

**CITY OF LONGMONT
HOUSING INCENTIVE PROGRAM
(A.K.A. FEE REDUCTION PROGRAM)**

**APPLICATION AND GUIDELINES
FOR
RENTAL HOUSING PROJECTS**



May 2008

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(a.k.a. FEE REDUCTION PROGRAM)**

**APPLICATION AND GUIDELINES
for Rental Housing Projects**

Background

Longmont has experienced tremendous growth over the past several years which has led to a fairly tight housing market. In a tight housing market, low and moderate income households are especially hard hit when looking for affordable housing to rent or own within the City. The lowest income and special populations (elderly, disabled, single parent, etc.) have the most difficult time finding suitable housing and often pay a much higher percentage of their income for housing costs. This is true locally even though Longmont has the lowest cost housing of any major city in Boulder County.

While there has been increased housing construction recently it has predominantly been affordable to those households in the upper income ranges.

One approach to address the need for additional affordable housing is to provide incentives for the private sector, both for profit and non-profit, to undertake these types of housing projects in Longmont. Reducing development fees is one strategy to encourage the private sector to build affordable housing. Since 1992, the Longmont City Council has provided fee waivers or fee reductions to developers interested in building lower cost rental housing and for sale or owner housing.

Approval and Implementation Process

A developer/property owner wishing to have a project considered for the Housing Incentive Program fee Reductions should complete the application forms in Attachment A and submit them to the Housing Program Specialist **prior to requesting a Building Permit**. The Housing Specialist will review the project against the applicable criteria noted in the Ranking Sheet for Housing Incentive Program for Rental Housing (Attachment B) and determine the level of fee reduction. Upon satisfaction of these requirements and approval by the CDBG Coordinator and the Director of Community Development, the fee reduction will be granted and processed along with the building permit application. All appeals to the amount of the fee reduction approved may be made to the City Manager in writing within 10 days of the fee reduction approval.

Developers wanting a fee reduction in excess of the maximum of 50% must submit a written application to City Council. The Council may approve the additional fee reduction if the developer shows that the project has met the criteria for the maximum number of points, a need for the housing exists, and adequate financial information is provided which shows the project is economically unfeasible without the added fee reduction.

In addition, developments that provide more than the minimum required number of affordable housing units **AND** to lower income populations (according to Criteria set forth in the Incentive

Program, see Attachment G) may be eligible to have water and sewer system development and Windy Gap surcharge fees subsidized, in addition to the other fees approved for reduction. This additional subsidy is subject to the availability of funds to subsidize these fees. If funds are not available, these additional fees will NOT be subsidized, even if a development would otherwise be eligible for them.

After the fee reduction is approved, a contract is executed between the City of Longmont and the Developer/Property Owner guaranteeing the information provided to the City is correct and all requirements will be completed for the fee reductions being provided (sample Agreement in Attachment E). The Annual Rent Compliance Certification by Owner form along with Attachment #1 City of Longmont Summary Tenant Income and Rent Compliance Report (See Attachment F) will need to be submitted on each anniversary date of the Agreement to the CDBG Coordinator. City staff will monitor the project for compliance with the Housing Incentive Program guidelines and will submit a report to City Council regarding the results of the program.

Project Selection Criteria for Housing Incentive Program

The following states the criteria used to measure the benefit of projects that address low and moderate income housing need. The categories provide specific points for projects meeting the objectives of the program. Under this criterion, there are minimum points needed to qualify for the fee reductions offered by the Housing Incentive Program. The individual ranking sheets for rental housing projects are attached (Attachment B) for illustration purposes only.

- 1. Income Targeting** - This category establishes who would benefit from the project. To qualify for development fee reductions, projects must be affordable to households whose incomes are at or below 50% of the most current median income for Boulder County as determined by the U.S. Department of Housing and Urban Development's (HUD) in their Section 8 income limits (Attachment C). Additional points are given to projects that exceed this percentage and reach a lower income range (i.e. affordable at 45% of median, 40% of median, etc.)

In order to be considered affordable, the rents charged, plus utilities paid by the tenant, must not exceed the Maximum Gross Rents by Bedroom Size as determined by the Colorado Housing and Finance Authority (CHFA) (Attachment D) according to the median household income percentage the project hopes to reach.

- 2. Public Housing Waiting List** - The Longmont Housing Authority's (LHA) waiting list has increased in the past year. Projects that would give priority to households on the LHA waiting list for Housing Choice Vouchers will receive incentive points. The developer/property owner must enter into a written agreement with the LHA in which the LHA agrees to list the project as acceptable for persons on its waiting list.
- 3. Special Needs Populations** - A significant number of low income households have special housing needs. Proposals should provide a percentage of the total units in a project to one or more special needs populations, including but not limited to the following: large families (4+

bedrooms), elderly, physically disabled, families currently in emergency or transitional housing, agricultural workers, etc.

4. **Extended Affordability Period** - The City requires that a project must commit to keep the housing units affordable for a minimum period of 20 years for the project to be considered for evaluation. A proposal will receive incentive points for each additional 10 year period that the project is kept affordable.
5. **Project Characteristics** - A significant factor in determining the affordability of housing is utility costs. Innovative construction features that lower the total cost of housing for low income consumers is worth incentive points. Projects demonstrating additional savings (innovative site planning, low water supply equipment, quality low cost manufactured construction, innovative energy conservation features, etc.) can qualify for an additional 2 points. Projects which include additional amenities or public improvements such as those outlined in the Longmont Municipal Code (15.03.060 - see Attachment B) or other as determined by this process may qualify for an added 2 points.

Further Information

To summarize the basic features of the Housing Incentive Fee Reduction Program:

1. Any type of rental housing project that will provide some or all of its units to households at or below 50% of the current area median income as defined by HUD is eligible to apply for a fee reduction before applying for a building permit.
2. The proposed project must satisfy enough criteria to receive at least 12 points to be considered eligible for a fee reduction.
3. If additional factors are met, additional fees may be reduced or subsidized according to specific criteria, subject to the availability of funds for the subsidy.
4. The developer/property owner must sign a contractual agreement assuring that the respective criteria will be met for the duration of the affordability period.
5. The program will be coordinated by the CDBG Coordinator and the Community Development Director and subject to appeals to City Council.

6. Return all completed applications to:

Kathy Fedler
Community Services
Civic Center Complex
350 Kimbark Street
Longmont, CO 80501
(303) 651-8736 (phone)
(303) 651-8590 (fax)

Questions concerning the application, ranking information and affordability requirements should be directed to Kathy.

Questions concerning the Project Characteristics criteria, physical and/or design elements of the project, zoning, building inspection or development fee information should be directed to the appropriate City Divisions.

ATTACHMENT A

Rental Housing Incentive Program Application

**CITY OF LONGMONT
APPLICATION FOR HOUSING INCENTIVE PROGRAM
RENTAL HOUSING**

I. GENERAL INFORMATION

Name of Developer(s)/Owner(s) _____ Phone _____

Mailing Address _____

Agent's Name _____ Phone _____
(If different than Developer)

Mailing Address _____

Address and legal description of property proposed for development

The Ownership is _____ Non-Corporate _____ Corporate Entity _____ Non-Profit

Legal Name of Corporation, Partnership, etc. applying for Fee Reduction

Number of Housing Units to be constructed _____

II. PROPERTY CHARACTERISTICS

Type of Construction _____ (Frame, Brick, Stucco, etc.)

<u>Number of Units by # of BR</u>	<u>Monthly Rent</u>	<u>Utility Cost Estimated</u>
1 BR _____	\$ _____	\$ _____
2 BR _____	\$ _____	\$ _____
3 BR _____	\$ _____	\$ _____
4 BR _____	\$ _____	\$ _____

List any innovative, energy efficient or conservation measures in your project design that will lower tenant's housing costs or other amenities or public improvements that will be available for the tenants. (Attach additional pages, if needed) _____

III. PROJECT FEASIBILITY (Figures should include all units in project)

Gross Schedule of Rents	\$ _____
Less Vacancy Allowance	\$ _____
Effective Gross Rents	\$ _____
Less Operating Expenses (describe)	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
Net Operating Income	\$ _____
Less Debt Service	\$ _____
Less Developer ROI	\$ _____
Cash Flow Available	\$ _____

IV. LOW AND MODERATE INCOME BENEFIT

Using Attachment C (Income Limits) and Attachment D (Rent Limits), enter on the appropriate line the number of units, by income group, the units will be affordable to.

Total number of units to be built in the development _____

- _____ Number of units affordable for households at 50% of median
- _____ Number of units affordable for households between 45% and 49% of median
- _____ Number of units affordable for households between 40% and 44% of median
- _____ Number of units affordable for households between 30% and 39% of median
- _____ Number of units affordable for households at or below 30% of median

V. OTHER SUBSIDIES ANTICIPATED

List each subsidy, grant, loan, etc. and anticipated amount to help make these units affordable.

VI. ADDITIONAL FACTORS

- _____ Total number of units for special populations:
- _____ Number of units for Elderly (62+)
- _____ Number of units Handicapped accessible
- _____ Number of units available for Homeless/Transitional households
- _____ Number of large family units (4 or more bedrooms)
- _____ Number of units for agricultural workers/other (list other category)
- _____ Number of years the project is expected to serve a low income clientele (20 years minimum)

Do you plan to use a local Public Housing Authority (Longmont Housing Authority, Boulder County Housing Authority) waiting list to solicit low income households?

_____ Yes _____ No

If yes, attach a copy of a formal agreement with the Housing Authority to utilize their waiting list.

The applicant states that the information given is true, correct and complete to the best of his/her knowledge. Any information found to be misleading by the Community Development staff will mean automatic disqualification for assistance under this Program.

Owner Name: _____

Authorized Representative: _____

Date: _____

Received By: _____
Date Received: _____

CITY OF LONGMONT
AFFORDABLE HOUSING INCENTIVE FEE REDUCTION CERTIFICATION

This certifies that the information submitted to the City of Longmont in application for Housing Incentive fee reduction consideration is accurate and true in all aspects.

It is further certified that the project development for which this fee reduction is being applied will start (defined as a building permit issued and a notice to proceed let) within 6 months of the signing of this form. The applicant also understands that City staff will be contacting the Company to verify that the actual cost or rent of the housing is as represented in the application and subsequent contractual agreement.

It is understood and hereby agreed that any failure to comply with the certifications herein attested to may result in the immediate revocation of development fees reduced or subsidized which shall become due and payable in full at such time as the City shall warrant. Further legal remedy may also be pursued as determined by the City.

Developer

Date Signed

Owner

Date Signed

RECEIVED AND FEE REDUCTION/SUBSIDY GRANTED:	
_____	_____
Community Development Director	Date
_____	_____
City Manger (Appeal)	Date

ATTACHMENT B

**Rental Housing Incentive Program
Ranking Sheet**

**RANKING SHEET
FOR HOUSING INCENTIVE PROGRAM**

RENTAL HOUSING

(Illustration Purposes Only – Do NOT Fill Out or Return)

Name of Development _____

Name of Developer(s)/Owner(s) _____

Address of Development _____

1. A proposal will receive the minimum 20% fee reduction when the following criteria are met:

a. At least 10% of the total rental units must be occupied by tenants whose income is at or below 50% of the current area median income and the rents and utilities paid by the household must be no more than the following (see Attachment D “CHFA’s Maximum Rents by Bedroom Size” for guidance):

<u>Bedrooms</u>	<u>Rent and Utilities</u>
0	\$761
1	\$815
2	\$978
3	\$1,131
4	\$1,261

b. The Developer must commit to a minimum 20 year affordable use period for these units. An Agreement will be executed and recorded as a lien against the property. For each year that the terms of the Agreement are met, a prorated percentage of the amount of the fee reduction is forgiven.

Do you agree to keep these units affordable at 50% of the Area Median Income for a period of 20 years?

_____ Yes _____ No

Minimum Fee Reduction Criteria Met? _____ Yes _____ No

2. Additional Fee Reduction or Subsidy

If a development has special design features or meets the following other criteria, the percentage of fees reduced may be increased and/or additional development fees may be subsidized.

Income Targeting - To qualify for an additional fee reduction, the project must be affordable to the proposed categories of lower income households. Affordable is defined to be a household that pays not more than 30% of its income for rent and utilities. See Attachment D, “CHFA’s Maximum Rents by Bedroom Size” for guidance.

- a. Percentage of total units which will be occupied by tenants whose income is **50% to 45%** of current area median.

<u>Points</u>		
2	7.5% - 19% of units	
3	20 - 49% of units	
4	50 - 74% of units	
5	75 - 100% of units	Points _____

- b. Percentage of total units which will be occupied by tenants whose income is **44% to 40%** of current area median.

<u>Points</u>		
6	20 - 49% of units	
7	50 - 74% of units	
8	75 - 100% of units	Points _____

- c. Additional points for each 10% of the total units which will be occupied by tenants whose income is **40%** or less of the current area median income.

<u>Points</u>		
4	7.5% - 10% of units	
5	11 - 19% of units	
6	20 - 29% of units	
7	30 - 39% of units	
8	40 - 49% of units	
10	50 - 59% of units	
12	60 - 100% of units	Points _____

3. **Public Housing Waiting List - Projects that give priority to households on a Public Housing Authority (PHA) waiting list for low rent housing will receive extra points. The project owner must enter into a written agreement with the PHA in which the PHA agrees to list the project as acceptable for persons on its waiting list.**

Letter from PHA confirming agreement (3 points) Points _____

4. **Special Needs Populations - Projects that provide units for tenants with special needs may receive additional points. Includes large families (4+ bedrooms), elderly, homeless, agricultural workers, physically disabled, etc.)**

- a. 5 - 10% of the total units for one or more special populations (3 points)
- b. 11 - 19% of the total units for one or more special populations (4 points)
- c. 20% or more of the total units for one or more special populations (5 points)

Points _____

5. **Extended Low Income Use - A minimum of 20 years is required by the City. Projects receive two (2) additional points for listed additional time that the development is kept in low income occupancy.**

<u>Points</u>		
2	21 - 30 years	
4	31 - 40 years	
6	41 - 50 years	
10	Permanently Affordable	Points _____

6. **Projects Characteristics - Projects demonstrating additional savings (innovative site planning and design, low water supply equipment, quality low cost manufactured construction, innovative energy conservation features, etc.) can qualify for additional points.**

<u>Points</u>		
2	Energy Conservation	
2	Increased Amenities	Points _____

TOTAL POINTS _____

Minimum Number of Affordable Units Required (10%): _____

Total Number of Affordable Units being provided: _____

Total Number of Units Affordable at or below 50% AMI _____

Is the development providing more than the minimum number of required affordable housing units and to a lower income population according to the Incentive Program Criteria?

_____ Yes _____ No

In summary, a rental housing project where 10% of the units are rented to tenants whose income is at or below 50% of the Area Median Income, according to their household size according to the attached maximum rent limits (50%) by number of bedrooms, and will remain affordable for a minimum of 20 years, will qualify for a 20% reduction in the eligible development fees. In addition, a rental housing development could qualify for a greater fee reduction or additional eligible fees could be reduced if other criteria are met. The additional fee reduction will be awarded according to the following structure:

- 3 – 6 points = 5% additional reduction in City development fees
- 7 - 11 points = 10% additional reduction in City development fees
- 12 - 17 points = 20% additional reduction in City development fees
- 17+ points = 30% additional reduction in City development fees

The _____ project is eligible for a _____ % Fee Reduction.

The _____ project is eligible for a _____ % Fee Subsidy of Water/Sewer System Development Fees.

Approved _____ Disapproved _____

CDBG Coordinator

Date

Approved _____ Disapproved _____

Community Development Director

Date

If additional fee reduction was requested:

Approved _____ Disapproved _____ by City Council on

**CITY OF LONGMONT
CALCULATION OF RESIDENTIAL DEVELOPMENT FEE REDUCTIONS**

Project Name: _____

STEP 1: Approved Level of Fee Reduction:

Basic Application = 20% reduction in City Development Fees 1 - 19 below

Additional Points approved under the rental housing criteria: _____

Fee Adjustment Schedule:

3 – 6 points = 25% reduction in City development fees

7 – 11 points = 30% reduction in City development fees

12–17 points = 40% reduction in City development fees

17+ points = 50% reduction in City development fees

Approved Fee Reduction Percentage: _____

STEP 2: Amount of City Fees from Project:

<u>City Development Fees</u> ¹	<u>Fee Requirement</u>	<u>\$ Reduction</u>	<u>Net Amount Due</u>
1. Plan Review Fee	\$ _____	_____	\$ _____
2. Building Permits	\$ _____	_____	\$ _____
3. Electrical Connection	\$ _____	_____	\$ _____
4. Poly Cart Escrow Fee	\$ _____	_____	\$ _____
5. Parks Improvement Fee	\$ _____	_____	\$ _____
6. Storm Drain. System Cap.Imp.	\$ _____	_____	\$ _____
7. Street Improvement Fee	\$ _____	_____	\$ _____
8. Transportation Com. Inv. Fee	\$ _____	_____	\$ _____
9. Public Bldgs. Com. Inv. Fee	\$ _____	_____	\$ _____
10. Water Meter Installation Fee	\$ _____	_____	\$ _____
11. Water Pit Inspection Fee	\$ _____	_____	\$ _____
12. Water Construction Fee	\$ _____	_____	\$ _____
13. Tapping Materials Fee	\$ _____	_____	\$ _____
14. Sewer Inspection Fee	\$ _____	_____	\$ _____
15. Sprinkler Inspection Fee	\$ _____	_____	\$ _____
16. City Sales Tax	\$ _____	_____	\$ _____
<hr style="border: 1px solid black;"/>			
17. Sewer System Develop. Fee	\$ _____	_____	\$ _____
18. Water System Develop. Fee	\$ _____	_____	\$ _____
19. Windy Gap Surcharge	\$ _____	_____	\$ _____
TOTAL	\$ _____	_____	\$ _____

¹ Only the following are eligible to be waived.

AMENITIES THAT MAY QUALIFY FOR ADDITIONAL POINTS

Amenity or Public Improvement in Excess of What is Required by Longmont Municipal Code 15.03.060

- 5% additional land dedicated, improved, and developed for pedestrian trails or bikeways
- 10% additional common open space and/or landscaped area or 25% additional plant materials
- Proper solar orientation
- Active or passive solar design
- 50% additional accessible parking spaces for the physically disabled in a non-residential or multi-family development
- 25% additional streetscape landscaping or additional investment in streetscape amenities (lighting, furniture, etc.)
- 25% additional landscaping used instead of fences for perimeter screening, privacy, or buffering purposes
- Joint use (shared) parking in mixed-use PUDs
- Constructing pedestrian overpass/underpass
- Parking structure or underground parking
- **Public or common open space improved for active recreation purposes (e.g., tennis courts, pools, playground equipment, skate park) and built to City Standards**
- Additional fire protection techniques, such as sprinkler systems for individual units in a one-family housing development
- **Design features to create safe neighborhoods, such as a majority of homes with usable front porches (at least 60 square feet), neighborhood parks bounded on at least two sides by local streets, narrower local streets, implementation of traffic calming techniques (roundabouts, neck downs, and the like), and similar features.**
- 25 percent increase in FAR only - Mixed-use developments in a PUD-R, PUD-C, or PUD-I District
- Minimum 25% of total dwelling units in residential development are built to be accessible to the physically disabled. All community amenities and open space areas must be accessible to the physically disabled.
- All residential dwellings are constructed according to the Homebuilders Association of Metropolitan Denver's "Built Green Colorado" Standards.
- Landscaping designed and installed according to the xeriscape landscaping standards in §15.05.090.H., "General Landscaping Requirements for All Areas."

ATTACHMENT C

HUD's Income Limits for Boulder County

**INCOME LIMITS BY FAMILY SIZE
BOULDER-LONGMONT, CO**

**FY 2008 Median Family Income
\$85,000**

% of median income	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
80%	\$43,050	\$49,200	\$55,350	\$61,500	\$66,400	\$71,350	\$76,250	\$81,200
75%	\$40,950	\$46,800	\$52,650	\$58,500	\$63,167	\$67,867	\$72,533	\$77,233
70%	\$38,850	\$44,400	\$49,950	\$55,500	\$59,933	\$64,383	\$68,817	\$73,267
65%	\$36,750	\$42,000	\$47,250	\$52,500	\$56,700	\$60,900	\$65,100	\$69,300
60%	\$34,650	\$39,600	\$44,550	\$49,500	\$53,467	\$57,417	\$61,383	\$65,333
55%	\$32,550	\$37,200	\$41,850	\$46,500	\$50,233	\$53,933	\$57,667	\$61,367
50%	\$30,450	\$34,800	\$39,150	\$43,500	\$47,000	\$50,450	\$53,950	\$57,400
45%	\$27,400	\$31,325	\$35,238	\$39,150	\$42,300	\$45,413	\$48,550	\$51,663
40%	\$24,350	\$27,850	\$31,325	\$34,800	\$37,600	\$40,375	\$43,150	\$45,925
35%	\$21,300	\$24,375	\$27,413	\$30,450	\$32,900	\$35,338	\$37,750	\$40,188
30%	\$18,250	\$20,900	\$23,500	\$26,100	\$28,200	\$30,300	\$32,350	\$34,450

From U.S. Department of Housing and Urban Development
(02/13/08)

ATTACHMENT D

**Colorado Housing and Finance Authority
Maximum Rents by Bedroom Size (by County)**

**COLORADO HOUSING AND FINANCE AUTHORITY
RENT TABLES FOR 40% TO 120% OF MEDIAN INCOME
FOR BOULDER-LONGMONT MSA**

For 2008

MAXIMUM RENTS (Including Utilities)

% of Median Income	0 Bedroom	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
120%	\$1,827	\$1,957	\$2,349	\$2,715	\$3,027
100%	\$1,522	\$1,631	\$1,957	\$2,262	\$2,522
80%	\$1,042	\$1,117	\$1,341	\$1,549	\$1,728
65%	\$989	\$1,060	\$1,272	\$1,470	\$1,639
60%	\$913	\$978	\$1,174	\$1,357	\$1,513
55%	\$837	\$897	\$1,076	\$1,244	\$1,387
50%	\$761	\$815	\$978	\$1,131	\$1,261
45%	\$685	\$734	\$880	\$1,018	\$1,135
40%	\$609	\$652	\$783	\$905	\$1,009
30%	\$456	\$489	\$587	\$678	\$757

ATTACHMENT E

Sample Agreement

AGREEMENT FOR AFFORDABLE RENTAL HOUSING UNDER THE ANNEXATION PROGRAM

The City of Longmont, Colorado, a municipal corporation (City), and [Type Owner's name, then press f11 to proceed], a [Type Owner's legal entity, i.e., Colorado Corporation, then press f11 to proceed], the Owner (Owner) of the Property located at [Type address of property, then press f11 to proceed], Longmont, Colorado 80501 (Property), make this Agreement considering the following facts and circumstances.

I. The City requires the owners of real property who request annexation of property to the City to provide affordable housing within the City;

II. The City, pursuant to Chapter 18.12.135 and Chapter 19.20.090 of the Longmont Municipal Code (LMC), requires all annexation agreements to include provisions that provide that for a period of not less than five (5) years, at least 10% of the rental housing units developed on newly annexed property be affordable for persons or families with incomes at or below 60% of the area median income, by family size;

WHEREAS, according to the LMC, the Owner will provide affordable rental housing affordable to households earning [Type percentage of earning, then press f11 to proceed]% or less of the area median income according to the U.S. Department of Housing and Urban Development's Income Limits for a period of [Type number of years, i.e., ten (10), then press f11 to proceed] years on the above-stated real property of the Owner (Property), situated in the City of Longmont, County of Boulder, State of Colorado, more particularly described as follows:

and generally known as: [Type legal description, then press f11 to proceed]; and

WHEREAS, the City has determined that public interest and convenience require the execution of this Agreement in order to obtain the rental housing desired.

Therefore, the parties agree as follows:

1. COMMITMENT. The Owner shall for a period of [Type period of years, i.e., ten (10), then press f11 to proceed] years from the date the Certificate of Occupancy is issued for the [Type summary description, i.e., Apt. 15 on the property or space above the garage, then press f11 to proceed] Rental Unit:

a. Provide [Type number of housing units, i.e., ten (10), then press f11 to proceed] housing unit(s) on the Property for tenants whose incomes are [Type income percentage, then press f11 to proceed]% or less of the most current area median income for Boulder County with respect to family size as determined by the U.S. Department of Housing and Urban Development and updated annually;

b. Provide the Rental Unit to tenants meeting the above criteria for a specified rent (including utilities) that is affordable to the tenant(s) and with respect to the number of bedrooms in the unit, as determined by the Colorado Housing Finance Authority and updated annually;

c. Provide the Rental Unit to tenants meeting the above criteria and make the units actually available for occupancy by tenants meeting the above criteria for sixty months after issuance of a Certificate of Occupancy. A unit is not considered available for occupancy if it is vacant due to cleaning, remodeling or otherwise not ready for immediate occupancy.

d. Under no conditions may the Rental Unit be used for another purpose while considered available for occupancy.

e. Provide to the City on the annual anniversary date of the issuance of the Certificate of Occupancy and then on or before that anniversary date of each year thereafter through year [Type final year, then press f11 to proceed], the Annual Rent Compliance Certification included as Attachment #1 to this Agreement.

2. **DEFAULT.** Any one of the following shall constitute an event of default under this Agreement:

a. Failure of the Owner to fully perform each and every provision of this Agreement, including, but not limited to, all of the provisions in paragraph number 1 above for the total period of [Type period of time, then press f11 to proceed] time designated therein from the date of issuance of the Certificate of Occupancy; and

b. A voluntary or involuntary sale, assignment or transfer of any ownership interest in the Property, to a person or entity not a Party to this Agreement without the written consent of the City.

3. **DAMAGES UPON DEFAULT.** In light of the City's reliance on the annexation agreement applicable to the Property located at [Type location of property, then press f11 to proceed], Longmont, Colorado 80501 and Owner's representations in this Agreement, for the construction of affordable housing units, it is not feasible to quantify or identify monetary damages suffered by the City for a breach of this Agreement. Therefore, upon default of any provision of this Agreement, the City shall be entitled to seek, in a court of competent jurisdiction, injunctive relief, including but not limited to, specific performance of Owner's obligations under this Agreement.

4. **NOTICES.** All notices, requests, demands, and other communications under this Agreement shall be in writing and deemed duly given upon delivery, if delivered personally, or upon depositing in the U.S. Mail, postage prepaid and certified, return receipt requested, and addressed to the proper party as follows:

City of Longmont:
Civic Center Complex

350 Kimbark Street

Owner:
[Type Owner's address, then press f11 to proceed]

Longmont, CO 80501
Attn: Kathy Fedler

5. **ASSIGNMENT.** Neither the City nor the Owner shall assign or transfer any interest in this Agreement without the prior written consent of the other party.
6. **PROVISIONS CONSTRUED AS TO FAIR MEANING.** The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.
7. **HEADINGS FOR CONVENIENCE.** All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Agreement.
8. **COMPLIANCE WITH ORDINANCES AND REGULATIONS.** The Owner shall perform all obligations under this Agreement in strict compliance with all federal, state, and City laws, rules, statutes, charter provisions, ordinances, and regulations applicable to the performance of the Owner's services under this Agreement.
9. **NO IMPLIED REPRESENTATIONS.** No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in this Agreement.
10. **NO THIRD PARTY BENEFICIARIES.** None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the City or the Owner receiving services or benefits under this Agreement shall be only an incidental beneficiary.
11. **FINANCIAL OBLIGATIONS OF CITY.** All financial obligations of the City under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this Agreement shall be deemed a pledge of the City's credit, or a payment guarantee by the City to the Owner.
12. **INTEGRATED AGREEMENT AND AMENDMENTS.** This Agreement is an integration of the entire understanding of the parties with respect to the matters set forth herein. The parties shall only amend this Agreement in writing with the proper official signatures attached thereto.
13. **WAIVER.** No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.
14. **SEVERABILITY.** Invalidation of any specific provisions of this Agreement shall not affect the validity of any other provision of this Agreement.
15. **GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

16. BINDING EFFECT. This Agreement shall be binding upon the parties and their respective successors, grantees, heirs and assigns.

17. AGREEMENT AS COVENANT. This Agreement, and all of its obligations, shall run with the land and be a covenant with respect thereto, and shall be binding upon the parties, their respective grantees, heirs, successors and assigns. The City shall record this Agreement with the Boulder County Clerk and Recorder.

The parties execute this Agreement this _____ day of _____, 2009.

CITY OF LONGMONT, COLORADO,
a municipal corporation

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

ASSISTANT CITY ATTORNEY

CDBG COORDINATOR

APPROVED AS TO INSURANCE PROVISIONS:

RISK MANAGER

ATTACHMENT F

**City of Longmont Summary Tenant Income and Rent Compliance Report (Attachment #1)
and Annual Rent Compliance Certification By Owner form**

ANNUAL RENT COMPLIANCE CERTIFICATION BY OWNER

PROJECT NAME: _____

CERTIFICATION PERIOD: _____

Please read carefully and answer all that apply

I, _____, (print name of managing partner/owner) certify that the information provided herein is true, accurate and in compliance with the City of Longmont's (check which apply):

- _____ Community Housing Program (10% set-aside requirement) and/or
- _____ Fee Reduction Program and the Agreement dated _____ for Project No. _____ and/or
- _____ Variance for parking, lot size, setback requirements, etc.

1. The owner has received an annual income certification from each low-income resident and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, a statement from a public housing authority.

Yes _____ No _____

2. Each low-income unit in the project has been rent-restricted as identified in the above-referenced Agreement.

Yes _____ No _____

3. The owner has reviewed the utility allowance and found it to be appropriate.

Yes _____ No _____

4. Each building in the project has received a Certificate of Occupancy and has met all local health, safety and building codes.

Yes _____ No _____

5. All tenants' facilities included in any building in the project, such as swimming pools, other recreational facilities, laundry and parking areas, were provided on a comparable basis without charge to all tenants in the building(s). Indicate "Not Applicable" if necessary.

Yes _____ No _____

(Continued on next page)

