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Testimony of the Boston Municipal Research Bureau

Before the

City Council Post Audit and Oversight Committee

December 3, 1998

Regarding: Docket #1227 - The process for acceptance of linkage payments by the City Council.

Regarding the role of the City Council and Mayor, Chapter 371 states:

“...that with respect to each new large-scale commercial real estate development, the total amount of all such payments to be made by a developer to such trusts shall first be accepted by the city council and approved by the mayor, which acceptance shall be deemed a final appropriation of said payments to such trusts. All payments to be made by a developer to such separate funds in respect to a particular new large-scale commercial real estate development shall thereupon and thereafter be deposited directly into such trusts and may thereafter be expended by the trustees of said trusts for the purposes authorized by this act, and for no other purpose.”

Chapter 371 stipulates that all linkage funds must be accepted by the City Council and approved by the Mayor. This is a procedural responsibility similar to the process undertaken for accepting grants made to the City. For linkage funds to be accepted by the City Council, an order must be submitted by the Mayor requesting acceptance. This requirement does not give the Council or Mayor the authority to change a development impact project agreement or earmark how the funds should be distributed.

Starting in 1987, the City Council began accepting the *annual* installments of linkage payments from developers. This practice continued through 1991, after which no votes were taken by the Council. Despite the fact that the Neighborhood Housing Trust and The Neighborhood Jobs Trust were continuing the collection of annual payments from developers, the Administration did not continue the practice of submitting orders requesting acceptance and expenditure of funds to the City Council. The funds received and expended since 1991 were not properly accepted by the City.

Not only were the funds from fiscal 1992 through 1998 not properly accepted by the City, but there is some question as to why the Administration pursued the practice of submitting orders to

the Council for accepting the *annual* installment of linkage payments. Chapter 371 states “....the *total amount* of all such payments to be made by a developer to such trusts shall first be accepted by the city council and approved by the mayor, which acceptance shall be deemed a final appropriation of said payments to such trusts.” The Administration should have been submitting the total linkage payment to the City Council for acceptance, not the annual payments.

The Bureau believes that once a development impact project agreement is signed, the Managing Trustee should request that the Mayor submit to the City Council an order approving the acceptance of *total* linkage funds. The Bureau recommends that an order be submitted once a year.