

THE INCLUSIONARY DEVELOPMENT POLICY

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THE INCLUSIONARY DEVELOPMENT POLICY

1. Overview:

The Inclusionary Development Policy ("IDP") is governed by An Order Relative to Inclusionary Development, dated December 9, 2015.

2. Definitions:

Affordable Housing Agreement ("AHA"): The agreement between the BRA and the Developer that specifies all the affordability commitments being undertaken by the Developer on a homeownership project.

Affordable Housing Contribution Agreement ("AHCA"): The agreement between the BRA and the Developer that specifies the IDP Contribution requirements and the payment schedule for funds to be paid to the IDP Fund, in lieu of providing any IDP Units On-Site or Off-Site.

Affordable Rental Housing Agreement and Restriction ("ARHAR"): The agreement between the BRA and the Developer that specifies the affordability commitments being undertaken by the developer on a rental project including policies related to the building, marketing, sales or lease ups, and monitoring of affordable rental units.

Application for Zoning Relief: The document filed with the City of Boston requesting relief from the Zoning Code.

Area Median Income ("AMI"): Used to define income eligibility, the AMI is promulgated on an annual basis by the U.S. Department of Housing and Urban Development, for the Boston-Cambridge-Quincy, MA-NH HUD Metropolitan Fair Market Rent/Income Limits Area.

BRA: The Boston Redevelopment Authority

BRA Approval: When a matter is brought before and voted favorably upon by the BRA Board.

BRA Board: The official agency body with authority to vote on final determinations and authorize the execution of agreements at the BRA.

Certificate of Occupancy: A document issued by ISD to certify the building's compliance with applicable building codes

City: The City of Boston

Covenant: The legal agreement that specifies the affordability requirement or restriction of a property and is filed at the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court.

Developer: The real estate entity that proposes and/or builds the project subject to the Inclusionary Development Policy.

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Director: The Director of the Boston Redevelopment Authority.

DND: The City of Boston Department of Neighborhood Development.

DND Design Guidelines: Construction and design guidelines as established by DND either for new construction through the Multi-Family New Construction Design Requirements & Guidelines, or for rehabilitation projects, through guidelines as established from time to time in conjunction with Neighborhood Housing Trust Requests for Proposals.

Dormitory: Any dwelling (other than a fraternity or sorority house) occupied primarily as a place of temporary abode by persons attending educational institutions, as defined by the Zoning Code.

Fiscal Year ("FY"): The City of Boston Fiscal Year, which runs from July 1 to June 30.

IDP: The Inclusionary Development Policy.

IDP Contribution: The payment made to the City in lieu of providing an IDP Unit, either On-Site or Off-Site.

IDP Unit: Any unit that is income restricted under the Inclusionary Development Policy.

Inclusionary Development Policy Fund ("IDP Fund"): The fund which IDP Contributions are paid into, held by the Treasury and administered by DND.

ISD: Inspectional Services Department

Letter of Intent ("LOI"): The document filed by a Developer with the BRA, as required by the 2000 Executive Order, An Order Relative to the Provision of Mitigation by Development Projects in Boston.

Master Deed: The deed filed at the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court that establishes a condominium trust/association.

M.G.L. c. 91: The chapter of Massachusetts General Law that regulates uses of certain lands along Massachusetts waterways.

OFHE: The City of Boston Office of Fair Housing and Equity.

On-Site: Any IDP Unit built within the same building as the originally Proposed Project.

Off-Site: Any IDP Unit built at a location separate from the originally proposed project.

Project Notification Form ("PNF"): The document filed by a Developer with the BRA pursuant to Article 80 of the Zoning Code.

Proposed Project: The real estate development comprising of one or more buildings submitted for review to the BRA and subject to IDP.

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Relocation Agreement: The agreement between the BRA and the developer outlining Developer obligations during the relocation of tenants during a rehabilitation project.

Treasury: The City of Boston Treasury Department.

Vicinity: An area within one half mile from the Proposed Project.

Zone: An area of the City created for calculating IDP Contributions and Off-Site requirements (Exhibit B).

Zone A: Those areas of the City determined to be in the upper tier of property values, as well as certain waterfront parcels.

Zone B: Those areas of the City determined to be in the middle tier of property values.

Zone C: Those areas of the City determined to be in the lower tier of property values.

Zone Factor: The minimum per unit contribution expected to the IDP Fund.

Zoning Code: The Boston Zoning Code, which dictates the allowed shape, density, and use of Proposed Project in a given area.

Zoning Relief: Any zoning variance, exception, conditional use permit, interim planning permit, zoning map or text amendment, PDA Development Plan or PDA Master Plan approval, Institutional Master Plan approval, or any other relief granted by the Zoning Commission of the Board of Appeal.

3. Scope:

1. IDP applies to any residential Proposed Project of ten or more units that is either:
 - a. Financed by the City;
 - b. On property owned by the City or the BRA; or
 - c. That requires zoning relief.
2. However, Proposed Projects are exempt from IDP if:
 - a. The Proposed Project is financed as one entity and 40% or more of the units within the Proposed Project are income restricted or otherwise preserved as affordable;
 - b. The Proposed Project is a Dormitory as defined by the Zoning Code; or
 - c. The Proposed Project is exempt as specified in applicable sections of the Zoning Code.
3. Proposed Projects that meets the following criteria will be grandfathered under an earlier version of the IDP:

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- a. Proposed Projects that submitted an LOI prior to January 1, 2016 and subsequently submit a PNF within three months will be grandfathered into the latest IDP in place at the time such LOI was submitted.
- b. Where an LOI is not required, Proposed Projects that file an Application for Zoning Relief before January 1, 2016 will be grandfathered into the latest IDP in place at the time such Application for Zoning Relief was submitted.
- c. Proposed Projects that received a commitment of City financing before January 1, 2016 will be grandfathered into the latest IDP in place at the time such financing commitment was made.
- d. Proposed Projects that were officially designated as the Developer of a City or BRA owned parcel before January 1, 2016 will be grandfathered into the latest IDP in place at the time such designation was made.

4. Summary:

1. On-Site:

- a. Citywide, Proposed Projects subject to IDP may meet their requirements by designating 13% of the total number of units On-Site.

2. IDP Contributions and Zones:

In recognition of market differences in Boston, IDP creates three distinct zones, Zone A, Zone B, and Zone C, to determine the required IDP Contribution in lieu of On-Site creation (Exhibit B). A homeownership Proposed Project in Zone A may choose to meet the IDP requirements through an IDP Contribution. In Zone B and Zone C, a homeownership Proposed Project may only meet the IDP requirements through an IDP Contribution with the approval of the relevant City departments and agencies. Rental Proposed Projects Citywide may only meet the IDP requirements through an IDP Contribution with the approval of the relevant City departments and agencies.

- a. Every three years, or when the BRA Board deems appropriate, the BRA and relevant City departments may recalculate the Zone areas, taking into account overall changes in market conditions.
- b. Proposed Projects with parcels in more than one Zone will be required to meet the IDP requirements of the Zone with the highest affordability requirements (see Section 6).

3. Off-Site:

- a. Proposed Projects subject to IDP may meet their requirements through the creation of new IDP Units separate from but in the Vicinity of the

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Proposed Project in an amount equal to or greater than 18% of the total number of units within the Proposed Project in Zone A and Zone B and, subject to the approval of the relevant City departments and agencies, in an amount equal to or greater than 15% of the total number of units within the Proposed Project in Zone C. Subject to the approval of the relevant City departments and agencies, Proposed Projects subject to IDP may also meet their IDP requirements through the rehabilitation of existing units that are then deed restricted as IDP Units in an amount equal to or greater than 18% of the total number of units within the Proposed Project in Zone A and Zone B and equal to or greater than 15% of the total number of units within a Proposed Project in Zone C (see Section 7).

5. Requirements of On-Site Developments:

Citywide, Proposed Projects subject to IDP may meet their requirements by designating 13% of the total number of units On-Site.

1. Calculating the On-Site Commitment:

The On-Site requirement can be calculated by using the following formula where X = On-Site units and T = Total units:

$$X = 0.13 \times T$$

Example: For a Proposed Project with 49 total units: T = 49

$$X = 49 \times .13$$

$$X = 6.37$$

The Proposed Project requires 6 On-Site units.

Should the calculation result in a remainder of 0.5 or above, an additional On-Site unit shall be required. Should the remainder be below 0.5, a contribution to the IDP Fund shall be required in an amount equivalent to the remainder multiplied by the relevant Zone Factor.

Example: For the Proposed Project described above:

$$\text{If in Zone A: } 0.37 \times \$380,000 = \$140,600$$

$$\text{If in Zone B: } 0.37 \times \$300,000 = \$111,000$$

$$\text{If in Zone C: } 0.37 \times \$200,000 = \$74,000$$

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The On-Site requirement for a Proposed Project will be set forth in the Proposed Project's AHA or ARHAR.

2. Rental Unit Requirements:

a. AMI Distribution:

i. On-Site units shall be designated as affordable to households earning less than or equal to 70% of the AMI.

1. In certain instances in Zone C, when the BRA determines a Proposed Project infeasible, the BRA may allow either a portion or all of the On-Site units to be designated to households earning greater than 70% of the AMI but no more than 100% of the AMI.

b. Recorded Agreement:

i. The BRA and the Developer shall enter into an ARHAR and/or the appropriate transfer documents (i.e. ground lease, disposition, or deed) with respect to the IDP Units. The Developer shall cause the ARHAR to be recorded with the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court no later than five days after the issuance of a Certificate of Occupancy for the building in which the IDP Units are to be located.

c. Maximum Allowable Rents:

i. The BRA will update maximum allowable unit rents on an annual basis (Exhibit C).

ii. The maximum allowable rent for a micro-unit (a studio of less than 450 square feet) will be 90% of the studio rent.

d. Term:

i. The term of the affordability restriction for all rental IDP Units shall be the maximum extent permitted by law. Currently, the BRA requires an initial 30 years of affordability, with the right to renew for 20 years. The BRA reserves the right to seek an affordability restriction of up to 99 years.

3. Homeownership Unit Requirements:

a. Affordable Housing Agreement:

i. The BRA and the Developer shall enter into an AHA and/or the appropriate transfer documents (i.e. ground lease, disposition, or deed) with respect to the IDP Units.

b. AMI Distribution:

i. No less than 50% of the On-Site units shall be designated as affordable to households earning less than or equal to 80% of

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the AMI. No more than 50% of the On-Site units shall be affordable to households earning greater than 80%, but less than or equal to 100% of the AMI (Exhibit C).

c. Covenant:

- i. Every homeownership IDP Unit deed must have a covenant attached at the time the Developer sells the unit and all transfer documents (i.e. ground lease, disposition, or deed) must have an affordable housing restriction attached, which shall be placed on record at the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court.

d. Developer Obligations:

- i. The AHA and/or the transfer documents will set forth Developer obligations for IDP Units before sale. While owned by the Developer, the Developer shall not permit the rental of any units designated as homeownership IDP Units until the restrictions on such units have expired. In the event that units are rented in violation of this provision, the Developer must reimburse the BRA in an amount representing the full value of rents collected for the units. In the event that a unit is marketed for sale after being rented in violation of this provision, the sale price shall reflect a deduction from the initial price of 5% compounded annually for the duration of the rental period.

e. Beneficial Interest:

- i. The BRA expects the beneficial interest assigned to IDP Units and the resulting condominium fees to reflect the below-market value of the IDP Unit.

f. Maximum Allowable Sales Price:

- i. The BRA will update maximum allowable unit sales prices on an annual basis (Exhibit C).
- ii. The maximum allowable rent for a micro-unit (a studio of less than 450 square feet) will be 90% of the studio price.

g. Term:

- i. The term of the affordability restriction for all homeownership IDP Units shall be the maximum extent permitted by law. Currently, the BRA requires an initial 30 years of affordability, with the right to renew for 20 years. The BRA reserves the right to seek an affordability restriction of up to 99 years.

4. Unit Design and Construction Standards:

- a. The BRA requires that all IDP Units be comparable in design and quality to the market rate units in the Proposed Project, unless

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otherwise specified. The BRA may approve a deviation from this standard as it relates to certain finishes and appliances only when a Developer demonstrates a substantially superior affordable housing outcome. In such a case, the Developer must still meet or exceed DND Design Guidelines. Furthermore, the BRA requires that IDP Units:

- i. Not be stacked or concentrated on the same floors;
 - ii. Be consistent in bedroom count with the entire Proposed Project; and
 - iii. Have comparable square footage as units in the rest of the Proposed Project.
- b. Enforcement and Inspection of Design:
- i. The BRA reserves the right to complete its own inspection prior to issuance of a Certificate of Completion.

6. IDP Contribution Requirements:

Proposed Projects subject to IDP may meet their requirements by proposing an IDP Contribution in adherence with the requirements specific to the Zone of the Proposed Project (Exhibit B).

1. For Rental Proposed Projects:

Subject to the approval of the relevant City departments and agencies, a rental Proposed Project may meet their IDP requirements:

- a. For Zone A, by contributing the equivalent of 18% of the total number of units multiplied by the Zone Factor of \$380,000 per unit;
- b. For Zone B, by contributing the equivalent of 18% of the total number of units multiplied by the Zone Factor of \$300,000 per unit; or
- c. For Zone C, by contributing the equivalent of 15% of the total number of units multiplied by the Zone Factor of \$200,000 per unit.

2. Calculating the Rental IDP Contribution

The rental IDP Contribution for Zone A and Zone B can be calculated by using the following formula where X = IDP Contribution, T = Total units, A = On-Site units, and Z = Zone Factor:

$$X = (T - (100/13 \times A)) \times 0.18 \times Z$$

Example 1: For a Proposed Project with 49 total units and no On-Site Units:

$$T = 49, A = 0:$$

$$X = (49 - (100/13 \times 0)) \times 0.18 \times Z$$

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$$X = 49 \times 0.18 \times Z$$

$$X = 8.82 \times Z$$

If in Zone A, $Z = \$380,000$: $8.82 \times \$380,000 = \$3,351,600$

If in Zone B, $Z = \$300,000$: $8.82 \times \$300,000 = \$2,646,000$

The rental IDP Contribution for Zone C can be calculated by using the following formula where $X =$ IDP Contribution, $T =$ Total units, $A =$ On-Site units, and $Z =$ Zone Factor:

$$X = (T - (100/13 \times A)) \times 0.15 \times Z$$

Example 1: For a Proposed Project with 49 total units and no On-Site

Units:

$$T = 49, A = 0:$$

$$X = (49 - (100/13 \times 0)) \times 0.15 \times Z$$

$$X = 49 \times 0.15 \times Z$$

$$X = 7.35 \times \$200,000$$

$$X = \$1,470,000$$

Example 2: For a Proposed Project in Zone A with 49 total units and 2

On-Site units: $T=49, O=2$:

$$X = (49 - (100/13 \times 2)) \times 0.18 \times Z$$

$$X = (49 - 15.38) \times 0.18 \times Z$$

$$X = 33.62 \times 0.18 \times Z$$

$$X = 6.05 \times \$380,000$$

$$X = \$2,299,000$$

The Proposed Project requires 2 On-Site units and a contribution to the IDP Fund of \$2,299,000.

3. For Homeownership Proposed Projects:

- a. In Zone A, a homeownership Proposed Project may choose to meet their IDP requirements by contributing the equivalent of 18% of the total number of units multiplied by the greater of either the Zone Factor for Zone A or half the difference between the average actual market rate price and the affordable price per unit, by unit type;
- b. In Zone B, subject to the approval of the relevant City departments and agencies, a homeownership Proposed Project may meet their IDP requirements by contributing the equivalent of 18% of the total number of units multiplied by the greater of either the Zone Factor for

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Zone B or half the difference between the average market rate price and the affordable price per unit, by unit type; or

- c. In Zone C, subject to the approval of the relevant City departments and agencies, a homeownership Proposed Project may meet their IDP requirements by contributing the equivalent of 15% of the total number of units multiplied by the greater of either the Zone Factor for Zone C or half the difference between the average market rate price and the affordable price per unit, by unit type.

4. Calculating the Homeownership IDP Contribution:

For Zone A and Zone B the number of homeownership IDP units being contributed can be calculated by using the following formula where N = Number of units, T = Total units, and A = On-Site units:

$$N = (T - (100/13 \times A)) \times 0.18$$

For Zone C the number of homeownership IDP units being contributed can be calculated by using the following formula where N = Number of units, T = Total units, and A = On-Site units:

$$N = (T - (100/13 \times A)) \times 0.15$$

The amount of IDP Contribution per unit can then be calculated by using the following formula where X = IDP Contribution per unit, M = Average market rate price, A = Affordable price, and Z = Zone Factor:

$$X = (M - A)/2 \text{ or } Z$$

Example: For a homeownership Proposed Project in Zone A proposing to meet its IDP requirement through an IDP Contribution and with a specific unit type selling at an average market rate of \$1,000,000 that would have sold as an IDP Unit at \$200,000:

$$X = (M - A)/2 \text{ or } \$380,000$$

$$X = (\$1,000,000 - \$200,000)/2 \text{ or } \$380,000$$

$$X = \$400,000 \text{ or } \$380,000$$

$$X = \$400,000 \text{ for the unit type being calculated}$$

The Proposed Project requires an IDP Contribution of \$400,000 per unit of the unit type being calculated. The Proposed Project must then calculate how many of those units are being counted towards

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their IDP Contribution as well as how many other unit types are necessary to satisfy their IDP requirements.

5. Payment Schedules:

- a. Contributions to the IDP Fund for a fractional unit shall be required no more than 30 days after the issuance of the initial full building permit.
- b. For rental Proposed Projects:
 - i. The Treasury shall require the contribution be made in 7 equal annual installments, with the first payment required no more than 30 days after the issuance of the initial full building permit, and all subsequent annual payments due on the anniversary of the issuance of the initial full building permit; or
 - ii. By a one-time, upfront payment of the present value of the IDP Contribution calculated using the most recent 10-year US Treasury yield.
- c. For homeownership Proposed Projects:
 - i. No more than 30 days after the issuance of the initial full building permit, the Treasury shall require a contribution equal to the number of units being counted towards the IDP Contribution multiplied by one-fourth of the relevant Zone Factor.
 - ii. No more than 30 days after the issuance of the Certificate of Occupancy, the Treasury shall require a contribution equal to the number of units being counted towards the IDP Contribution multiplied by three-fourths of the relevant Zone Factor.
 - iii. No more than one year after the issuance of the Certificate of Occupancy, or two years when the BRA determines it to be financially necessary, the BRA shall determine the full IDP Contribution amount based on the average actual sales prices and listing prices for unsold units, by unit type. After this determination, the Treasury shall invoice and require a contribution from the Developer equivalent to the full IDP Contribution amount, minus any previous contributions.
 - iv. Payments are due to the Treasury within 30 days of the Treasury invoicing the Developer. The Treasury shall impose a delinquency charge on all payments that do not meet this standard in an amount no less than the delinquency charges it collects on Property Tax bills.

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6. Targeting IDP Contributions:

- a. Developers are permitted to request that some or all of their IDP Contribution be targeted toward an affordable housing project in the Vicinity of their Proposed Project. Such requests will be approved by DND after DND has determined that the recipient affordable housing project meets DND Design Guidelines and cost-efficiency standards. DND will determine the necessary amount of IDP Funds needed for financial feasibility, and will allow that amount to be targeted to the recipient project. Any excess amounts will be sent to the IDP Fund. All IDP Funds, whether targeted or not, must first be paid to the Treasury which will disburse funds in accordance with standard DND policies for approving disbursements of grant funds.

7. Use of IDP Funds:

- a. IDP Funds are disbursed under policies established by DND as described in the Memorandum of Agreement between the BRA and DND executed on July 14, 2014 as may be amended, as well as the IDP Fund policy, as set by DND.

7. Requirements of Off-Site Developments:

Proposed Projects subject to IDP may meet their requirements through the creation of new IDP Units separate from but in the Vicinity of the Proposed Project in an amount equal to or greater than 18% of the total number of units within the Proposed Project in Zone A and Zone B and, subject to the approval of the relevant City departments and agencies, in an amount equal to or greater than 15% of the total number of units within the Proposed Project in Zone C. Subject to the approval of the relevant City departments and agencies, Proposed Projects subject to IDP may also meet their IDP requirements through the rehabilitation of existing units that are then deed restricted as IDP Units in an amount equal to or greater than 18% of the total number of units within the Proposed Project in Zone A and Zone B and equal to or greater than 15% of the total number of units within a Proposed Project in Zone C.

1. Calculating the Off-Site Commitment:

The Off-Site requirement for Zone A and Zone B can be calculated by using the following formula where X = Off-Site units, T = Total units, and A = On-Site units:

$$X = (T - (100/13 \times A)) \times 0.18$$

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Example 1: For a Proposed Project in Zone A or Zone B with 49 total units and no On-Site units, $T = 49$, $A = 0$:

$$X = (49 - 100/13 \times 0) \times 0.18$$

$$X = 49 \times 0.18$$

$$X = 8.82$$

The Proposed Project requires 9 Off-Site units.

The Off-Site requirement for Zone C can be calculated by using the following formula where $X =$ Off-Site units, $T =$ Total units, and $A =$ On-Site units:

$$X = (T - (100/13 \times A)) \times 0.15$$

Example 1: For a Proposed Project in Zone C with 49 total units and no On-Site units, $T = 49$, $A = 0$:

$$X = (49 - (100/13 \times 0)) \times 0.15$$

$$X = 49 \times 0.15$$

$$X = 7.35$$

The Proposed Project requires 7 Off-Site units.

Should the calculation result in a remainder of 0.5 or above, an additional Off-Site unit shall be required. Should the remainder be below 0.5, a contribution to the IDP Fund shall be required in an amount equivalent to the remainder multiplied by the relevant Zone Factor.

$$0.35 \times \$200,000 = \$70,000$$

The Proposed Project also requires a \$70,000 contribution to the IDP Fund.

Example 2: For a Proposed Project in Zone A with 49 total units and 2 On-Site units: $T=49$, $O=2$:

$$X = (49 - (100/13 \times 2)) \times 0.18$$

$$X = (49 - 15.38) \times 0.18$$

$$X = 33.62 \times 0.18$$

$$X = 6.05$$

The Proposed Project requires 2 On-Site units, 6 Off-Site units, and a contribution to the IDP Fund of \$19,000 for the remaining 0.05 units.

2. Unit Design and Construction Standards:

- a. Off-Site units must meet or exceed the DND Design Guidelines. Where Off-Site units are created through the rehabilitation of an existing

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building, additional review and documentation will be required in accordance with construction and design guidelines as adopted by DND and/or the BRA.

- b. The mix of Off-Site units must reflect or be preferable (i.e. a higher percentage of units with 2 or more bedrooms) to the mix of market rate units in the Proposed Project.
- c. Off-Site units must be comparable in size to the units within the Proposed Project and must meet all applicable minimum square foot requirements. The BRA may approve smaller Off-Site units on a case by case basis when a Developer demonstrates a substantially superior affordable housing outcome through that Off-Site creation (i.e. the creation of significantly more IDP Units).
- d. Off-Site units must be affordable to the same or lower AMIs as required by On-Site IDP Units.
- e. No Off-Site units shall rely on the use of any competitive public affordable housing funds unless otherwise specified in the AHA or ARHAR.
- f. The BRA reserves the right to complete its own inspection prior to issuance of a Certificate of Completion.

3. Vicinity:

- a. Off-Site units must be within one-half mile from the Proposed Project site.
 - i. The BRA may approve, on a case-by-case basis, the creation of Off-Site IDP Units outside the Vicinity of a Proposed Project only when a Developer demonstrates a substantially superior affordable housing outcome through that Off-Site creation.

4. Timeline:

- a. The Developer must obtain the initial full building permit for Off-Site units prior to receipt of the Certificate of Occupancy on the original Proposed Project.
 - i. If the initial full building permit is not obtained for the Off-Site units before the receipt of the Certificate of Occupancy, On-Site units shall be required in an amount sufficient to satisfy the IDP requirements.
- b. All Off-Site units shall be completed within one-year after issuance of the Certificate of Occupancy for the original Proposed Project.
 - i. Upon request, the BRA may grant a written one-year extension to allow for the completion of Off-Site units.

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5. Existing Tenants and Relocations:

- a. If the creation of an Off-Site IDP Unit involves the rehabilitation of an existing building that will result in or require existing tenants to temporarily or permanently vacate, the Developer shall develop a relocation plan and procedures, including a Relocation Agreement with the BRA, in accordance with all applicable laws.

6. Other Requirements:

- a. For Off-Site rental units, an ARHAR and/or transfer documents for the building must be created and filed with the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court no more than five days after the Certificate of Occupancy is issued. For Off-Site homeownership units, a Covenant must be filed with the Suffolk County Registry of Deeds and/or the Suffolk Registry District of the Land Court at the time the unit is sold or with the transfer documents, in the same manner as is completed for On-Site homeownership units.
- b. Regardless of ownership structure or partnership, the completion of Off-Site units will be the obligation of the Developer.

8. **Resubmissions, Compliance, Resident Selection, and Marketing:**

1. Resubmissions:

- a. If the relevant BRA Board approval is over three years old and a Proposed Project is looking to enter into an AHA, ARHAR, or AHCA, Developers may be required to resubmit their affordability plans in order to comply with the current IDP.

2. Resident Selection and Marketing:

- a. Prior to marketing On-Site or Off-Site IDP Units, the Developer shall adopt and implement a marketing and resident selection plan for the IDP Units in consultation with the OFHE and the BRA. The Developer shall secure OFHE and BRA approval of such marketing plan and resident selection plan prior to marketing the IDP Units.

3. Determination of Eligibility:

- a. A household entering into a purchase or lease contract for an On-Site or Off-Site IDP Unit must have their eligibility certified as it relates to income and assets before a lease can be signed or a sale of a condominium can be completed. Required documentation shall established by the BRA.

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4. Ongoing Compliance:

- a. For both On-Site and Off-Site rental projects, the ARHAR will include compliance requirements, including but not limited to, the frequency and documentation required for income recertifications, lease terms, and monitoring to be submitted to the BRA.
- b. For both On-Site and Off-Site homeownership projects, the AHA will include compliance requirements related to the period that IDP Units are owned by the developer.
- c. The ARHAR or AHA will include consequences for failure to comply with the affordable housing requirements.

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Exhibit A

An Order Relative to Inclusionary Development



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MARTIN J. WALSH
MAYOR

EXECUTIVE ORDER
OF
MAYOR MARTIN J. WALSH

RECEIVED
CITY CLERK'S OFFICE

2015 DEC -9 P 4: 56

BOSTON, MA

An Order Relative to Inclusionary Development

I, Martin J. Walsh, Mayor of Boston, order that any residential development project, undertaken or financed by the City of Boston ("City"), or to be developed on property owned by the City, or that requires relief from any provision of the Boston Zoning Code (the "Code"), or that proposes to include ten or more units of housing ("Proposed Project"), shall require, as a condition of approval, that for rental projects, no less than 13%¹ of the total units be income restricted as affordable to households earning less than 70% of the metropolitan-area median income ("AMI"),² and that for home-ownership projects, no less than 13% of the total units be income restricted as affordable, of which no less than 50% of these total units be made affordable to households earning not more than 80% of AMI and, that no more than 50% of these total units be made affordable to households earning more than 80% of AMI and not more than 100% of AMI, that is in effect on the date the units are leased or sold. I request that the Boston Redevelopment Authority ("BRA") adopt this order as its Inclusionary Development Policy ("IDP") in connection with Proposed Projects reviewed and/or approved by it, and request that all Proposed Projects that file either a Letter of Intent ("LOI") with the BRA or, if they have not filed a LOI, have filed an application for Zoning Relief³, or receive a commitment for City financing, or are designated as a developer of City or BRA land, after January 1, 2016 are subject to the provisions herein, in place of previous requirements.

I further order that, any income-restricted units created by this IDP ("IDP Units") built within a Proposed Project ("On-Site") must be comparable in size, number of bedrooms, and quality to the market-rate units within the Proposed Project and that they include provisions that ensure long term affordability for the maximum period permitted by law.

To address the non-uniform quality of the City's housing market, I order that the BRA establish three zones based on the most current market data available. These three zones shall be Zone A, where market values are substantially above other areas of the City, Zone B, where market values are more comparable to City averages, and Zone C, where market values are substantially lower than other parts of the City. Each zone

¹ Where the 13% calculation results in a fraction of a unit, if that fraction is less than .5 it shall be converted into a monetary contribution, otherwise it will be rounded up to create an additional unit.

² Area Median Income as defined by the U.S. Department of Housing and Urban Development

³ As defined in the Boston Zoning Code

shall have specific requirements related to any IDP Units built at locations outside of the originally Proposed Project ("Off-Site") as well as cash in lieu contributions ("IDP Contribution").

I further order that, developers may propose to achieve their IDP obligations through the direct construction of new units at a different location or through the purchase, rehabilitation, and restriction of existing units, which shall be income-restricted to the same or lower income levels, and shall be located in the vicinity of the Proposed Project in an amount greater than or equal to 18% of the total number of units in the Proposed Project in Zone A and Zone B or, subject to the approval of the heads of relevant City departments and agencies, equal to or greater than 15% of the total number of units in the Proposed Project in Zone C. Developers may propose to create Off-Site IDP Units outside of the vicinity of the Proposed Project only when delivering a substantially superior affordable housing outcome and only with the approval of the relevant City departments and agencies. All IDP Units in these Off-Site developments must meet or exceed the City's Department of Neighborhood Development ("DND") construction guidelines for affordable housing and must include provisions that ensure long term affordability for the maximum period permitted by law.

I further order that, for rental projects, subject to the approval of the heads of relevant City departments and agencies, developers may propose to satisfy their IDP obligations by making a dollar contribution to the fund which administers IDP Contributions (the "IDP Fund") based on multiplying the number of required IDP Units (18% of the total number of units in the Proposed Project for projects in Zone A and Zone B and 15% of the total number of units in the Proposed Project for projects in Zone C) by a minimum per unit IDP Contribution to the IDP Fund ("IDP Zone Factor") of not less than \$380,000 per unit in Zone A, \$300,000 per unit in Zone B, and \$200,000 per unit in Zone C. The aforementioned payments shall be paid in no more than seven equal annual installments, made to the City's Treasury Department (the "Treasury"), with the first payment required within 30 days after the issuance of the initial Building Permit by the City's Inspectional Services Department ("ISD").

I further order that, for ownership projects in Zone A and, for ownership projects in Zone B and Zone C, subject to the approval of the heads of relevant City departments and agencies, developers may propose to satisfy their IDP obligations by making an IDP Contribution determined by multiplying the number of required IDP Units (18% of the total number of units in the Proposed Project for projects in Zone A and Zone B and 15% of the total number of units in the Proposed Project for projects in Zone C) by the greater of either the relevant IDP Zone Factor of not less than \$380,000 per unit in Zone A, \$300,000 per unit in Zone B, and \$200,000 per unit in Zone C, or half the differential between the affordable price determined by the BRA for each unit size⁴ and the full

⁴ By number of bedrooms

market value of those units, or whichever is greater. The aforementioned IDP Contribution shall be made in three installments, with the first installment being one-fourth of the minimum possible IDP Contribution, based on the relevant IDP Zone Factor, made to the Treasury within 30 days after receipt of the initial Building Permit issued by ISD, the second payment being three-fourths of the minimum IDP Contribution, based on the relevant IDP Zone Factor, made to the Treasury within 30 days after the receipt of the final Certificate of Occupancy, and the final payment being the balance between the minimum possible IDP Contribution and the final total IDP Contribution, as determined by the BRA based on actual sales prices and the above formula, made to the Treasury no later than one year after the receipt of the final Certificate of Occupancy, or no later than two years when the BRA deems it financially necessary.

I further order that, renting any IDP Units intended for ownership is strictly forbidden, that the disbursement of funds from the IDP Fund be managed by DND, and that projects funded by the IDP Fund meet or exceed the affordability requirements set forth herein for On-Site and Off-Site IDP Units. I order that for Proposed Projects in Zone C that otherwise would be infeasible, and subject to the approval of the heads of relevant City departments and agencies, that On-Site IDP Units may be made affordable to households with incomes up to 100% of AMI. I order that for rental Proposed Projects containing at least 40% deed-restricted affordable units, the market rate units be exempt from IDP provided that the market-rate and affordable units are part of the same financial entity.

To ensure that this Executive Order responds to changing market conditions, I order that, at least every three years, on the anniversary of this Executive Order, the BRA may review and update the zones based on updated market data, and inflation-adjust the IDP Zone Factors based on an index linked to housing and construction costs.

A TRUE COPY
ATTEST:


MAUREEN FEENEY
CITY CLERK





Martin J. Walsh
Mayor of Boston

Dated: 12-9-15

THE INCLUSIONARY DEVELOPMENT POLICY

Exhibit B

Determination of Zones

In order to determine the three Zones for the Inclusionary Development Policy, the BRA analyzed sales data supplied to the City of Boston Department of Neighborhood Development by The Warren Group. This data includes the property type, location, and living area of each property. To increase reliability, recognize the variability of housing types available across Boston's neighborhoods, and assure that sufficient data was available to determine a median value for different geographic levels, data was included for condominiums and one-, two-, and three family homes, sold from July 1, 2012 to June 30, 2015 (FY2013-FY2015).

Using BRA neighborhoods,¹ as updated in March 2014, neighborhoods were assigned based on where the area median value per square foot of living space² fell into one of three tiers, based on citywide sales:

- Zone A: The neighborhood median fell in the top third of sales values per square foot.
- Zone B: The neighborhood median fell in the middle third of sales values per square foot.
- Zone C: The neighborhood median fell in the bottom third of sales values per square foot.

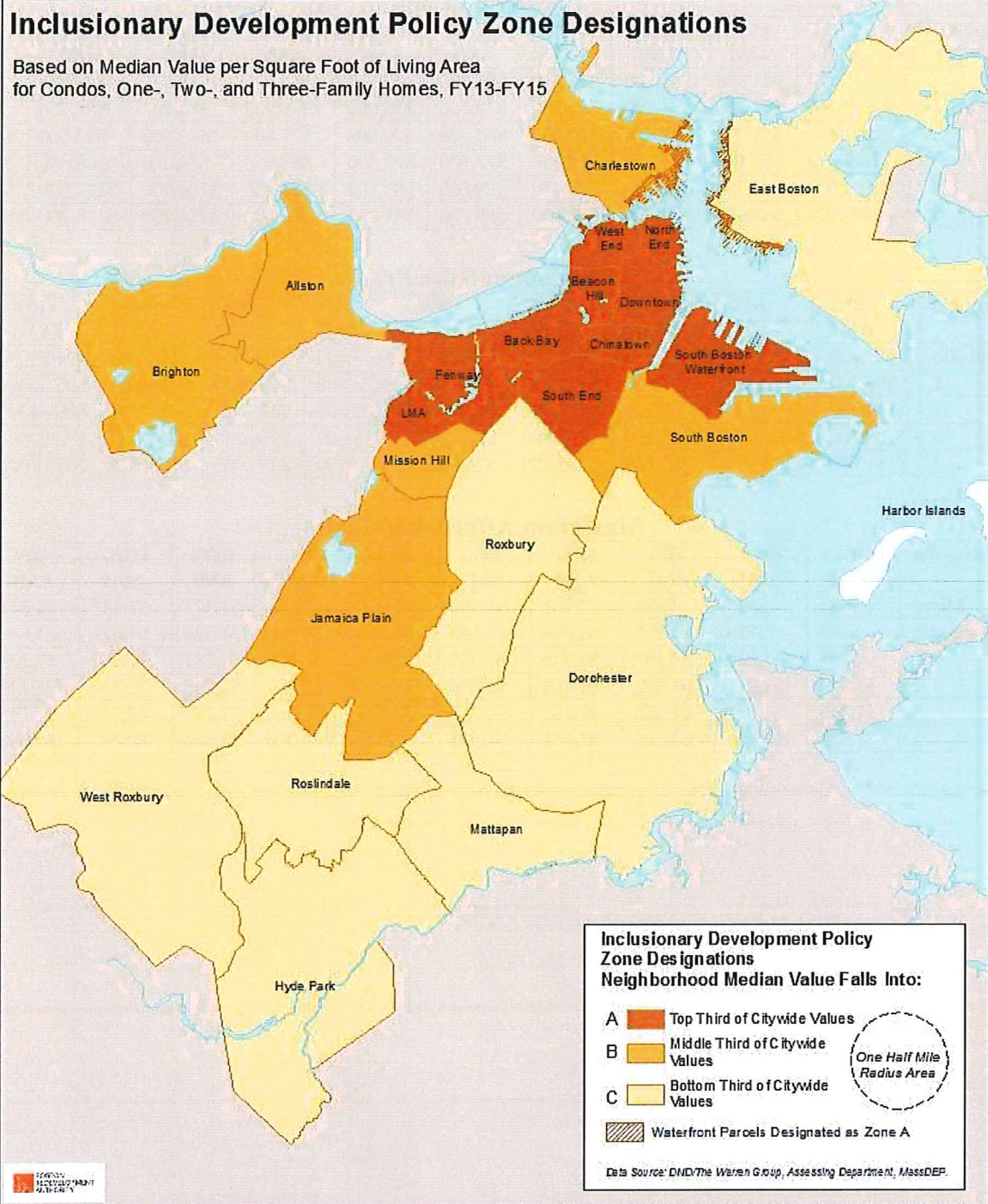
In addition, to reflect the development differentials on certain sections of Boston's waterfront, parcels that fall completely or partially under the regulation of M.G.L. c. 91 along certain portions of the East Boston and Charlestown waterfront fall into Zone A. In Charlestown, these parcels are bounded on the southwest by the North Washington Street Bridge and on the northeast by the Tobin Bridge. In East Boston, these parcels are bounded on the southeast by Logan Airport, and on the northwest by the Andrew McArdle Bridge (Meridian Street).

A map of the neighborhoods and Zone designations is attached.

¹ Given the small number of transactions in the Longwood Medical Area, this neighborhood was combined with the Fenway, which is adjacent and has similar market characteristics.

² In researching real estate values, the median is used instead of the average so as to account for extreme values at the top of the market that would have skewed the results. In addition, to account for the differences across the city in terms of housing types, the analysis normalized for these various types by looking at the value (dollar) per square foot of living space.

THE INCLUSIONARY DEVELOPMENT POLICY



THE INCLUSIONARY DEVELOPMENT POLICY

Exhibit C

2015 BRA Income Limits, Maximum Sales Prices, and Maximum Affordable Rents

Income Limits

Household Size	50% AMI	60% AMI	65% AMI	70% AMI	75% AMI	80% AMI	90% AMI	100% AMI	110% AMI	120% AMI
1	\$34,500	\$41,350	\$44,800	\$48,250	\$51,700	\$55,150	\$62,050	\$68,950	\$75,850	\$82,750
2	\$39,400	\$47,300	\$51,200	\$55,150	\$59,100	\$63,050	\$70,900	\$78,800	\$86,700	\$94,550
3	\$44,350	\$53,200	\$57,600	\$62,050	\$66,500	\$70,900	\$79,800	\$88,650	\$97,500	\$106,400
4	\$49,250	\$59,100	\$64,050	\$68,950	\$73,900	\$78,800	\$88,650	\$98,500	\$108,350	\$118,200
5	\$53,200	\$63,850	\$69,150	\$74,450	\$79,800	\$85,100	\$95,750	\$106,400	\$117,000	\$127,650
6	\$57,150	\$68,550	\$74,250	\$80,000	\$85,700	\$91,400	\$102,850	\$114,250	\$125,700	\$137,100

Maximum Sales Price

Bedrooms	50% AMI	60% AMI	65% AMI	70% AMI	75% AMI	80% AMI	90% AMI	100% AMI	110% AMI	120% AMI
Studio	\$77,700	\$99,900	\$111,000	\$122,100	\$133,300	\$144,400	\$166,600	\$188,700	\$210,900	\$233,000
1	\$96,300	\$122,100	\$135,000	\$148,000	\$160,900	\$173,900	\$199,800	\$225,700	\$251,600	\$277,500
2	\$114,700	\$144,400	\$159,100	\$173,900	\$188,700	\$203,600	\$233,000	\$262,700	\$292,400	\$321,900
3	\$133,300	\$166,600	\$183,100	\$199,800	\$216,500	\$233,000	\$266,500	\$299,700	\$332,900	\$366,400
4	\$151,700	\$188,700	\$207,300	\$225,700	\$244,300	\$262,700	\$299,700	\$336,700	\$373,700	\$410,700

Maximum Affordable Rents

Bedrooms	50% AMI	60% AMI	65% AMI	70% AMI	75% AMI	80% AMI	90% AMI	100% AMI	110% AMI	120% AMI
Micro	\$686	\$823	\$892	\$961	\$1,030	\$1,098	\$1,236	\$1,373	\$1,441	\$1,511
Studio	\$763	\$915	\$992	\$1,068	\$1,145	\$1,221	\$1,374	\$1,526	\$1,679	\$1,831
1	\$891	\$1,068	\$1,157	\$1,246	\$1,335	\$1,424	\$1,602	\$1,781	\$1,959	\$2,137
2	\$1,017	\$1,221	\$1,322	\$1,424	\$1,526	\$1,628	\$1,831	\$2,035	\$2,239	\$2,442
3	\$1,145	\$1,374	\$1,488	\$1,602	\$1,717	\$1,831	\$2,061	\$2,290	\$2,518	\$2,748
4	\$1,272	\$1,526	\$1,654	\$1,781	\$1,909	\$2,035	\$2,290	\$2,544	\$2,799	\$3,053

MEMORANDUM

BOARD APPROVED

DECEMBER 10, 2015

TO: BOSTON REDEVELOPMENT AUTHORITY AND
BRIAN P. GOLDEN, DIRECTOR

FROM: JONATHAN GREELEY, DIRECTOR OF DEVELOPMENT REVIEW
SONAL GANDHI, SENIOR POLICY ADVISOR
TIM DAVIS, HOUSING POLICY MANAGER
PHIL COHEN, PROJECT MANAGER

SUBJECT: REQUEST ADOPTION OF AN ORDER RELATIVE TO INCLUSIONARY
DEVELOPMENT AND THE INCLUSIONARY DEVELOPMENT POLICY

SUMMARY: This Memorandum requests the adoption of Mayor Martin J Walsh’s executive order entitled *An Order Relative to Inclusionary Development* (the “2015 Order”) dated December 9, 2015 as well as the Inclusionary Development Policy (the “IDP”) dated December 10, 2015.

HISTORY OF THE IDP ORDERS

An Order Relative to Affordable Housing (the “2000 Order”) was first established by executive order in February 2000 and required that, for any residential development including ten or more units and either financed by the City of Boston, on property owned by the City of Boston, or requiring relief from the Boston Zoning Code, no less than 10% of those units must be affordable. The 2000 Order established that, of those affordable units, no less than 50% must be affordable to households earning less than 80% of the Metropolitan-Area Median Income or Area Median Income (the “AMI”) and no more than 50% must be affordable to households earning between 80% and 120% and averaging 100% of AMI. The 2000 Order further established that city agency heads may instead approve the offsite construction of 15% of the total units or a dollar contribution of 15% of the total units multiplied by the Affordable Housing Cost Factor (the “Factor”), originally standing at \$52,000 and proposed to adjust annually on July 1st based on the cost of producing affordable housing.

Upon written request from the Mayor of Boston, the Boston Redevelopment Authority (the “BRA”) adopted a temporary Inclusionary Development Demonstration Program in October 2003 (the “2003 Policy”) increasing the required affordable housing contribution from 10% of the total units to 15% of the market-rate units (comparable to ~13% of the total units). The 2003 Policy also established that any remainder above 0.5

shall require an additional affordable unit and a remainder below 0.5 shall be cashed out according to the Factor.

In February 2005, An Order Relative to the Affordable Housing Cost Factor (the "2005 Order") was established by executive order and increased the Factor to \$97,000, re-establishing that the Factor be adjusted annually on July 1st based on the combined index as outlined in Chapter 371 of the Acts of 1987.

In May 2006, the executive order, An Order Relative to the Inclusionary Development Policy (the "2006 Order") established permanently that the number of affordable units required be not less than 15% of the market rate units. The 2006 Order further established that homeownership units shall be made affordable to households earning between 130% and 160% of Boston Median Household Income ("BMI") and that rental units shall be made affordable to households earning between 100% and 125% of BMI, which was at the time about 1.6 times higher than AMI. The 2006 Order further established that the Factor for rental units be adjusted to \$200,000 paid to the BRA over seven equal annual installments beginning prior to the Inspectional Services Department ("ISD") issued building permit, and that the Factor for homeownership be not less than one-half the difference between the price of the average market-rate unit and an on-site affordable unit, or \$200,000 whichever is greater, paid to the BRA in total prior to the ISD issued building permit. Finally, the 2006 Order established that half the funds collected be prioritized either towards neighborhoods with less than the citywide average of affordable housing or areas that demonstrated a need.

In September 2007, the executive order, An Order Relative to the Inclusionary Development Policy's Income Policy (the "2007 Order") readopted AMI over BMI to reduce market fluctuation, establishing that homeownership units be made affordable half at less than or equal to 80% and half between 80% and 100% of AMI and that rental units be made affordable at less than or equal to 70% of AMI.

The 2000 Order, amended by the 2005 Order, later amended by the 2006 Order, and later amended by the 2007 Order (collectively the "IDP Orders") has contributed towards the construction of over 3,644 units and has raised over \$118 million for affordable housing. Currently, on-site and off-site unit creation has resulted in over 1,496 inclusionary development units, with another 511 underway. In addition, over \$79 million in revenue has been collected with another \$39 million committed. These funds have contributed towards the construction of an additional 1,597 affordable units.

HISTORY OF THE BRA IDP POLICIES

Throughout the years the BRA has adopted several policies to interpret or further clarify the IDP Orders. The 2003 Policy first established that, when calculating

affordable housing, a remainder above 0.5 shall require an additional unit while a remainder below 0.5 shall be cashed out according to the Factor.

In December 2004, the BRA approved the adoption of the Affordable Housing Requirements (the "2004 Policy") that clarified off-site construction or a dollar contribution in lieu of construction should only be permissible under special circumstances. The 2004 Policy further clarified that, in developments with a mixture of rental and homeownership, unless more or deeper affordable units can otherwise be created, affordable units should be evenly distributed. Furthermore, affordable units should be similar in finishes and located throughout the project.

In July 2009, the BRA approved three policies: (1) Guidance on Building Affordable Units On-Site; (2) Asset Policy for the Sale or Rental of Affordable Housing Units; and (3) Inclusionary Development Policy Funding Guidelines (collectively the "2009 Policy").

The policy entitled "Guidance on Building Affordable Units On-Site" elaborated on the 2004 Policy by specifying that, save designated artist live/work housing, the affordable units must be of indistinguishable design and quality, must not be stacked or concentrated on the same floor, and should reflect the bedroom count of the larger development. In addition to including specific interior design and appliance criteria, the 2009 Policy laid out minimum square footage requirements for affordable units in the Downtown area as well as the neighborhoods.

The policy entitled "Asset Policy for the Sale or Rental of Affordable Housing Units" set forth asset limitations of \$75,000 for households living below 80% of AMI and of \$100,000 for those living between 80% and 100% AMI, including assets disposed of for less than market value within the last two years, with exceptions including retirement and college accounts established at least six months prior to application and households over 65 years of age applying for a rental unit with less than \$250,000 in assets.

The policy entitled "Inclusionary Development Policy Funding Guidelines" sets forth the eligibility requirements for funding, evaluation criteria, and the proposal process.

In June 2010, the BRA approved the adoption of the Inclusionary Development Program - Guidance for Developers (the "2010 Policy"). The 2010 Policy reiterated and summarized the IDP Orders, clarifying that all contributions in lieu of homeownership developments shall be due either prior to building permit or on a payment schedule approved by the BRA, and that contribution in lieu of rental projects shall be \$200,000 per unit, due to the BRA prior to any transfer of title. The 2010 Policy further clarified that, for projects requiring a Notice of Project Change ("NPC") for either design changes, switching between homeownership and rental, or for decreasing the total

residential units, requirements from the first approval shall apply, and for projects adding additional units, only the additions shall be subject to current requirements.

In January, 2015, the BRA approved the adoption of Enhancements and Changes to Affordable Housing Compliance and Monitoring (the "2015 Policy"). The 2015 Policy specified that all residents within affordable units shall be income certified and shall participate in annual monitoring reviews. The 2015 Policy also recommended that the maximum resale calculation for affordable homeownership units be lowered from 5% to 3% compounded annually and that all future affordable homeownership documents ensure that units are the primary residence of their recipients.

The 2003 Policy, the 2004 Policy, the 2009 Policy, the 2010 Policy, and the 2015 Policy (collectively the "IDP Policies") was effected by a Memorandum of Agreement (the "Agreement") enacted between the Department of Neighborhood Development ("DND") and the BRA dated July 14, 2014 that transferred into a special revenue account all generated funds received by the BRA.

ADOPTION OF THE INCLUSIONARY DEVELOPMENT POLICY

The attached Inclusionary Development Policy (the "IDP") is being proposed in tandem with the Mayor's executive order entitled An Order Relative to Inclusionary Development (the "2015 Order") to strengthen as well as further explain and clarify the requirements within.

By creating three distinct zones, IDP aims to maximize requirements in certain areas without slowing development elsewhere. Specifically, in concert with the 2015 Order, IDP proposes to create the as-of-right option to comply with an increased off-site requirements of 18% of total units in Zone A and Zone B while maintaining BRA discretion and the 15% of total units obligation in Zone C. IDP also proposes to increase the floor contribution amount to \$380,000 at 18% of the total units in Zone A and \$300,000 at 18% of the total units in Zone B and allows for the as-of-right option to cash out of homeownership projects in Zone A.

RECOMMENDATION

In order to continue and expand the creation of inclusionary housing throughout the City of Boston, staff recommends that the BRA adopt Mayor Martin J. Walsh's An Order Relative to Inclusionary Development. BRA staff recommend the Director be authorized to adopt the attached Inclusionary Development Policy, which serves to strengthen and further explain and clarify An Order Relative to Inclusionary Development.

Appropriate votes follow:

VOTED: That the Boston Redevelopment Authority ("BRA") hereby adopts and endorses Mayor Martin J. Walsh's An Order Relative to Inclusionary Development, dated December 9, 2014 (the "2015 Order"); and

FURTHER

VOTED: That the Director be, and hereby is, authorized to adopt the attached Inclusionary Development Policy; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to execute an amendment to the Memorandum of Agreement by and between the BRA and the City of Boston Department of Neighborhood Development dated July 14, 2014 to incorporate the 2015 Order.