

HOUSE No. 4300

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act authorizing the division of capital asset management to convey, lease and grant easements with respect to certain land in the town of Uxbridge..

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. Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or
2 any other general or special law to the contrary, the commissioner of the division of capital asset
3 management and maintenance, in consultation with the secretary of the Massachusetts
4 department of transportation, may lease, for the purposes described below, certain parcels of land
5 and any improvements located thereon, upon terms and conditions as the commissioner of capital
6 asset management and maintenance determines to be in the best interest of the commonwealth
7 and in no event for a term of longer than 50 years, to KGI Properties, LLC or its designee; may
8 convey a fee interest in a certain parcel of land and any improvements located thereon to KGI
9 Properties, LLC or its designee; and may convey to the town of Uxbridge certain temporary and
10 permanent easements for utility purposes.

11 The first parcel to be leased, known as the northbound rest area on route 146, is located
12 on the northbound side of route 146 and contains approximately 7.59 acres. The second parcel to
13 be leased, known as the southbound rest area on route 146, is located on the southbound side of

14 route 146 and contains approximately 11.98 acres. The parcel to be conveyed in fee is located
15 on the eastbound side of route 16, at the intersection of route 16 and route 146 southbound and
16 contains approximately 9.49 acres. The exact boundaries of each of the 3 parcels and the
17 temporary and permanent easements shall be established prior to such conveyance by a survey
18 approved by the commissioner of capital asset management and maintenance.

19 Notwithstanding any general or special law to the contrary, the permitted uses under the
20 leases shall be such uses as rest areas open to the public for motorists traveling on route 146, and
21 may include restrooms, restaurants, gasoline service stations and such other uses deemed
22 acceptable to the Massachusetts department of transportation. If at any time the property ceases
23 to be used for the purposes described in this section, the commissioner shall give written notice
24 to the lessee of the unauthorized use. The lessee shall, upon receipt of the notice, have 30 days to
25 respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of
26 the parcel is not thereafter established, the lease of the parcel, upon the recording of a notice
27 thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further
28 disposition of the property shall be subject to chapter 7 of the General Laws.

29 SECTION 2. The consideration for the parcel to be conveyed in fee shall be the full and
30 fair market value of such parcel as determined by the commissioner of capital asset management
31 and maintenance based upon an independent professional appraisal. The rental for the leases
32 shall be the full and fair market rental value of the parcels to be leased as determined by the
33 commissioner of capital asset management and maintenance based upon an independent
34 professional appraisal.

35 SECTION 3. Contemporaneously with the conveyance authorized in section 1,
36 Uxbridge Woods Realty Trust shall convey to Massachusetts department of transportation a
37 certain parcel of land located on Pond Street in the town of Uxbridge, which is shown on the
38 town of Uxbridge Assessor's Map 28 as lot 3163. The grantee of the fee parcel and the lessee of
39 the leasehold parcels shall be entitled to credits against the consideration for the conveyance and
40 the rental under the leases in an aggregate amount equal to the full and fair market value of the
41 parcel to be conveyed by Uxbridge Woods Realty Trust to the Massachusetts department of
42 transportation, as determined by the commissioner of capital asset management and maintenance
43 based upon an independent professional appraisal. The grantee of the fee parcel and the lessee of
44 the leasehold parcels shall be entitled to credits against the consideration for the conveyance and
45 the rental under the leases in an aggregate amount equal to the full and fair market value of any
46 construction provided by KGI Properties, LLC of facilities for use by the Massachusetts
47 department of transportation as determined by the commissioner of capital asset management
48 and maintenance. Any construction provided by KGI Properties, LLC shall not be subject to the
49 provisions of sections 44A to 44J, inclusive, of chapter 149 of the General Laws, or any other
50 public construction procurement law; provided further that KGI Properties, LLC shall not design
51 or construct any facilities on the parcel without the written approval of the commissioner of the
52 division of capital asset management and maintenance and the secretary of the Massachusetts
53 department of transportation; provided further that said commissioner and said secretary shall not
54 approve any design or construction project pursuant to this section unless said commissioner and
55 said secretary have determined that KGI Properties, LLC has: (i) sufficient financial resources to
56 complete the project; and (ii) obtained insurance protecting the commonwealth as specified by
57 said commissioner and said secretary; provided further that prior to said approval all agreements

58 shall include a requirement that the performance of, and payment for, improvements to the
59 parcels shall be fully covered by bonds issued by bonding companies authorized to issue bonds
60 in the commonwealth as determined by said commissioners; provided further that KGI
61 Properties, LLC has met any other terms and conditions to ensure completion of the public
62 facilities in a timely manner; and provided that KGI Properties, LLC shall pay prevailing wage in
63 accordance with sections 26 and 27 of chapter 149 of the General Laws in connection with any
64 such construction.

65 SECTION 4. Notwithstanding any general or special law to the contrary, the inspector
66 general shall review and approve the appraisals contemplated by sections 1 and 2 and the review
67 shall include an examination of the methodology utilized for the appraisal. Within 30 days of
68 receiving the appraisal, the inspector general shall prepare a report of his review and file the
69 report with the commissioner of capital asset management and maintenance. Within 15 days of
70 receiving the inspector general's report, the commissioner shall submit such report to the house
71 and senate committees on ways and means and the joint committee on bonding, capital
72 expenditures and state assets but no later than 15 days before the execution of any agreement or
73 other document relating to the lease.

74 SECTION 5. Notwithstanding any general or special law to the contrary, the grantee of
75 the fee parcel and the lessee of the leasehold parcels shall be responsible for all costs and
76 expenses, including but not limited to, costs associated with any engineering, surveys, appraisals,
77 deed preparation, easement preparation and lease preparation related to the conveyance, leases
78 and grant of easements authorized pursuant to this act as such costs may be determined by the
79 commissioner of the division of capital asset management and maintenance. Upon conveyance of

80 the parcel, the town shall be solely responsible for all costs, liabilities and expenses of any nature
81 and kind for the development, maintenance, use and operation of the parcel.