

MEMORANDUM

BOARD APPROVED

JUNE 14, 2018

TO: BOSTON REDEVELOPMENT AUTHORITY ("BRA")
D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY ("BPDA")*
AND BRIAN P. GOLDEN, DIRECTOR

FROM: HEATHER CAMPISANO, CHIEF OF STAFF
SONAL GANDHI, SENIOR POLICY ADVISOR

SUBJECT: ARTICLE 80: DEVELOPMENT PROJECT EXACTIONS

SUMMARY: This Memorandum requests authorization for the Director to petition the Boston Zoning Commission to adopt a text amendment to the Boston Zoning Code to implement an increase in the Housing Exaction and Jobs Contribution Exaction to Nine Dollars and 3 Cents (\$9.03) per square foot and One Dollar and Seventy Eight Cents (\$1.78) per square foot, respectively.

BACKGROUND

Boston's Development Impact Project Exactions ("DIP" or "Linkage"), as defined in the Boston Zoning Code ("Code"), ensures that large-scale real estate development brings direct benefits to the City of Boston's residents in the form of affordable housing and workforce training. Under Section 80 B-7 of the Code, any real estate development project requiring zoning relief that proposes to erect, enlarge or extend, or substantially rehabilitate a structure by over 100,000 square feet of gross floor area and that includes over 100,000 square feet of Development Impact Uses as defined within the Code is required to pay a Housing Exaction and Jobs Contribution Exaction for every square foot of Development Impact Uses over 100,000 square feet. The definition of Development Impact Uses within the Code includes but is not limited to Office, Retail Business; Public Services; Institutional, Service Uses, Educational and Hotel/Motel. Buildings or structures that are or will be wholly-owned by public agencies are not subject to Linkage.

* Effective October 20, 2016, the BRA commenced doing business as BPDA.

According to Chapter 371 of the Acts of 1987, as amended, Linkage's authorizing statute, Linkage may be increased on three-year cycles to reflect the rise in inflation based on the Consumer Price Index ("CPI"). In its initial years, Linkage was not increased as allowed under Chapter 371. In January 2002, the Zoning Commission increased Linkage under special legislation allowing for an increase that accommodated the rise in inflation between 1987 and October 1999 to seven dollars and eighteen cents (\$7.18) per square foot for housing and one dollar and forty-four cents (\$1.44) per square foot for jobs for a total of eight dollars and sixty-two cents (\$8.62) per square foot. In April 2006, the Zoning Commission increased Linkage to adjust for inflation during the three-year cycle of 2003 through 2006. The 2006 Linkage increase resulted in a rate of seven dollars and eighty-seven cents (\$7.87) per square foot for housing (a 9.6% increase) and one dollar and fifty-seven cents (\$1.57) per square foot for jobs (a 9.3% increase) for a total of nine dollars and forty-four cents (\$9.44). Linkage was last increased in 2013 to the current rates of eight dollars and thirty-four cents (\$8.34) per square foot for housing (a 6% increase) and one dollar and sixty-seven cents (\$1.67) per square foot for jobs (a 6.3% increase) for a total of ten dollars and one cent (\$10.01) per square foot.

Housing Linkage obligations are met through (i) payment of a cash grant ("Housing Contribution Grant") that is paid in seven equal annual installments with the first payment due at the issuance of a building permit for the Downtown area set forth in Appendix B to Article 80 and the earlier of the Certificate of Occupancy date or 24 months after the issuance of a building permit for the rest of the City of Boston, or (ii) payment of a lump sum, or (iii) through housing creation. All Housing Linkage payments are allocated to the Neighborhood Housing Trust ("NHT"), a separate legal trust overseen by seven trustees including the Boston Collector-Treasurer, five trustees appointed by the Mayor and the City Council President or his/her designee. Since 2014, \$31.4 million in housing linkage has leveraged a total of \$562 million in public funds in 39 developments that cost \$837 million in total. Those projects have created 1,268 affordable units and preserved 548 existing affordable units.

Jobs Linkage obligations are met through (i) payment of a cash grant ("Jobs Contribution Grant") that is paid in two equal installments with the first payment due at building permit issuance and the second payment due one year later, or (ii) payment of a lump sum, or (iii) through job training creation. All Jobs Linkage payments are allocated to the Neighborhood Jobs Trust ("NJT"), a separate legal trust overseen by three trustees including the Boston Collector-Treasurer, the Director of the Office of Workforce Development and a City Council member

appointed by the Mayor. Between 2016 and 2017, jobs Linkage has helped more than 2,300 low and moderate income residents access job training and education programs crucial to economic mobility including Tuition Free Community College, Boston Bridge and Community Servings.

Linkage adjustments are not automatic and have only been adjusted five times, increasing from \$5.00 per square foot in 1983 for housing and \$1.00 per square foot for jobs in 1986 (for a total of \$6.00 per square foot) to the current rates of \$8.34 for housing and \$1.67 for jobs (for a total of \$10.01 per square foot). Linkage adjustments require a recommendation from the BRA and approval by the Boston Zoning Commission. Any other significant adjustment, such as square footage, monetary value, thresholds, or use, would require a home rule petition and approval from the State Legislature.

Since the beginning of the authorizing statute, Boston has collected \$168 million in housing Linkage and \$38.5 million in jobs Linkage for a total of \$206.5 million¹. Linkage in Boston was last eligible for adjustment in November 2016.

BENCHMARKS

Linkage fees charged to commercial development for the purpose of funding affordable housing is a tool utilized in a number of communities across the United States, such as Seattle, San Diego and San Francisco, and is often found in communities with high housing costs where there is a demonstrated need for affordable housing. Boston is among the Massachusetts communities with linkage fees along with the cities of Cambridge and Somerville and Barnstable County. Although there are similarities in the core linkage policy, several aspects of Boston's linkage program emerge:

1. Boston has the highest project threshold and exemption level among cities;
2. Multi-year payment of linkage is unusual. Boston and Somerville are the only cities that use multi-year payments;
3. Most cities make annual inflation adjustments to linkage with Boston the only city applying a three-year adjustment period;
4. Fees that vary by use of location are common. San Francisco and San Diego vary their fees by use while Seattle varies it by location. Barnstable County has the most complex system that varies its fee by both use and location. Although the amount of Boston's Linkage fees do not vary by location, the commencement of the payment does vary by location; and

¹ As of January 2, 2018. Source: City of Boston Treasury Department

5. Boston is the only city with Linkage for job training.

CURRENT STATUS

Housing Exactions are currently paid at a rate of \$8.34 per gross square foot. Jobs Contribution Exactions are currently paid at a rate of \$1.67 per gross square foot. The need for affordable housing continues to be one of the most important issues facing the Greater Boston Region. The Linkage law, a result of compromise between housing advocates and development interests, specifically outlines a process for three (3) year increases based on the CPI. The new recommended exaction fees, an increase based on CPI, accurately reflect the changing economic landscape.

With the surge in commercial development in Boston, the BPDA has determined that commercial development can support an inflation adjustment in the Linkage fees. Housing prices are rising, competition for new jobs is very fierce, and the BPDA has seen growth in the commercial property market. Nine million square feet of office space was approved between January 2014 and December 2017 by the BPDA Board. 2017 Q4 office vacancies were at 6.7% citywide, continuing the trend of declining vacancies since 2014. The citywide inventory of commercial space grew by 5.2% from 2014 to 2017 for a total of 66.4 million square feet with the overall average rent per square foot increasing slightly to \$57.68 per square foot in 2017². Since 2014, Boston's hotel room supply has increased by 7.4% while hotel occupancy rates have increased to 82.4%³. The BPDA believes that increasing Linkage now will not have an adverse effect on the current real estate development cycle in Boston.

RECOMMENDATION

It is therefore recommended that the Director be authorized to recommend approval of the submitted text amendment and to petition the Boston Zoning Commission to adopt a text amendment to Article 80 of the Code increasing the Housing Exaction and Jobs Contribution Exaction.

² The three largest submarkets accounting for 87 percent of Boston's commercial office inventory are the Financial District, Back Bay and the Seaport. Source: BPDA Research Division

³ Source: Pinnacle Advisory Group, BPDA Research Division

An appropriate vote follows:

VOTED: That the Director be, and hereby is, authorized to recommend approval of the text amendment and to petition the Boston Zoning Commission to adopt said text amendment to Article 80 of the Boston Zoning Code increasing the Housing Exaction to nine dollars and 3 cents (\$9.03) per square foot and the Jobs Contribution Exaction to one dollar and seventy-eight cents (\$1.78) per square foot in substantial accord with the text amendment presented to the Boston Redevelopment Authority at its meeting on June 14, 2018.

BOARD APPROVED

Text Amendment Application No. 483
Boston Redevelopment Authority
Article 80: Development Impact Project
Exactions

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956, as amended, as follows:

By amending **Article 80, Development Review and Approval**, in the manner described below.

1. In Section 80B-7.4(a) (Housing Contribution Grant)

a. In the first paragraph of said section 80B-7.4(a) (Amount of Grant):

- (i) In the first sentence of said paragraph, after the words: "shall be required in the amount of", delete the following words and punctuation:

eight dollars and thirty-four cents (\$8.34)

and insert the following words and punctuation:

nine dollars and three cents (\$9.03)

2. In Section 80B-7.5(a) (Jobs Contribution Grant)

a. In the first paragraph of said section 80B-7.5(a):

- (ii) In the first sentence of said paragraph, after the words: "shall be required in the amount of", delete the following words and punctuation:

one dollar and sixty-seven cents (\$1.67)

and insert the following words and punctuation:

one dollar and seventy-eight cents (\$1.78)

Petitioner: Boston Redevelopment Authority

By: _____
Brian P. Golden, Director

Address: City Hall/9th Floor

Boston, MA 02201-1007

Tel. No.: (617) 722-4300, ext. 4308

Date: _____
as authorized by the BPDA Board at its
meeting of June 14, 2018.