

VI. Local Initiative Program (LIP)

2/2010

C. Local Action Units

1. Description

Local Action Units (LAU) reflect a program component that gives communities the opportunity to include housing units on the state's Subsidized Housing Inventory (SHI) that were built without a Comprehensive Permit but which meet LIP criteria and are suitable for inclusion in LIP. Such units may have been built pursuant to a local action such as a zoning provision, a condition of a variance or special permit issued by the planning board or zoning board of appeals, or an agreement between the town and a Developer to convert and rehabilitate municipal buildings into housing.

While communities are developing many innovative strategies to expand their supply of affordable housing, only units meeting the following criteria will be approved as LAU and, as a consequence of their inclusion in LIP, be added to the SHI for the community:

- a. they have resulted from city or town action or approval;
- b. they meet the requirements for SHI eligibility as set forth at Section II.A of these Guidelines; and,
- c. except for the requirements related to receiving a Comprehensive Permit, they otherwise meet the requirements for LIP units set out in Section II of the LIP Guidelines.

2. Application Process

DHCD's application form for LAU is available on the DHCD web site: www.mass.gov/dhcd, (type in "LIP" in the search field, select the first result, then select "Local Action Units Application"). DHCD expects to process routine applications within 60 days. There is no application fee for LAU applications.

In order to ensure that locally-developed units will meet LIP standards for LAUs, DHCD encourages communities to discuss their projects with LIP staff *prior* to submitting an application. LIP staff will identify any areas of concern. To receive LAU approval, applications must reflect the guidance appearing below.

3. Local Action Requirement

Local Action Units must result from city or town action or approval and typically involve new construction, building conversion, adaptive re-use or substantial rehabilitation. LAUs can not be developed with a comprehensive permit (for such projects see "Comprehensive Permit Projects").

The following types of actions will generally be sufficient to satisfy the Local Action requirement provided that the municipal actions or approvals are conditioned, as a matter of record, upon the provision of low- or moderate-income housing:

- a. Zoning-based approval, particularly inclusionary zoning provisions and special permits for affordable housing;
- b. Substantial financial assistance from funds raised, appropriated or administered by the city or town; or
- c. Provision of land or buildings that are owned or acquired by the city or town and conveyed at a substantial discount from their fair market value.

LOCAL INITIATIVE PROGRAM APPLICATION FOR LOCAL ACTION UNITS

Introduction

The Local Initiative Program (LIP) is a state housing initiative administered by the Department of Housing and Community Development (DHCD) to encourage communities to produce affordable housing for low- and moderate-income households.

The program provides technical and other non-financial assistance to cities or towns seeking to increase the supply of housing for households at or below 80% of the area median income. LIP-approved units are entered into the subsidized housing inventory (SHI) pursuant to Chapter 40B.

Local Action Units (LAUs) are created through local municipal action *other than* comprehensive permits; for example, through special permits, inclusionary zoning, conveyance of public land, utilization of Community Preservation Act (CPA) funds, etc.

The Department shall certify units submitted as Local Action Units if they meet the requirements of 760 CMR 56.00 and the Local Initiative Program Guidelines, which are part of the Comprehensive Permit Guidelines and can be found on the **DHCD website at www.mass.gov/dhcd**

To apply, a community must submit a complete, signed copy of this application to:

**Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114**

Attention: Janice Lesniak, LIP Program Coordinator

Telephone: (617) 573-1327

Email: Janice.Lesniak@state.ma.us

Community Support Narrative, Project Description, and Documentation

Please provide a description of the project, including a summary of the project's history and the ways in which the community fulfilled the local action requirement.

Signatures of Support for the Local Action Units Application

Chief Executive Officer:

defined as the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter

Signature: _____

Print Name: _____

Date: _____

Chair, Local Housing Partnership:
(as applicable)

Signature _____

Print Name: _____

Date: _____

Municipal Contact Information

Chief Executive Officer:

Name _____

Address _____

Phone _____

Email _____

Town Administrator/Manager:

Name _____

Address _____

Phone _____

Email _____

City/Town Planner:

Address _____

Phone _____

Email _____

Town Counsel:

Name _____

Address _____

Phone _____

Email _____

**Chair, Local Housing Partnership
(if any):**

Name _____

Address _____

Phone _____

Email _____

Community Contact Person:

Name _____

Address _____

Phone _____

Email _____

The Project

Developer: _____

Telephone and Email: _____

Project Site: _____

Address: _____

Is your municipality utilizing any HOME or CDBG funding for this project? Yes _____ No _____

Local tax rate per thousand \$ _____ For Fiscal Year _____

Site Characteristics: proposed or existing buildings by design, ownership type, and size.

<u>Project Style</u>	<u>Total Number of Units</u>	<u>Number of Units Proposed for Local Action Units Certification</u>
Detached Single-family house	_____	_____
Rowhouse/townhouse	_____	_____
Duplex	_____	_____
Multifamily house (3+ family)	_____	_____
Multifamily rental building	_____	_____
Other (specify)	_____	_____

Unit Composition

Type of Unit:	# of Units	# of BRs	# of Baths	Gross Square Feet	Livable Square Feet	Proposed Sale Prices/ Rent	Proposed Condo Fee
Condo Ownership							
Fee Simple Ownership							
Rental							
Affordable:							
Market:							

Please attach the following documents to your application:

1. Documentation of municipal action (e.g., copy of special permit, CPA funds, land donation, etc.)
2. Long-Term Use Restrictions (request documents before submission):

For ownership projects, this is the Regulatory Agreement for Ownership Developments, redlined to reflect any proposed changes, and/or the model deed rider.

For rental projects, this is the Regulatory Agreement for Rental Developments, redlined to reflect any proposed changes.

For HOME-funded projects, this is the HOME covenant/deed restriction. When attaching a HOME deed restriction to a unit, the universal deed rider cannot be used.

3. Documents of Project Sponsor's (developer's) legal existence and authority to sign the Regulatory Agreement:
 - appropriate certificates of Organization/Registration and Good Standing from the Secretary of State's Office
 - mortgagee consents to the Regulatory Agreement
 - Trustee certificates or authorization for signer/s to execute all documents
4. For Condominium Projects Only: The schedule of undivided interest in the common areas in percentages set forth in the condominium master deed
5. MEPA (Massachusetts Environmental Policy Act) environmental notification form (ENF)--for new construction only (request form before submission)
6. Affirmative Fair Marketing and Lottery Plan, including:
 - ads and flyers with HUD logo
 - informational materials for lottery applicants
 - eligibility requirements
 - lottery application and financial forms
 - lottery and resident selection procedures
 - request for local preference and demonstration of need for the preference
 - measures to ensure affirmative fair marketing, including outreach methods and venue list
 - name of Lottery Agent with contact information

See Section III of the Comprehensive Permit Guidelines at www.mass.gov/dhcd for more information.

PLEASE contact our office if you have any questions: 617-573-1327.

12/4/08
Jennifer Lesniak
DHCD

LOCAL INITIATIVE PROGRAM – LOCAL ACTION UNIT/S

**REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
OWNERSHIP PROJECT FOR LAU ONLY**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this ___ day of _____ 200__ by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD"), pursuant to G.L. c. 23B §1 as amended by Chapter 19 of the Acts of 2007, the City/Town of _____ ("the Municipality"), and _____, a Massachusetts corporation/limited partnership/limited liability company, having an address at _____, and its successors and assigns ("Project Sponsor").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP");

WHEREAS, the Project Sponsor intends to construct a housing development known as _____ at a ___ acre site on _____ Street/Road in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total number of ___ condominium units/detached dwellings (the "Units") and ___ of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the "Low and Moderate Income Units");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the *Comprehensive Permit Guidelines* (the "Guidelines")) published by DHCD with the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has given and will give technical and other assistance to the Project];

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Project Sponsor hereby agree and covenant as follows:

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality and DHCD (the "Plans and Specifications"). In

addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the *Comprehensive Permit Guidelines* (the "Guidelines") published by DHCD , and must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

- _____ of the Low and Moderate Income Units shall be one bedroom units;
- _____ of the Low and Moderate Income Units shall be two bedroom units;
- _____ of the Low and Moderate Income Units shall be three bedroom units; and,
- _____ of the Low and Moderate Income Units shall be four bedroom units.

All Low and Moderate Income Units to be occupied by families must contain two or more bedrooms. Low and Moderate Income Units must have the following minimum areas:

- one bedroom units - 700 square feet
- two bedroom units - 900 square feet
- three bedroom units - 1200 square feet
- four bedroom units - 1400 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. The Project must also comply with all applicable local codes, ordinances and by-laws.

Each Low and Moderate Income Unit will be sold for no more than the price set forth in Exhibit B attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is a Family (i) whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A "Family" shall mean two or more persons who will live regularly in the Low or Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The "Area" is defined as the _____ MSA/HMFA/County.

2. Upon the occurrence of one of the events described in 760 CMR 56.03(2), the Project will be included in the Subsidized Housing Inventory as that term is described in 760 CMR 56.01. Only Low and Moderate Income Units will be counted as SHI Eligible Housing as that term is described in 760 CMR 56.01 for the purposes of the Act.

3. (a) At the time of sale of each Low and Moderate Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the purchaser of the Low and Moderate Income Unit to execute an Affordable Housing Deed Rider in the form of Exhibit C attached hereto and made a part hereof (the "Deed Rider"). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low and Moderate Income Unit to offer the Low and Moderate Income Unit to the Municipality and to DHCD at a discounted purchase price more particularly described therein. The Municipality and DHCD shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low and Moderate Income Unit or to find an Eligible Purchaser. The Deed Rider

shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Low and Moderate Income unit will be preserved each time that subsequent resales of the Low and Moderate Income unit occur. (The various requirements and restrictions regarding resale of a Low and Moderate Income Unit contained in the Deed Rider are hereinafter referred to as the ("Resale Restrictions"). If upon the initial resale or any subsequent resale of a Low and Moderate Income Unit, the Municipality and DHCD are unable to find an Eligible Purchaser for the Low and Moderate Income Unit, and the Municipality and DHCD each elect not to exercise its right to purchase the Low and Moderate Income Unit, then the then current owner of the Low and Moderate Income Unit shall have the right to sell the Low and Moderate Income Unit to any person, regardless of his income (an "Ineligible Purchaser") at the Maximum Resale Price and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(b) For each sale of a Low and Moderate Income Unit, DHCD must approve the terms of the Eligible Purchaser's mortgage financing as evidenced by DHCD's issuance of the Resale Price Certificate described in the Deed Rider.

(c) The Municipality agrees that in the event that it purchases a Low and Moderate Income Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Low and Moderate Income Unit, that the Municipality shall within six (6) months of its acceptance of a deed of such Low and Moderate Income Unit, either (i) sell the Low and Moderate Income Unit to an Eligible Purchaser at the same price for which it purchased the Low and Moderate Income Unit plus any expenses incurred by the Municipality during its period of ownership, such expenses to be approved by DHCD, subject to a Deed Rider satisfactory in form and substance to DHCD and the recording of an Eligible Purchaser Certificate satisfactory in form and substance to DHCD, the method for selecting such Eligible Purchaser to be approved by DHCD or (ii) rent the Low and Moderate Income Unit to a person who meets the income guidelines of the LIP Program, upon terms and conditions satisfactory to DHCD and otherwise in conformity with the requirements of the LIP Program. If the Municipality fails to sell or rent the Low and Moderate income unit as provided herein within said six (6) month period, or if at any time after the initial rental of the Low and Moderate Income Unit by the Municipality as provided herein the Low and Moderate Income Unit becomes vacant and remains vacant for more than ninety (90) days, then such Low and Moderate Income Unit shall cease to be counted as SHI Eligible Housing, and shall no longer be included in the Subsidized Housing Inventory.

d) Each Low and Moderate Income Unit will remain SHI Eligible Housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor is in default hereunder; (2) the Project and Low and Moderate Income Unit each continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) either (i) a Deed Rider binding the then current owner of the Low and Moderate Income Unit to comply with the Resale Restrictions is in full force and effect and the then current owner of the Low and Moderate Income Unit is either in compliance with the terms of the Deed Rider, or the Municipality is in the process of taking such steps as may be required by DHCD to enforce the then current owner's compliance with the terms of the Deed Rider or (ii) the Low and Moderate Income Unit is owned by the Municipality and the Municipality is in

compliance with the terms and conditions of the last preceding paragraph, or (iii) the Low and Moderate Income Unit is owned by DHCD.

4. [Intentionally left blank]

5. (a) Prior to marketing or otherwise making available for sale any of the Units, the Project Sponsor must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the buyer selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units and effective outreach to protected groups underrepresented in the municipality, including provisions for a lottery, consistent with the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low and Moderate Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines. All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years following the sale of the last Low and Moderate Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, familial status, age, handicap, marital status,

national origin, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of buyers for the Units; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

7. (a) The Project Sponsor agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Project Sponsor and the Project in order to monitor the Project Sponsor's compliance with the terms of this Agreement.

(b) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be occupied by a person who was an Eligible Purchaser at the time of purchase; that any Low and Moderate Income Units which have been resold during the year have been resold in compliance with all of the terms and provisions of the Deed Rider then in effect with respect to each such Low and Moderate Income Unit, and in compliance with the Regulations and Guidelines and this Agreement; and that the Project and the Low and Moderate Income Units have otherwise been maintained in a manner consistent with the Regulations and Guidelines, this Agreement, and the Deed Rider then in effect with respect to each Low and Moderate Income Unit.

8. Upon execution, the Project Sponsor shall immediately cause this Agreement and any amendments hereto to be recorded / filed with the Registry, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

9. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (i) is a _____ duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Project Sponsor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms

of which are approved by DHCD, or other permitted encumbrances, including mortgages referred in paragraph 19, below).

- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Project Sponsor, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially or adversely affect its financial condition.

10. Except for sales of Units to home buyers as permitted by the terms of this Agreement, Project Sponsor will not sell, transfer, lease, exchange or mortgage the Project without the prior written consent of DHCD and the Municipality.

11. Until such time as decisions regarding repair of damage due to fire or other casualty, or restoration after taking by eminent domain, shall be made by a condominium association or trust not controlled by the Project Sponsor, (or if the Project consists of detached dwellings, by homebuyers) Project Sponsor agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement, subject to the approval of the Project's lenders, which lenders have been approved by DHCD and the Municipality.

12. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

13. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge St., Suite 300
Boston, MA 02114

Municipality:

Project Sponsor:

14. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c. 184, § 26, 31, 32 and 33. This Agreement is made for the benefit of DHCD, and DHCD shall be deemed to be the holder of the affordable housing restriction created by this Agreement. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that this Agreement shall terminate if (a) at any time hereafter there is no Low and Moderate Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low and Moderate Income Unit at the Project which is owned by the Municipality or DHCD as provided in Section 4 hereof, or (b) the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company, or other institutional or governmental lender shall acquire the Project by foreclosure or by instrument in lieu of foreclosure, provided that the holder of the mortgage gives DHCD and the Municipality not less than sixty (60) days prior written notice of the mortgagee's intention to foreclose upon the Project or to accept an instrument in lieu of foreclosure. If this Agreement terminates because of a foreclosure or the acceptance of an instrument in lieu of foreclosure as set forth in clause (b) of this paragraph, the Municipality agrees that if at the time of such termination there is one or more Low and Moderate Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions or there is one or more Low and Moderate Income Unit at the Project which is owned by the Municipality or DHCD as provided in Section 4 hereof, the Municipality shall enter into a new Regulatory Agreement with DHCD with respect to such Low and Moderate Income Units which shall be satisfactory in form and substance to DHCD. The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by (i) the Project Sponsor, (ii) any person with a direct or indirect financial interest in the Project Sponsor, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Project is subsequently acquired by a Related Party during the term of this Agreement, this Agreement shall be revived and shall apply to the Project as though it had never lapsed.

(b) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and enure to the benefit of DHCD and its successors and assigns for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(c) The Resale Restrictions contained in each of the Deed Riders which are to encumber each of the Low and Moderate Income Units at the Project pursuant to the requirements of this

Agreement shall also constitute an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c. 184, §§ 26, 31, 32, and 33. Such Resale Restrictions shall be for the benefit of both DHCD and the Municipality and both DHCD and the Municipality shall be deemed to be the holder of the affordable housing restriction created by the Resale Restrictions in each of the Deed Riders. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. To the extent that the Municipality is the holder of the Resale Restrictions to be contained in each of the Deed Riders, the Director of DHCD by the execution of this Agreement hereby approves such Resale Restrictions in each of the Deed Riders for the Low and Moderate Income Units of the Project as required by the provisions of G.L. c. 184, § 32.

15. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. (a) The Project Sponsor and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Project Sponsor or the Municipality hereunder without receiving a Default Notice from Project Sponsor or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Project Sponsor or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 18, then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low and Moderate Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement.

17. The Project Sponsor represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent to Regulatory Agreement attached hereto and made a part hereof.

18. DHCD may delegate to the Municipality any of its oversight and enforcement responsibilities under this Agreement by providing written notice of such delegation to the Project Sponsor and the Municipality.

[If the Project Sponsor is a for-profit organization add: (b) The Project Sponsor has provided financial surety in a form and in the amount required by the Guidelines to ensure completion of the cost examination to the satisfaction of the DHCD and the distribution of excess funds as required at 760 CMR 56.04(8)(e). DHCD will provide a copy of this Agreement to the Municipality's Board of Appeals as required by 760 CMR 56.04(7).]

Executed as a sealed instrument as of the date first above written.

Project Sponsor

By: _____
its _____

**Department of Housing and
Community Development**

By: _____
its Director

Municipality

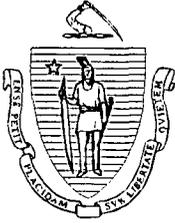
By: _____
its _____
(Chief Executive Officer)

LSI\AI-ra

**Attachments: Exhibit A - Legal Property Description
Exhibit B - Prices & Location of Low & Moderate Income Units
Exhibit C - Form of Deed Rider**

Consent forms signed by any and all mortgagees whose mortgages are recorded prior to this Regulatory Agreement must be attached to this Regulatory Agreement.

© DHCD When used in the Local Initiative Program, this form may not be modified without the written approval of the Department of Housing and Community Development.



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
 COMMUNITY DEVELOPMENT**

LIP PROGRAM STANDARDS FOR NEW MORTGAGE LOANS

- The loan must have a fixed interest rate through the full term of the mortgage.
- The loan must have a current fair market interest rate.
 (No more than 2 percentage points above the current Masshousing Rate*)
 * (617) 854-1000 or www.masshousing.com
- The buyer must provide a down payment of at least 3%, 1.5% of which must come from the buyer's own funds.
- The loan can have no more than 2 points.
- The sales price of the unit is set by DHCD to be affordable to an income-eligible household paying no more than 30% of their monthly income for housing costs.
 The buyer may not pay more than 38% of their monthly income for housing costs.

DHCD will prepare a Discount Rate Certificate or Resale Price Multiplier Certificate depending on the language in the LIP Deed Rider for the unit. The Certificate must be recorded along with the LIP Deed Rider.

In order to prepare the Certificate, DHCD requires the following documents no less than 2 weeks before the loan closing date:

- A copy of the APPRAISAL REPORT for the property, completed by a certified residential appraiser. The home should be appraised as a market rate property and the appraisal report should be no older than 120 days past its completion date.
(Only applicable if the LIP Deed Rider uses the Discount Rate method for determining the resale price)
- A Copy of the COMMITMENT LETTER from the buyer's lender, including Interest Rate, Points, Length of Loan (i.e. 15-yr, 30-yr), and APR (Annual Percentage Rate). *(Not required for 55+ developments where the buyer is paying cash)*
- A Copy of the PURCHASE AND SALE AGREEMENT signed by the buyer and the developer
- Contact information for the loan CLOSING ATTORNEY including name, address, phone and fax numbers

Please forward all documents to Elsa Campbell of the LIP Program staff. She can be reached at 617-573-1321.