 principal of, premium, if any, and interest on bonds, notes or other evidences of indebtedness of
286 the agency under this chapter as the same becomes due and payable; (iii) to create and maintain
287 such reasonable reserves as may be reasonably required by any trust agreement or resolution
288 securing bonds; (iv) to provide funds for paying the cost of necessary maintenance, repairs,
289 replacements and renewals of the improvements; and (v) to pay or provide for any amounts that
290 the agency may be obligated to pay or provide for by law or contract, including any resolution or
291 contract with or for the benefit of the holders of its bonds and notes, provided that the assessing
292 party shall not be required to increase any infrastructure assessments by virtue of any individual
293 property owner delinquencies.

294 Notwithstanding any general or special law to the contrary, the agency shall not be precluded
295 from carrying out its obligations under this chapter if it has previously provided technical, real
296 estate, lending, financing, or other assistance to: (i) an infrastructure development project
297 including, but not limited to, a project in which the agency may have a economic interest; (ii) a
298 development zone; or (iii) a municipality associated with, or that may benefit from, an
299 infrastructure development project.

300 (b) As an alternative to levying infrastructure assessments under any other provisions of this
301 chapter or the General Laws, the assessing party may levy special assessments on real estate,
302 leaseholds, or other interests therein within the development zone to finance the cost of the
303 improvements and the maintenance, repair, replacement and renewal thereof, and the expense of
304 administration thereof. In determining the basis for and amount of the special assessment, the
305 cost of the improvements and the maintenance, repair, replacement and renewal thereof, and the
306 expense of administration thereof, including the cost of the repayment of the debt issued or to be
307 issued by the agency to finance the improvements, may be calculated and levied using any of the
308 following methods that result in fairly allocating the costs of the improvements to the real estate
309 in the development zone:

310 (1) equally per length of frontage, or by lot, parcel, or dwelling unit, or by the square footage of
311 a lot, parcel or dwelling unit;

312 (2) according to the value of the property as determined by the municipality's board of
313 assessors; or

314 (3) in any other reasonable manner that results in fairly allocating the cost, administration and
315 operation of the improvements, according to the benefit conferred or use received including, but
316 not limited to, by classification of commercial or residential use or distance from the
317 improvements.

318 The assessing party, consistent with the improvement plan, may also provide for the following:

319 (1) a maximum amount to be assessed with respect to any parcel;

320 (2) a tax year or other date after which no further special assessments under this section shall be
321 levied or collected on a parcel;

322 (3) annual collection of the levy without subsequent approval of the assessing party;

323 (4) the circumstances under which the special assessment levied against any parcel may be
324 increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any
325 other parcel within the development zone;

326 (5) the circumstances under which the special assessments may be reduced or abated; and

327 (6) the assessing party may establish procedures allowing for the prepayment of infrastructure
328 assessments under this chapter.

329 (c) Infrastructure assessments, levied under this chapter shall be collected and secured in the
330 same manner as property taxes, betterments, and assessments and fees owed to the municipality
331 unless otherwise provided by the assessing party and shall be subject to the same penalties and
332 the same procedure, sale, and lien priority in case of delinquency as is provided for such property
333 taxes, betterments and liens owed to the municipality. Any liens imposed by the municipality for
334 the payment of property taxes, betterments and assessments shall have priority in payment over
335 any liens placed on real estate within the development zone.

336 (d) Notwithstanding any general or special act to the contrary, the agency, the municipality, or
337 any other public facilities owner are each authorized to contract with 1 or more owners of real
338 estate within a development zone to acquire or undertake improvements within the development
339 zone. Upon completion, such improvements shall be conveyed to the public facilities owner,
340 provided that the consideration for said conveyance shall be limited to the cost of said
341 improvements.

342 Section 5. (a) In addition to the powers granted pursuant to chapter 23G and chapter 40D of the
343 General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds
344 for the purpose of financing improvements as provided in and subject to, the provisions of this
345 chapter; provided further that the provisions of said chapters 23G and 40D of the General Laws
346 shall apply to bonds issued under this section, except that the provisions of subsection (b) of
347 section 8 of said chapter 23G and section 12 of said chapter 40D shall not apply to bonds issued
348 pursuant to this chapter or the improvements financed thereby; and provided further, that the
349 improvements financed by the agency pursuant to this chapter shall constitute a project within
350 the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be
351 considered facilities to be used in a commercial enterprise. With respect to the issuance of bonds
352 or notes for the purposes of this chapter in the event of a conflict between this chapter and
353 chapter 23G, the provisions of this chapter shall control.

354 Nothing in this chapter shall be construed to limit or otherwise diminish the power of the agency
355 to finance the costs of projects authorized pursuant to said chapter 23G and said chapter 40D
356 within the development zone or the municipality upon compliance with the provisions of said
357 chapter 23G and said chapter 40D.

358 (b) The agency is hereby authorized and empowered to provide by resolution of its board of
359 directors, from time to time, for the issuance of bonds or notes of the agency for any of the
360 purposes set forth in this chapter. Bonds issued hereunder shall be special obligations payable
361 solely from particular funds and revenues generated from infrastructure assessments levied
362 pursuant to this chapter as provided in such resolution. No bonds or notes shall be issued by the
363 agency pursuant to this chapter until the agency's board of directors has determined that the
364 bonds or notes trust agreement and any related financing documents are reasonable and proper
365 and comply with this chapter. The agency may charge a reasonable fee in connection with the
366 review of such documentation by its staff and board of directors. Without limiting the generality
367 of the foregoing, such bonds may be issued to pay or refund notes issued pursuant to this chapter,
368 to pay the cost of acquiring, laying, constructing, and reconstructing the improvements. The
369 bonds of each issue shall be dated, shall bear interest at the rates, including rates variable from
370 time to time, and shall mature at the time or times not exceeding 35 years from their date or
371 dates, as determined by the agency, and may be redeemable before maturity, at the option of the
372 agency or the holder thereof, at the price or prices and under the terms and conditions fixed by
373 the agency before the issuance of the bonds. The agency shall determine the form of the bonds,
374 and the manner of execution of the bonds, and shall fix the denomination or denominations of
375 the bonds and the place or places of payment of principal and interest, which may be at any bank
376 or trust company within or without the commonwealth and such other locations as designated by
377 the agency. In the event an officer whose signature or a facsimile of whose signature shall
378 appear on any bonds shall cease to be an officer before the delivery of the bonds, the signature or
379 facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had
380 remained in office until the delivery. The bonds shall be issued in registered form. The agency
381 may sell the bonds in a manner and for a price, either at public or private sale, as it may
382 determine to be for the best interests of the development zone.

383 Before the preparation of definitive bonds, the agency may, under like restrictions, issue interim
384 receipts or temporary bonds exchangeable for definitive bonds when the bonds have been
385 executed and are available for delivery. The agency may also provide for the replacement of any
386 bonds that shall become mutilated or shall be destroyed or lost. The issuance of the bonds, the
387 maturities, and other details thereof, the rights of the holders thereof, and the agency in respect of
388 the same, shall be governed by this chapter insofar as the same may be applicable.

389 While any bonds or notes of the agency remain outstanding, its powers, duties or existence shall
390 not be diminished or impaired in any way that will affect adversely the interests and rights of the
391 holders of such bonds or notes. Bonds or notes issued under this chapter, unless otherwise
392 authorized by law, shall not be deemed to constitute a debt of the commonwealth or the
393 municipality, or a pledge of the faith and credit of the commonwealth or of the municipality, but
394 the bonds or notes shall be payable solely by the agency as special obligations payable from
395 particular funds collected from infrastructure assessments levied pursuant to this chapter and any
396 revenues derived from the operation of the improvements. Any bonds or notes issued by the
397 agency under this chapter, shall contain on the face thereof a statement to the effect that neither
398 the commonwealth, or the municipality, shall be obliged to pay the same or the interest thereon,
399 and that the faith and credit or taxing power of the commonwealth, the municipality, or the
400 agency is not pledged to the payment of the bonds or notes. All bonds or notes issued under this

401 chapter shall have and are hereby declared to have all the qualities and incidents of negotiable
402 instruments as defined in section 3-104 of chapter 106 of the General Laws.

403 Issuance by the agency of 1 or more series of bonds or notes for 1 or more purposes shall not
404 preclude it from issuing other bonds or notes in connection with the same project or any other
405 project; provided, however, that the resolution or trust indenture wherein any subsequent bonds
406 or notes may be issued shall recognize and protect any prior pledge made for any prior issue of
407 bonds or notes unless in the resolution or trust indenture authorizing such prior issue the right is
408 reserved to issue subsequent bonds on a parity with such prior issue.

409 (c) In the discretion of the agency, bonds issued pursuant to this chapter may be secured by a
410 trust agreement between the agency and the bond owners or a corporate trustee which may be
411 any trust company or bank having the powers of a trust company within or without the
412 commonwealth. A trust agreement may pledge or assign, in whole or in part, the revenues, funds
413 and other assets or property held or to be received by the assessing party, or the agency including
414 without limitation all monies and investments on deposit from time to time in any fund of the
415 assessing party or the agency or any account thereof and any contract or other rights to receive
416 the same, whether then existing or thereafter coming into existence and whether then held or
417 thereafter acquired by the assessing party or the agency, and the proceeds thereof. A trust
418 agreement may pledge or assign, in whole or in part, development zone revenues, funds and
419 other assets or property relating to the development zone held or to be received by the assessing
420 party or the agency. A trust agreement may contain, without limitation, provisions for protecting
421 and enforcing the rights, security and remedies of the bondholders, provisions defining defaults
422 and establishing remedies, which may include acceleration and may also contain restrictions on
423 the remedies by individual bondholders. A trust agreement may also contain covenants of the
424 agency concerning the custody, investment and application of monies, the issue of additional or
425 refunding bonds, the use of any surplus bond proceeds, the establishment of reserves and the
426 regulation of other matters customarily treated in trust agreements. It shall be lawful for any
427 bank or trust company to act as a depository of any fund of the assessing party or the agency or
428 trustee under a trust agreement, provided it furnishes indemnification and reasonable security as
429 the agency may require. Any assignment or pledge of revenues, funds and other assets and
430 property made by the assessing party or the agency shall be valid and binding and shall be
431 deemed continuously perfected for the purposes of chapter 106 and other laws when made. The
432 revenues, funds and other assets and property, rights therein and thereto and proceeds so pledged
433 and then held or thereafter acquired or received by the assessing party or the agency shall
434 immediately be subject to the lien of such pledge without any physical delivery or segregation or
435 further act, and the lien of any such pledge shall be valid and binding against all parties having
436 claims of any kind in tort, contract or otherwise against the trust, whether or not such parties
437 have notice thereof. The trust agreement by which a pledge is created need not be filed or
438 recorded to perfect the pledge except in the records of the agency and no filing need be made
439 pursuant to said chapter 106. Any pledge or assignment made by the agency is an exercise of its
440 political and governmental powers, and revenues, funds, assets, property and contract or other
441 rights to receive the same and the proceeds thereof which are subject to the lien of a pledge or
442 assignment created under this chapter shall not be applied to any purposes not permitted by the
443 pledge or assignment.

444 (d) The agency is hereby authorized and empowered to issue, from time to time, notes of the
445 agency in anticipation of federal, state or local grants for the cost of acquiring, constructing or
446 improving the development zone's improvements or in anticipation of bonds to be issued
447 pursuant to this chapter. Said notes shall be authorized, issued and sold in the same manner as,
448 and shall otherwise be subject to the other provisions of this chapter. Such notes shall mature at
449 such time or times as provided by the issuing resolution of the agency and may be renewed from
450 time to time; provided, however, that all such notes and renewals thereof shall mature on or prior
451 to 20 years from their date of issuance.

452 (e) In addition to other security provided herein, or otherwise by law, bonds, notes or obligations
453 issued by the agency under any provision of this chapter, may be secured, in whole or in part, by
454 a letter of credit, line of credit, bond insurance policy, liquidity facility or other credit facility for
455 the purpose of providing funds for payments in respect of bonds, notes or other obligations
456 required by the holder thereof to be redeemed or repurchased prior to maturity or for providing
457 additional security for such bonds, notes or other obligations. In connection therewith, the
458 agency may enter into reimbursement agreements, remarketing agreements, standby bond
459 purchase agreements and any other necessary or appropriate agreements. The assessing party
460 may pledge or assign any of its revenues as security for the reimbursement by the it to the
461 agencies or providers of such letters of credit, lines of credit, bond insurance policies, liquidity
462 facilities or other credit facilities of any payments made under the letters of credit, lines of credit,
463 bond insurance policies, liquidity facilities or other credit facilities.

464 (f) In connection with, or incidental to, the issuance of bonds, notes or other obligations, the
465 agency may enter into such contracts as the agency may determine to be necessary or appropriate
466 relative to the issuance thereof and the interest payable thereon or to place the bonds, notes or
467 other obligations of the agency, as represented by the bonds or notes, or other obligations in
468 whole or in part, on such interest rate or cash flow basis as the agency may determine
469 appropriate, including without limitation, interest rate swap agreements, insurance agreements,
470 forward payment conversion agreements, futures contracts, contracts providing for payments
471 based on levels of, or changes in, interest rates or market indices, contracts to manage interest
472 rate risk, including without limitation, interest rate floors or caps, options, puts, calls and similar
473 arrangements. Such contracts shall contain such payment, security, default, remedy and other
474 terms and conditions as the agency may deem appropriate and shall be entered into with such
475 party or parties as the agency may select, after giving due consideration, where applicable, for
476 the credit worthiness of the counter party or counter parties, including any rating by a nationally
477 recognized rating agency, the impact on any rating on outstanding bonds, notes or other
478 obligations or any other criteria the agency may deem appropriate.

479 (g) The agency shall have the power out of any funds available therefore to purchase its bonds
480 or notes. The agency may hold, pledge, cancel or resell such bonds or notes, subject to and in
481 accordance with agreements with bondholders. The agency may issue refunding bonds for the
482 purpose of paying any of its bonds at maturity or upon acceleration or redemption. Refunding
483 bonds may be issued at such time or times prior to the maturity or redemption of the refunded
484 bonds as the agency deems to be in the public interest. Refunding bonds may be issued in
485 sufficient amounts to pay or provide for the principal of the bonds being refunded, together with
486 any redemption premium thereon, any interest accrued or to accrue to the date of payment of

487 such bonds, the expense of issuing the refunding bonds, the expense of redeeming bonds being
488 refunded and such reserves for debt service or other capital from the proceeds of such refunding
489 bonds as may be required by a trust agreement or resolution securing the bonds and, if
490 considered advisable by the agency, for the additional purpose of the acquisition, construction or
491 reconstruction and extension or improvement of improvements. All other provisions relating to
492 the issuance of refunding bonds shall be as set forth in this chapter insofar as the same may be
493 applicable.

494 (h) All moneys received pursuant to the provisions of this chapter, whether as proceeds from the
495 issue of bonds or notes, or as revenue or otherwise, shall be deemed trust funds to be held and
496 applied solely as provided in this chapter.

497 (i) Bonds or notes issued under this chapter are hereby made securities in which all public
498 officers and public bodies of the commonwealth and its political subdivisions, all insurance
499 companies, trust companies in their commercial departments and within the limits set by the
500 General Laws, banking associations, investment companies, executors, trustees and other
501 fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to
502 invest in bonds or other obligations of a similar nature may properly and legally invest funds,
503 including capital in their control and belonging to them; and the bonds are hereby made
504 obligations that may properly and legally be made eligible for the investment of savings deposits
505 and income thereof in the manner provided by section 2 of chapter 167E. The bonds or notes
506 are hereby made securities that may properly and legally be deposited with and received by any
507 state or municipal officer or any agency or political subdivision of the commonwealth for any
508 purpose for which the deposit of bonds or other obligations of the commonwealth is now or may
509 hereafter be authorized by law.

510 Notwithstanding any general or special law to the contrary, or any provision in their respective
511 charters, agreements of associations, articles or organization, or trust indentures, domestic
512 corporations organized for the purpose of carrying on business within the commonwealth,
513 including without implied limitation any electric or gas company as defined in section 1 of
514 chapter 164, railroad corporations as defined in section 1 of chapter 160, financial institutions,
515 trustees and the municipality may acquire, purchase, hold, sell, assign, transfer, or otherwise
516 dispose of any bonds, notes, securities or other evidence of indebtedness of the agency provided
517 that they are rated similarly to other governmental bonds or notes, and to make contributions to
518 the agency, all without the approval of any regulatory authority of the commonwealth.

519 (j) Any holder of bonds or notes issued under this chapter, and a trustee under a trust agreement,
520 except to the extent its rights may be restricted by the trust agreement, may, either at law or in
521 equity, by suit, action, mandamus or other proceeding, protect and enforce all rights under the
522 laws of the commonwealth or granted hereunder or under the trust agreement, and may enforce
523 and compel the performance of all duties required by this chapter or by the trust agreement, to be
524 performed by the agency or by any officer thereof.

525 (k) Notwithstanding any of the provisions of this chapter or any recitals in any bonds or notes
526 issued under this chapter, all such bonds or notes shall be deemed to be investment securities
527 under the provisions of chapter 106.

528 (l) Bonds or notes may be issued under this chapter without obtaining the consent of any
529 department, division, commission, board, bureau or agency of the commonwealth or the
530 municipality, and without any proceedings or the happening of any other conditions or things
531 than those proceedings, conditions or things that are specifically required thereof by this chapter,
532 and the validity of and security for any bonds or notes issued by the agency shall not be affected
533 by the existence or nonexistence of any such consent or other proceeding conditions, or things.

534 Section 6. Bonds or notes issued by the agency and their transfer and their interest or income,
535 including any profit on the sale thereof, and the improvements belonging to the public facilities
536 owner shall at all times be exempt from taxation within the commonwealth, provided that
537 nothing in this chapter shall act to limit or restrict the ability of the commonwealth or the
538 municipality to otherwise tax the individuals and companies, or their real or personal property or
539 any person living or business operating within the boundaries of the development zone.

540 Section 7. For purposes of this chapter, the agency may also issue bonds secured by
541 infrastructure assessments pursuant to and according to the terms of chapter 40Q of the General
542 Laws. With the approval of the municipal governing body and the Massachusetts Economic
543 Assistance Coordinating Council, the agency may issue its bonds in place of those of the
544 municipality pursuant to, and according to the terms of chapter 40Q, provided that the
545 municipality has fulfilled all requirements set forth in said chapter 40Q that would be required of
546 the municipality if it were itself issuing bonds pursuant to said chapter 40Q. In addition, the
547 municipality shall include in its “invested revenue district development program” as defined in
548 said chapter 40Q, a description of the rights and responsibilities of the assessing party, the
549 agency and the municipality with respect to said program. In such case, the municipality may
550 designate the agency as the issuer of bonds pursuant to said chapter 40Q for the purpose of
551 financing any of the “project costs” as defined in said chapter 40Q and that are located in, or
552 functionally serving the needs of the development zone. The municipality shall determine the
553 percentage of the “captured assessed valuation,” as defined in said chapter 40Q, of property
554 within the boundaries of the development zone that the municipality is pledging pursuant to an
555 invested revenue district development program as defined in said chapter 40Q for the payment of
556 the agency’s bonds. With the written agreement of the person or persons owning 1 or more
557 specific tax parcels in the development zone, the assessing party may adopt a plan whereby any
558 of the assessing powers described in this chapter are made applicable exclusively to said parcels
559 in order to secure and fund the debt service for the bonds. The “project costs” as defined in said
560 chapter 40Q, shall not be reduced by the amount of the revenues derived pursuant to this chapter
561 and said revenues derived from such a plan, may be made contingent upon or abated, in whole or
562 in part, by the assessing party upon the receipt of the anticipated revenues generated through the
563 pledged captured assessed valuation. At its option, the municipality may waive any adjustment
564 for the “inflation factor” described in said chapter 40Q, in order to increase the captured assessed
565 valuation available to finance improvements benefiting the development zone. The assessing
566 party, the agency and the municipality shall enter into an agreement delineating the rights and
567 responsibilities of each pursuant to such district improvement financing.

568 Section 8. The agency may make representations and agreements for the benefit of the holders
569 of the agency’s bonds and notes or other obligations to provide secondary market disclosure
570 information. The agreement may include: (1) covenants to provide secondary market

571 disclosure information (2) arrangements for such information to be provided with the assistance
572 of a paying agent, trustee, dissemination or other agent; and (3) remedies for breach of the
573 agreements, which remedies may be limited to specific performance.

574 Section 9. The collector-treasurer of each municipality, at the option of the municipality and the
575 agency, may collect any infrastructure assessments including any recording fees, on behalf of the
576 agency pursuant to an agreement between the municipality and the agency and to disburse the
577 funds to any designated management entity or financial institution selected by agency. The
578 collector-treasurer shall disburse revenues to the management entity or financial institution
579 within 30 days of the collection of such fees, together with the interest earned on the holding of
580 such fees.

581 Section 10. (a) This chapter shall be considered to provide an exclusive, additional, alternative
582 and complete method of accomplishing the purposes of this chapter and exercising the powers
583 authorized hereby and shall be considered and construed to be supplemental and additional to,
584 and not in derogation of, powers conferred upon the agency, the assessing party or the public
585 facilities owner, by law; but, insofar as the proceedings of this chapter are inconsistent with any
586 general or specific law, administrative order or regulation, or any resolution or ordinance of the
587 municipality, this chapter shall be controlling. Without limiting the generality of the foregoing,
588 no provision of any resolution or ordinance of the municipality requiring ratification by the
589 voters of certain bond issues shall apply to the issuance of bonds or notes of the agency pursuant
590 to this chapter, nor shall be applicable to the manner of voting or the limitations as to the amount
591 and time of payment of debts incurred by the agency.

592 (b) Except as specifically provided in this chapter, all other statutes, ordinances, resolutions,
593 rules and regulations of the commonwealth and the municipality shall be fully applicable to the
594 property, property owners, residents and businesses located in the development zone. This
595 chapter shall not obligate the municipality or the agency to pay any costs for the acquisition,
596 construction, equipping or operation and administration of the improvements located within the
597 development zone.

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