

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To impose, on an emergency basis, a \$300 million cap on the District's contribution to the project budget for hard costs and a \$175 million cap on the District's contribution to the project budget for certain soft costs of the proposed ballpark, and to approve the proposed lease agreement between Baseball Expos, L.P., and the District of Columbia Sports and Entertainment Commission under specified conditions for the new Ballpark.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Emergency Act of 2006".

Sec. 2. (a)(1) For the purposes of this act, the term "hard costs" means the direct construction and Builders Contingency costs estimated as \$295,075,993 and \$24,924,007, respectively, in the revised budget for the Ballpark transmitted by the Sports and Entertainment Commission to the Council on February 3, 2006.

Note,
§ 10-1601.05

(2) For the purposes of this act, the term "soft costs" means the soft, ancillary, contingency, completion guarantee fee, and financing fee costs, excluding the land acquisition, environmental remediation, relocation, and demolition costs, estimated at \$111,615,782, and excluding the \$24 million utilized for the renovation of RFK Stadium, as reflected in the revised project budget for the Ballpark transmitted by the Sports and Entertainment Commission to the Council on February 3, 2006.

(b) The District's contribution of bond proceeds from public financing to the project budget for hard costs and soft costs of the Ballpark, as that term is defined in section 105(a)(1) of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.05(a)(1)), shall not exceed \$300 million and \$175,184,218, respectively, excluding the costs for land acquisition, environmental remediation, relocation, and demolition currently estimated at approximately \$111,615,782, as reflected in the revised project budget for the Ballpark transmitted by the Sports and Entertainment Commission to the Council on February 3, 2006.

(c) The expenditure limits of \$300 million and \$175,184,218 include in their calculation public dollars from whatever source expended by the District government or any of its independent agencies or instrumentalities.

Sec. 3. (a) Pursuant to section 451(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)), the District of Columbia Sports and Entertainment Commission ("Commission") transmitted to the Council for review and approval a revised proposed contract, CA 16-185, the revised proposed lease agreement between the Commission and Baseball Expos, L.P. ("Team"), for a new ballpark stadium in the District, and related exhibits, Non-Relocation Agreement, and Construction Administration Agreement ("CAA"), as modified by a revised transmittal to the Council on February 3, 2006 ("Stadium Lease").

(b)(1) Notwithstanding any other provision of law, and subject to section 2, the Council approves the Stadium Lease between the Commission and the Team, on the condition that prior to March 7, 2006, the Mayor and the Sports Commission submit documentation to the Council, with a certification by the District's Chief Financial Officer, that the Sports Commission and the Team have agreed that any amount of the hard costs for the Ballpark in excess of \$300 million and the soft costs in excess of \$175,184,218 shall be paid by:

- (A) The Team;
- (B) Savings realized from value engineering; or
- (C)(i) Federal;
 - (ii) Private; or
 - (iii) Other non-District government funds, except that District

government non-General Fund funds may be used if required by the bond indenture to finance the Ballpark project.

(2) The bond indenture fees needed to finance the Ballpark project, referred to in paragraph (1)(C)(iii) of this subsection, includes the approximate \$37 million in baseball revenue collected in 2005 (plus interest), the approximate \$30 million interest earned from the borrowing, and the approximate \$9 million premium received on the sale of the Ballpark bonds. These fees shall not exceed the total cap set forth in this act.

(3) Any revenue derived from development rights on the Ballpark Site, as that term is defined in section 105(a)(2) of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.05(a)(2)), by the Anacostia Waterfront Corporation or any District governmental entity, independent agency or instrumentality shall not be used for any overruns on the hard and soft costs of the Ballpark but may be used for any overruns on the land acquisition and remediation costs which are documented.

(4) The Council hereby authorizes the sources listed in paragraph (1) of this subsection to be used to cover any amount of the hard costs of the Ballpark in excess of \$300 million and any amount of the soft costs in excess of \$175,184,218.

(c) If the documentation required in subsection (b) of this section is not submitted by the Mayor and the Commission to the Council by the close of business on March 6, 2006, the Stadium Lease between the Commission and the Team is disapproved.

Sec. 4. Development rights.

(a) The District government, or one of its instrumentalities such as the Anacostia Waterfront Corporation, shall control development rights on the north side of the Ballpark Site and all but 210,000 (Floor Area Ratio) square feet of development rights reserved for Team purposes on the south side of the Ballpark Site. Development on the east side of the Ballpark Site, on First Street, S.E., shall generate revenue to the District and shall be developed in accordance with a plan approved by the Council.

(b) Any excess revenues derived from development rights that are not used for costs overruns for land acquisition and environmental remediation shall be deposited into the Community Benefit Fund, established in section 202 of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1602.02).

Sec. 5. Monthly reports.

The Commission shall submit a monthly report to the Council of the Ballpark expenditures no later than the 15th of each month.

Sec. 6. Conforming amendment.

Section 103 of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.03), is amended by adding a new subsection (j) at the end to read as follows:

Note,
§ 10-1601.03

“(j) Except as provided in sections 2 and 3 of the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Emergency Act of 2006, no General Fund revenues shall be spent on the hard and soft costs for the construction of the Ballpark, as reflected in the revised budget for the Ballpark transmitted by the Sports and Entertainment Commission to the Council on February 3, 2006.”.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement prepared by the Office of the Chief Financial Officer, dated February 7, 2006, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 8. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia