

HOUSE No. 337

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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

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
2 following chapter: -- CHAPTER 23K. MORE INFRASTRUCTURE PROGRAM

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

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

7 “Amended improvement plan” a plan describing any change to the improvement plan
8 with respect to the boundaries of a development zone, or material change to the method of
9 assessing costs, description of improvements, the maximum cost of the improvements, or method
10 of financing the improvements that is approved through the same procedures as the original
11 improvement plan adopted pursuant to this chapter.

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

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

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

32 “Infrastructure assessments”, assessments, betterments, special assessments, charges or
33 fees as described in this chapter and the improvement plan and assessed by the assessing party

34 upon the real estate within the development zone to defray the cost of improvements financed in
35 accordance with this chapter.

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

49 “Improvements”, the acquiring, laying, constructing, improving and operating of capital
50 improvements to be owned by a public facilities owner, including, but not limited to, storm
51 drainage systems, dams, sewage treatment plants, sewers, water and well systems, roads, bridges,
52 culverts, tunnels, streets, sidewalks, lighting, traffic lights, signage and traffic control systems,
53 parking, including garages, public safety and public works buildings, parks, landscaping of
54 public facilities, cultural and performing arts facilities, recreational facilities, marine facilities
55 such as piers, wharfs, bulkheads and sea walls, transportation stations and related facilities,
56 shuttle transportation equipment, fiber and telecommunication systems, facilities to produce and

57 distribute electricity, including alternate energy sources such as co-generation and solar
58 installations, the investigation and remediation associated with the cleanup of actual or perceived
59 environmental contamination within the development zone in accordance with applicable
60 governmental regulations and provided that no such investigation or remediation shall impair the
61 rights of the public facilities owner or any other person to contribution or reimbursement from
62 any potentially responsible party for the costs thereof, and other improvements; provided that
63 improvements shall not include any improvements located in, or serving, so-called “gated
64 communities”, not including age restricted developments operated by non-profit organizations,
65 that prohibit access to the general public and any type of improvement that is specifically
66 prohibited in the United States internal revenue code from using tax-exempt financing.

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

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

74 “Municipal governing body”, in a city, the city council with the approval of the mayor,
75 and in a city having a Plan D or E form of charter, the city council with the approval of the city
76 manager, the town council in a town with a town council form of government, or otherwise the
77 town meeting and the board of selectmen in a town with a town meeting form of government,
78 except that in the case of a town when a petition or petition submitted with an amended

79 improvement plan, is signed by 100 percent of the persons owning real estate in the development
80 zone, the board of selectmen shall constitute the municipal governing body and may also in
81 connection with said petition, accept the provisions of this act.

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

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

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

90 “Project”, an infrastructure development project.

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

97 Section 2. (a) Each municipality in the commonwealth, acting through its municipal
98 governing body, notwithstanding any general or special law, charter provision, by-law or
99 ordinance to the contrary, may adopt this chapter and is authorized to establish 1 or more

100 development zones pursuant to this chapter. In the event that 2 or more municipalities wish to
101 jointly establish or consolidate contiguous development zones, the municipal governing body of
102 each such municipality wherein said development zone shall be located, shall approve by a
103 majority vote the petition for the establishment of such a development zone.

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

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

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

116 (3) the name of the development zone;

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

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

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

123 (7) the procedure by which the municipality will be reimbursed for any costs incurred by
124 it in establishing the development zone, and for any administrative costs to be incurred in the
125 administration and collection of any infrastructure assessments imposed within the development
126 zone.

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

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

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

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

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

163 (d) Upon the approval of the petition by majority vote in accordance with subsection (c),
164 notice of such approval shall be promptly filed with the records of the clerk of the municipality,
165 the agency, and the secretary of the commonwealth. Upon such filing, the development zone
166 shall be deemed established.

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

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

176 (2) to purchase or acquire by lease, lease-purchase, sale and lease-back, gift or devise, or
177 to 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
185 administer the improvements for the benefit of the development zone within, or without the
186 development zone; to acquire existing improvements or construct new improvements, including
187 those located under or over any roads, public ways or parking areas, and to enter upon and dig up
188 any private land within the development zone for the purpose of constructing said improvements
189 and of repairing the same;

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

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

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

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

206 contracts of every name and nature; and to execute and deliver all instruments necessary or
207 convenient for carrying out any of its purposes;

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

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

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

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

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

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

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

232 Section 4. (a) Consistent with the improvement plan, the assessing party, is authorized
233 and empowered to fix, revise, charge, collect and abate infrastructure assessments, for the cost,
234 maintenance, operation ,and administration of the improvements imposed on the real estate,
235 leaseholds or other interests therein, located in the development zone. All real estate within a
236 development zone owned by the commonwealth or any political subdivision, political
237 instrumentality, agency or public authority thereof shall be exempt from such charges unless
238 such charges are specifically accepted by the commonwealth or such political subdivision,
239 political instrumentality, agency or public authority. In providing for the payment of the cost of
240 the improvements or for the use of the improvements, the assessing party may avail itself of the
241 provisions of the General Laws relative to the assessment, apportionment, division, fixing,
242 reassessment, revision, abatement and collection of infrastructure assessments by cities and
243 towns, or the establishment of liens therefore and interest thereon, and the procedures set forth in
244 sections 5 and 5A of chapter 254 of the General Laws for the foreclosure of liens arising under
245 section 6 of chapter 183A of the General Laws, as it shall deem necessary and appropriate for
246 purposes of the assessment and collection of infrastructure assessments. The assessing party
247 shall file copies of the improvement plan and any amendments thereof, and all schedules of
248 assessments with the appropriate registry of deeds and the municipality's assessors' records so
249 that notice thereof would be reported on a municipal lien certificate for any real estate parcel

250 located in a development zone. Notwithstanding any general or special law to the contrary, the
251 assessing party may pay the entire cost of any improvements, including the acquisition thereof,
252 during construction or after completion, or the debt service of notes or bonds used to fund such
253 costs, from infrastructure assessments, and may establish said infrastructure assessments prior to,
254 during, or within 1 year after completion of construction or acquisition of any
255 improvements. The assessing party may establish a schedule for the payment of infrastructure
256 assessments not to exceed 35 years. The assessing party may determine the circumstances under
257 which the infrastructure assessments may be increased, if at all, as a consequence of delinquency
258 or default by the owner of a parcel within the development zone. To provide for the collection
259 and enforcement of its infrastructure assessments, the assessing party is hereby granted all the
260 powers and privileges with respect thereto held by the municipality on the effective date of this
261 chapter or as otherwise provided in this chapter, to be exercised concurrently with the
262 municipality.

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

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

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

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

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

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

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

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

316 (3) in any other reasonable manner that results in fairly allocating the cost,
317 administration and operation of the improvements, according to the benefit conferred or use

318 received including, but not limited to, by classification of commercial or residential use or
319 distance from the improvements.

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

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

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

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

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

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

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

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

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

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

357 Nothing in this chapter shall be construed to limit or otherwise diminish the power of the
358 agency to finance the costs of projects authorized pursuant to said chapter 23G and said chapter
359 40D within the development zone or the municipality upon compliance with the provisions of
360 said chapter 23G and said chapter 40D.

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

384 may sell the bonds in a manner and for a price, either at public or private sale, as it may
385 determine to be for the best interests of the development zone.

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

392 While any bonds or notes of the agency remain outstanding, its powers, duties or
393 existence shall not be diminished or impaired in any way that will affect adversely the interests
394 and rights of the holders of such bonds or notes. Bonds or notes issued under this chapter, unless
395 otherwise authorized by law, shall not be deemed to constitute a debt of the commonwealth or
396 the municipality, or a pledge of the faith and credit of the commonwealth or of the municipality,
397 but the bonds or notes shall be payable solely by the agency as special obligations payable from
398 particular funds collected from infrastructure assessments levied pursuant to this chapter and any
399 revenues derived from the operation of the improvements. Any bonds or notes issued by the
400 agency under this chapter, shall contain on the face thereof a statement to the effect that neither
401 the commonwealth, or the municipality, shall be obliged to pay the same or the interest thereon,
402 and that the faith and credit or taxing power of the commonwealth, the municipality, or the
403 agency is not pledged to the payment of the bonds or notes. All bonds or notes issued under this
404 chapter shall have and are hereby declared to have all the qualities and incidents of negotiable
405 instruments as defined in section 3-104 of chapter 106 of the General Laws.

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

412 (c) In the discretion of the agency, bonds issued pursuant to this chapter may be secured
413 by a trust agreement between the agency and the bond owners or a corporate trustee which may
414 be any trust company or bank having the powers of a trust company within or without the
415 commonwealth. A trust agreement may pledge or assign, in whole or in part, the revenues, funds
416 and other assets or property held or to be received by the assessing party, or the agency including
417 without limitation all monies and investments on deposit from time to time in any fund of the
418 assessing party or the agency or any account thereof and any contract or other rights to receive
419 the same, whether then existing or thereafter coming into existence and whether then held or
420 thereafter acquired by the assessing party or the agency, and the proceeds thereof. A trust
421 agreement may pledge or assign, in whole or in part, development zone revenues, funds and
422 other assets or property relating to the development zone held or to be received by the assessing
423 party or the agency. A trust agreement may contain, without limitation, provisions for protecting
424 and enforcing the rights, security and remedies of the bondholders, provisions defining defaults
425 and establishing remedies, which may include acceleration and may also contain restrictions on
426 the remedies by individual bondholders. A trust agreement may also contain covenants of the
427 agency concerning the custody, investment and application of monies, the issue of additional or
428 refunding bonds, the use of any surplus bond proceeds, the establishment of reserves and the

429 regulation of other matters customarily treated in trust agreements. It shall be lawful for any
430 bank or trust company to act as a depository of any fund of the assessing party or the agency or
431 trustee under a trust agreement, provided it furnishes indemnification and reasonable security as
432 the agency may require. Any assignment or pledge of revenues, funds and other assets and
433 property made by the assessing party or the agency shall be valid and binding and shall be
434 deemed continuously perfected for the purposes of chapter 106 and other laws when made. The
435 revenues, funds and other assets and property, rights therein and thereto and proceeds so pledged
436 and then held or thereafter acquired or received by the assessing party or the agency shall
437 immediately be subject to the lien of such pledge without any physical delivery or segregation or
438 further act, and the lien of any such pledge shall be valid and binding against all parties having
439 claims of any kind in tort, contract or otherwise against the trust, whether or not such parties
440 have notice thereof. The trust agreement by which a pledge is created need not be filed or
441 recorded to perfect the pledge except in the records of the agency and no filing need be made
442 pursuant to said chapter 106. Any pledge or assignment made by the agency is an exercise of its
443 political and governmental powers, and revenues, funds, assets, property and contract or other
444 rights to receive the same and the proceeds thereof which are subject to the lien of a pledge or
445 assignment created under this chapter shall not be applied to any purposes not permitted by the
446 pledge or assignment.

447 (d) The agency is hereby authorized and empowered to issue, from time to time, notes of
448 the agency in anticipation of federal, state or local grants for the cost of acquiring, constructing
449 or improving the development zone's improvements or in anticipation of bonds to be issued
450 pursuant to this chapter. Said notes shall be authorized, issued and sold in the same manner as,
451 and shall otherwise be subject to the other provisions of this chapter. Such notes shall mature at

452 such time or times as provided by the issuing resolution of the agency and may be renewed from
453 time to time; provided, however, that all such notes and renewals thereof shall mature on or prior
454 to 20 years from their date of issuance.

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

467 (f) In connection with, or incidental to, the issuance of bonds, notes or other obligations,
468 the agency may enter into such contracts as the agency may determine to be necessary or
469 appropriate relative to the issuance thereof and the interest payable thereon or to place the bonds,
470 notes or other obligations of the agency, as represented by the bonds or notes, or other
471 obligations in whole or in part, on such interest rate or cash flow basis as the agency may
472 determine appropriate, including without limitation, interest rate swap agreements, insurance
473 agreements, forward payment conversion agreements, futures contracts, contracts providing for
474 payments based on levels of, or changes in, interest rates or market indices, contracts to manage

475 interest rate risk, including without limitation, interest rate floors or caps, options, puts, calls and
476 similar arrangements. Such contracts shall contain such payment, security, default, remedy and
477 other terms and conditions as the agency may deem appropriate and shall be entered into with
478 such party or parties as the agency may select, after giving due consideration, where applicable,
479 for the credit worthiness of the counter party or counter parties, including any rating by a
480 nationally recognized rating agency, the impact on any rating on outstanding bonds, notes or
481 other obligations or any other criteria the agency may deem appropriate.

482 (g) The agency shall have the power out of any funds available therefore to purchase its
483 bonds or notes. The agency may hold, pledge, cancel or resell such bonds or notes, subject to
484 and in accordance with agreements with bondholders. The agency may issue refunding bonds
485 for the purpose of paying any of its bonds at maturity or upon acceleration or
486 redemption. Refunding bonds may be issued at such time or times prior to the maturity or
487 redemption of the refunded bonds as the agency deems to be in the public interest. Refunding
488 bonds may be issued in sufficient amounts to pay or provide for the principal of the bonds being
489 refunded, together with any redemption premium thereon, any interest accrued or to accrue to the
490 date of payment of such bonds, the expense of issuing the refunding bonds, the expense of
491 redeeming bonds being refunded and such reserves for debt service or other capital from the
492 proceeds of such refunding bonds as may be required by a trust agreement or resolution securing
493 the bonds and, if considered advisable by the agency, for the additional purpose of the
494 acquisition, construction or reconstruction and extension or improvement of improvements. All
495 other provisions relating to the issuance of refunding bonds shall be as set forth in this chapter
496 insofar as the same may be applicable.

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

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

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

520 provided that they are rated similarly to other governmental bonds or notes, and to make
521 contributions to the agency, all without the approval of any regulatory authority of the
522 commonwealth.

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

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

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

538 Section 6. Bonds or notes issued by the agency and their transfer and their interest or
539 income, including any profit on the sale thereof, and the improvements belonging to the public
540 facilities owner shall at all times be exempt from taxation within the commonwealth, provided
541 that nothing in this chapter shall act to limit or restrict the ability of the commonwealth or the

542 municipality to otherwise tax the individuals and companies, or their real or personal property or
543 any person living or business operating within the boundaries of the development zone.

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

565 and said revenues derived from such a plan, may be made contingent upon or abated, in whole or
566 in part, by the assessing party upon the receipt of the anticipated revenues generated through the
567 pledged captured assessed valuation. At its option, the municipality may waive any adjustment
568 for the “inflation factor” described in said chapter 40Q, in order to increase the captured assessed
569 valuation available to finance improvements benefiting the development zone. The assessing
570 party, the agency and the municipality shall enter into an agreement delineating the rights and
571 responsibilities of each pursuant to such district improvement financing.

572 Section 8. The agency may make representations and agreements for the benefit of the
573 holders of the agency’s bonds and notes or other obligations to provide secondary market
574 disclosure information. The agreement may include: (1) covenants to provide secondary
575 market disclosure information (2) arrangements for such information to be provided with the
576 assistance of a paying agent, trustee, dissemination or other agent; and (3) remedies for breach of
577 the agreements, which remedies may be limited to specific performance.

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

585 Section 10. (a) This chapter shall be considered to provide an exclusive, additional,
586 alternative and complete method of accomplishing the purposes of this chapter and exercising

587 the powers authorized hereby and shall be considered and construed to be supplemental and
588 additional to, and not in derogation of, powers conferred upon the agency, the assessing party or
589 the public facilities owner, by law; but, insofar as the proceedings of this chapter are inconsistent
590 with any general or specific law, administrative order or regulation, or any resolution or
591 ordinance of the municipality, this chapter shall be controlling. Without limiting the generality
592 of the foregoing, no provision of any resolution or ordinance of the municipality requiring
593 ratification by the voters of certain bond issues shall apply to the issuance of bonds or notes of
594 the agency pursuant to this chapter, nor shall be applicable to the manner of voting or the
595 limitations as to the amount and time of payment of debts incurred by the agency.

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