

## MEMORANDUM

SEPTEMBER 26, 2013

**TO:** BOSTON REDEVELOPMENT AUTHORITY AND  
PETER MEADE, DIRECTOR

**FROM:** JAMES M. TIERNEY, CHIEF OF STAFF AND SPECIAL COUNSEL TO  
THE DIRECTOR

**SUBJECT:** FENWAY PARK DEMONSTRATION PROJECT PLAN AND  
ASSOCIATED ACTIONS

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**SUMMARY:** This Memorandum requests that the Boston Redevelopment Authority ("BRA"): (1) ratify and confirm its adoption of a Demonstration Project Plan pursuant to M.G.L. Chapter 121B, Section 46(f) for the Fenway Park Improvements which was originally adopted on December 5, 2002; (2) adopt an Order of Taking for limited rights in Yawkey Way pursuant to M.G.L. Chapter 79; and (3) authorize the Director to execute any and all agreements appropriate and necessary with the Boston Red Sox and other parties in connection with the Demonstration Project Plan for the Fenway Park Improvements

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## HISTORY

Fenway Park is home to the Boston Red Sox baseball team and is the oldest major league ballpark in continuous use in the United States. Constructed in 1912, it has the smallest footprint of any ballpark in the major leagues.

In the late 1990's there was much public discussion about the future of Fenway Park as the home to the Boston Red Sox. The then-owners of the team proposed the construction of a new ballpark in the Fenway neighborhood that included the demolition of Fenway Park. In 2000, the Commonwealth of Massachusetts enacted legislation regarding the proposed new ballpark. The legislation included a determination that the existing Fenway Park was inadequate for the purpose for which it was designed and also authorized public funding to assist in the creation of a new ballpark near the existing Fenway Park. Public discussion concerning the proposed new ballpark focused in part on whether the existing Fenway Park could be reconfigured or reconstructed to make it economically viable. Organizations such as "Save Fenway Park" advocated for the preservation of the historic venue.

Prior to the 2002 baseball season, an ownership group led by John W. Henry, Tom Werner and Team President/CEO Larry Lucchino purchased the Boston Red Sox and Fenway Park. Rather than demolish Fenway Park, this ownership group proposed an attempt to make improvements to the ballpark that would preserve it as a major league baseball venue.

During the 2002 season, the Red Sox entered into a temporary agreement to conduct concourse functions on Yawkey Way for a period of time before, during and after ballgames. On October 22, 2002, the Boston Red Sox submitted an application to the Boston Redevelopment Authority (“BRA”) for a demonstration project and proposed improvements that would add seating capacity to the ballpark and make significant concourse improvements. At that time, it was uncertain whether these proposed improvements would provide the economic, public safety, and convenience benefits necessary to enable the Red Sox to maintain Fenway Park as their home ballpark.

On December 5, 2002, the BRA accepted and adopted the Demonstration Project Plan for Fenway Park. In so doing, the BRA adopted findings that included the determination made by the legislature in the Acts of 2000, Chapter 208 that “...the current open air ballpark [the existing Fenway Park] is inadequate for the purposes for which it was designed...” and that to protect against urban blight a Demonstration Project Plan should be enacted. The Demonstration Project Plan remains in effect. The BRA also authorized a taking of certain air rights and subterranean rights in a part of Lansdowne Street, which was necessary to enact the Demonstration Project Plan which would involve the construction of the so-called “Monster Seats” area. The BRA later recorded a permanent taking of air rights and subterranean rights in a part of Lansdowne Street.

At a subsequent meeting on January 16, 2003, the BRA authorized the Article 80E approvals for the proposed improvements to Fenway Park. The BRA also authorized a taking of an easement for limited purposes in part of Yawkey Way. This action was also necessary to enact the Demonstration Project Plan. The BRA later recorded a temporary 10 year taking of an easement for certain purposes in a part of Yawkey Way.

Following the December 5, 2002 and January 16, 2003 BRA board actions, the BRA entered into a License Maintenance and Indemnification Agreement (“LMI Agreement”) with the Boston Red Sox that allowed the team to occupy approximately 17,300 square feet of Yawkey Way on game days for use as an expanded concourse and to build additional seating, the Monster Seats area, above the famed left field wall within the Lansdowne Street Air rights taken by the BRA (the “Monster Seats”). The duration of the LMI Agreement was 10 years, expiring at the conclusion of the 2013 baseball season.

## **ECONOMIC IMPACT**

Today, it is clear that the improvements made by the Boston Red Sox in 2003 and throughout the 10 year LMI Agreement have been a success. Fenway Park, as improved, is now a top tourist attraction in the City of Boston and the Boston Red Sox have set team and major league baseball attendance records throughout the course of the agreement. Moreover, the stabilization of the Red Sox use of historic Fenway Park has played a significant role in the development of the surrounding neighborhood. In the ten years of the agreement, over \$2.2 billion of private, non-institutional funds have been invested in residential and commercial development along Boylston Street and elsewhere in the Fenway neighborhood. Visitor spending attributable to events at Fenway Park since 2002 also exceeds \$2 billion.

In addition to the spin-off effects in the Fenway neighborhood and elsewhere in the city, the Boston Red Sox have also paid multiple times more in taxes to the City of Boston and the Commonwealth of Massachusetts since the commencement of the existing agreement. The Red Sox have paid \$28 million to the City of Boston in taxes since 2002 and \$36 million to the Commonwealth during that time. These figures represent an approximately threefold increase from the preceding ten years.

## **PROPOSED ACTIONS**

The Boston Red Sox and the BRA seek to continue the success begun by the existing LMI Agreement for both Yawkey Way and Lansdowne Street and to take certain measures for the prevention of urban blight. At the outset of the negotiations with the Boston Red Sox, BRA staff sought to accomplish two goals: (1) preserve the economic benefit to the City of Boston that the existing agreement has produced; and (2) protect the taxpayers by receiving fair compensation for the future use of rights in both Yawkey Way and Lansdowne Street. To satisfy those dual goals, the parties have worked on a new agreement that accomplishes the following:

- Transfers ownership of the limited easement in Yawkey Way from the BRA to the Boston Red Sox for as long as Fenway Park is used as a venue for Major League Baseball;
- Transfers ownership from the BRA to the Boston Red Sox of the air and subterranean rights in Lansdowne Street that are necessary for the continued use of the “Monster Seats”;
- Establishes compensation from the BRA to New England Sports Ventures (NESV), an affiliate of the Boston Red Sox, for a limited easement in property owned by NESV that will become part of Richard Ross Way, a new street in the Fenway neighborhood.

Each of these elements of the proposal will be addressed below in greater detail.

## YAWKEY WAY

As described above, the BRA's existing limited easement in Yawkey Way expires at the conclusion of the 2013 baseball season. Unlike takings undertaken to effectuate most Demonstration Project Plans, the 2003 taking of the limited easement in Yawkey Way was limited to only 10 years. The proposed exercise of the BRA's eminent domain power is necessary to make the limited easement in Yawkey Way permanent. Accordingly, staff recommends that the BRA board ratify and confirm the Demonstration Project Plan, to facilitate the adoption of an Order of Taking of limited easement rights in Yawkey Way. The rights that the BRA seeks to take are limited to a surface easement on days when there is a licensed event at Fenway Park and only for a period of time before, during and after the event.

Upon acquisition of those rights in Yawkey Way, the BRA proposes to sell those rights to the Boston Red Sox for as long as major league baseball games are played at Fenway Park in exchange for \$4,873,657. This figure represents the fair market value of a property interest for which there is no true comparable property anywhere. The calculation of this value was arrived at as follows:

- The limited easement in Yawkey Way encompasses 17,300 square feet;
- The surface of Yawkey Way is used as a concourse area during licensed events, which is highlighted by retail activity;
- The annual revenue potential of quality retail space in the Fenway neighborhood is approximately \$60 per square foot;
- Yawkey Way will be used by the Boston Red Sox for approximately 120 days of the year for licensed events, which include all possible Red Sox baseball games and other events conducted at Fenway Park – 120 days is 32.87 percent of the year;
- To determine the annual revenue potential of the Red Sox interest in Yawkey Way, one must use 32.87 percent of \$60 per square foot since there is no revenue potential on any of the other days;
- Accordingly, Yawkey Way as used by the Boston Red Sox has an annual revenue potential of \$19.72 per square foot;
- At 17,300 square feet, there is an annual revenue potential of \$341,156;
- For property sales of retail space, an appropriate capitalization rate in today's market is 7 percent;
- Therefore, the value of the limited easement in Yawkey Way to be transferred to the Red Sox for as long as major league baseball games are played at Fenway Park is \$4,873,657.

## **LANSDOWNE STREET**

As described above, the Boston Redevelopment Authority prior taking of limited air and subterranean rights in Lansdowne Street was done on a permanent basis. Therefore no new taking of any interest in those rights is required.

The proposed new agreement with the Boston Red Sox contemplates transferring only those rights necessary for the continued operation of the Monster Seats to the Boston Red Sox. While the volumetric taking of air rights is somewhat asymmetrical, the area occupied by the Monster Seats has an approximate base of 7,708.5 square feet and extends an additional 40 to 50 feet up. The sale of the Lansdowne Street air rights and subterranean rights should be based on the development value of those rights since the Red Sox have essentially developed those rights and seek to continue the utilization of this area for the same limited purpose. Therefore, BRA staff engaged in the following calculation of the value of those development rights:

- The market value for development rights in the Fenway neighborhood is \$80 per Floor Area Ratio ("FAR") square foot;
- There is an approximately 7,708.5 square foot "base" of the air rights that forms the lowest level of the rights in which the Monster Seats have been developed;
- The air rights extend upward between 40 and 50 feet, translating to an FAR of 4 if that volume is to be considered developable rights;
- \$80 per FAR square foot, multiplied by 7,708.5 square feet, multiplied by an FAR of 4 equals a development rights value of the air rights of \$2,466,720;
- The \$80 per FAR square foot value of development rights necessarily assumes subterranean rights sufficient to accomplish development so the valuation of the air rights includes the corresponding subterranean rights.

## **NEW STREET - RICHARD B. ROSS WAY**

In April 2013, the BRA board adopted an Order of Taking for easement rights in property owned by New England Sports Ventures ("NESV") necessary for the construction of a new street connecting Boylston Street with Van Ness Street in the Fenway. The street will be called Richard B. Ross Way in honor of a business owner on Boylston Street who lost his life in the September 11, 2001 terrorist attacks. This land had been used by NESV as a surface parking lot. NESV is an affiliate of the Boston Red Sox.

An appraisal conducted by an appraiser utilized by both the BRA and Boston Red Sox has established the value of the easement interest at \$2,667,000. Part of the proposed

agreement with the Boston Red Sox contemplates a payment to NESV by the BRA of \$2,667,000 for the value of the easement taken.

### **PAYMENT**

Pursuant to the proposed agreement, the Boston Red Sox owe to the BRA \$7,340,377 for the Yawkey Way and Lansdowne Street rights. The Red Sox will make ten equal annual installment payments of \$734,038 to the BRA.

Pursuant to the proposed agreement, the BRA owes \$2,667,000 to NESV for the easement that will constitute part of the new street between Boylston Street and Van Ness Street. Within sixty days of the receipt of each of the ten annual installments of \$734,038 from the Boston Red Sox, the BRA will make a payment of \$266,700 to NESV.

Of the remaining funds derived from the sale of the Yawkey Way and Lansdowne Street rights, \$100,000 each year will be dedicated to beautification efforts within the Fenway neighborhood. In addition, \$100,000 each year will be retained by the Boston Redevelopment Authority. Finally, the remainder of the funds will be transferred to the City of Boston general fund.

### **RECOMMENDATION**

Based on the foregoing, staff recommends that the BRA (1) ratify and confirm its adoption of a Demonstration Project Plan pursuant to M.G.L. Chapter 121B, Section 46(f) for the Fenway Park Improvements; (2) adopt an Order of Taking for limited rights in Yawkey Way, pursuant to M.G.L. Chapter 79; and (3) authorize the Director to execute any and all agreements appropriate and necessary with the Boston Red Sox and other parties in connection with the Demonstration Project Plan for the Fenway Park Improvements.

Appropriate votes follow:

**VOTED:** That the BRA hereby ratifies and confirms its adoption of a Demonstration Project Plan pursuant to the provisions of M.G.L. Chapter 121B, Section 46(f) for the Fenway Park Improvements approved by the BRA on December 5, 2002; and

### **FURTHER**

**VOTED:** That the Boston Redevelopment Authority hereby adopts a Resolution entitled: "BE IT RESOLVED by the Boston Redevelopment Authority that an ORDER OF TAKING dated September 26, 2013, relating to the taking of a certain easement, for limited purposes, in Yawkey Way, in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, be executed and made a permanent part of these proceedings, a copy of which the

Secretary shall cause to be recorded in the Office of the Registry of Deeds for the County of Suffolk;" and

**FURTHER**

**VOTED:** That the Director be, and hereby is, authorized to execute any and all documents, instruments and/or agreements with the Boston Red Sox and related entities and the City of Boston, which the Director deems necessary and appropriate in connection with the Demonstration Project Plan for the Fenway Park Improvements.