



Office of Temporary and Disability Assistance

Homeless Housing and Assistance Program Sponsor Handbook



Housing and Support Services

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Introduction

The success of the Homeless Housing and Assistance Program (HHAP) depends greatly on strong partnerships. The Homeless Housing and Assistance Corporation (HHAC) and Sponsors work together towards the goal of providing greatly needed housing to assist individuals and families in achieving self-sufficiency.

The purpose of this handbook is to guide all participants through the phases of pre-construction, final award, construction, the establishment phase and becoming operational. In each section, there are references to forms. The referenced forms can be found in the HHAP Forms Book, provided by the HHAP Project Manager (PM).

In the appendix of this handbook, there is an Internal Review Process (IRP) Checklist in Appendix I, Mortgagee Title Insurance and Instrument Survey Requirements in Appendix II, and Insurance General Requirements in Appendix III.

These materials serve as a roadmap for all participants.

Section I – The Pre-Construction Agreement and Final Award

After receiving an award reservation and being assigned an HHAP PM, a Sponsor may choose to either execute a Pre-Construction Agreement (PCA) or a Final Award/Loan Agreement (FA/FLA). If a Sponsor chooses to execute a PCA, they will still be required to execute an FA/FLA, thereby necessitating an Internal Review Process for both. On the other hand, if a Sponsor chooses to only execute an FA/FLA, only one Internal Review Process will be required. There are pros and cons to both approaches and Sponsors should discuss these with the HHAP PM.

The next section will outline how a Sponsor would execute a PCA. If PCA does not apply

to the project, a Sponsor may skip to the FA/FLA section on pages 4 and 5 of this handbook.

Pre-Construction Agreement

Per the RFP, the PCA should be executed within six months of award announcement. Once this occurs, the Sponsor may receive a portion of the total award amount to carry out pre-construction activities. The amount of funds available at pre-construction will generally be limited to \$10,000 per unit or \$150,000, whichever amount is less.

These funds will be available for costs associated with making the project construction ready. All PCA expenses will be enumerated in the Appendix C of the PCA, including the activities below:

- Architectural, consultant and legal services.
- Surveys and appraisals.
- Binders or options on site acquisition.
- A portion of developer's fee.

The HHAP PM will also work with a Sponsor to develop a schedule of pre-construction activities, also called "milestones," which will be attached to the Pre-Construction Agreement as "Appendix C" (a sample copy can be found in the **Forms Book (FB) Tab 2**). These "milestones" will establish the timing and the amounts of funds that can be drawn from the Pre-Construction Award for specific activities.

Pre-Construction Funds

In some cases, limited pre-construction funds will be available for interior demolition, site work and clean out of project site(s). In these instances, the State Historic Preservation Office (SHPO) and the State Environmental Quality Review Act (SEQRA) review processes must be completed prior to the release of funds for these activities, if they were not completed with the proposal. The required forms can be found in the link: www.nysparks.com/shpo/online-tools/.

To execute the PCA, some of the items that were included in the application for funding may need revision or clarification. Timely responses in providing any additional required information will impact the length of time this phase takes.

The PCA, including the “Appendix B”, are in the **FB Tabs 2 and 3**. “Appendix B” is a condensed version of the application with all the updated and required information. It also serves as the scope of services and becomes part of the contract with HHAC. The HHAP PM will communicate any necessary additions, revisions, or clarifications needed to develop this document.

HHAC contract documents have been developed to best protect the interests of the project Sponsor and HHAC. For the most part, these documents are non-negotiable. Requesting significant modification to HHAC contract documents may result in substantial delays in executing the contract.

Agreements (e.g. Architect, Consultant, Acquisition, etc.) should not be executed without the prior written approval of HHAC.

Items for Internal Review

Evidence of site control, such as a signed sale option, a purchase contract, or a lease option will be required at the internal review. In addition, the HHAP PM will advise the Sponsor if the development and/or operating budgets need any modifications or revisions. HHAP may require an updated financial audit of the Sponsors agency or corporation. If the proposal includes funding from other sources, HHAP will require documentation of commitment from these other funding sources. HHAP also requires a resolution from the Sponsor’s Board of Directors authorizing the signing of contracts with HHAC, the signing of notes and mortgages,

and the opening of a bank account for HHAP funds. HHAC will also require the Sponsor to prepare and deliver various corporate documents prior to entering into an Agreement.

The **FB Tab 1**, will provide Sponsors with more information about site control, as well as sample document forms for evidence of site control.

Forms Book Tab 5 - Architect’s Contract

FB Tab 5 is a “boilerplate” sample of the contract Form AIA B102 and B201 of the 2017 version that HHAC requires between the Sponsor and the architect along with required supplementary HHAC attachments. The Sponsor and the architect must review this contract. HHAC’s Technical Advisor (TA) acts as architectural and engineering consultant to HHAC and will review these items. The architect must submit a draft of the proposed contract for HHAC and the HHAC TA review and approval prior to the contract’s execution.

Letters of Recusal

If any member of the Sponsor’s Board of Directors is employed by New York State, local municipalities, or quasi-governmental entities, HHAP will require a “letter of recusal” (copies of suggested formats can be found in the **FB Tab 6**) signed by the individual, affirming that they have not made any attempt to influence funding decisions under consideration by HHAP. This mitigates any potential conflict of interest concern.

Establishing an HHAP Project Bank Account

All funds disbursed to the Sponsor’s organization under the HHAC contract (both PCA and FA/FLA) must be deposited into a commercial or savings bank account or a savings and loan association located in the State of New York and insured by the

Federal Deposit Insurance Corporation. **It is preferred that HHAP funds be in a separate account.** *

* HHAP awards may go through an existing agency account. However, if there are other development funds and a project account is opened for those funds, the HHAP funds cannot be co-mingled in the project development account.

On the Sponsor's agency's letterhead (see **FB Tab 7**), the information below is requested from the Sponsor to HHAP:

- Subject: (Insert Sponsor's Agency's Name and Address) – HHAP Account.
- Bank Account #: (Insert the project's bank account number).
- Routing # for incoming wires: (Insert the routing number) Please note that the routing # for wires may be different than a straight deposit account routing #.
- Contact person at bank, should there be problems with wiring: (Insert the name of Sponsor's bank's contact person for this account).
- Bank: (Insert the Bank's Name).
- Address: (Insert the Bank's Address).

Disbursement of HHAP Funds

HHAP will disburse funds to Sponsors based on the PCA Budget and Disbursement Schedule ("Milestones") found in Appendix C of the PCA. Payments to Sponsors under this contract will be made only after the submission of a hard copy request for disbursement to HHAP. All claims must be accompanied by a completed and original Form 101 (a copy can be found in **FB Tab 8**). The HHAP PM will provide Sponsors with an electronic version of the project's specific form.

HHAP awards involve public funds. The use of these funds must be carefully monitored by the organization to ensure full contract compliance.

Sponsors must report in writing to this office, within three days of its occurrence, any incident or problem that might in any way delay or threaten the progress, successful completion or operation of the project.

Contact the HHAP PM by email in such instances.

The Final Award

A draft copy of the FA/FLA can be found in the **FB Tab 9**. In certain instances, the use of project consultants is appropriate in the planning, development, and startup of HHAP projects. However, regardless of the role of consultants in a project, Sponsors are expected to remain integrally involved in the design and development process. Historically, a Sponsor's more proactive participation, even without prior experience in development, helps to move the project forward in a timely manner.

Sponsors have the option of going directly to FA/FLA. Steps outlined previously for PCAA are applicable and are required for FA/FLA.

- Evidence of Site Control (pg. 3 – see "Items for Internal Review").
- Document VII (pg. 3).
- Establishing an HHAP Project Bank Account) (pg. 3).

The following activities lead projects to a Final Award:

Final Award Steps

The following steps are typical, but may vary depending on stage of development:

- Submission & approval of schematic/design development documents and cost estimate.
- Pre-qualification of prospective bidders.
- Submission & approval of construction documents and cost estimate.
- Preparation of the Bid Package.

- Bid received.
- Negotiation & approval of a draft contract between the Sponsor and a general contractor/ construction manager.
- Revision of Appendix B and Internal Review Package materials for review by HHAC's Legal, Audit, Budget, Contracts and MWBE/SDVOB units.
- Approval of Financial Audit.

Approval of Schematic/Design Development Documents

Once the PCA is executed, Sponsors will be able to execute the architect's contract. As noted earlier, HHAC requires the use of the American Institute of Architects Document AIA B102 and B201 2007 version with HHAC required attachments. To assist the architect in completing the schematic and design development phases, the Guide for the Design Consultant can be found in the **FB Tab 10**.

The Guide for the Design Consultant sets forth the submission requirements for each phase of architectural development.

Schematic Package Approval

A complete schematic package should be submitted to HHAC's TA, the architectural and engineering consultant. The HHAC TA provides advice on issues relating to design, constructability, cost and quality of work product. In short, HHAC's TA is an integral component of the development team.

Design Development Package

Once the schematic submission has been approved, the architect should proceed to the design development phase. Once this phase is complete, the design development package should be simultaneously submitted to the HHAP PM and HHAC's TA for review and approval.

Approval of Final Construction Documents

Following approval of the design documents, the architect must complete and submit the final construction documents. The architect should submit one set of final construction documents, including a full bid package, working drawings and specifications to HHAC's TA for review as soon as they are completed. A final cost estimate should be submitted at the same time. Please notify the HHAP PM when these have been sent.

A full review will normally take about 2-4 weeks to complete, depending on the scope of the project. The documents may need to be revised by the architect to incorporate HHAC's TA's comments and recommendations. Three complete sets of the final revised construction documents (including the bid package) must then be distributed to the HHAC TA and the HHAP PM.

Pre-Qualification of Prospective Bidders

HHAC requires that all project Sponsors pre-qualify contractors to save time during the bidding process and avoid the submission of bids by unqualified parties. The pre-qualification process, which is described below, also provides an opportunity to convey to potential bidders NYS' goal of maximizing the participation of minority, women and disabled veteran-owned business enterprises (M/WBE, SDVOB) as contractors and sub-contractors.

In the **FB Tab 11**, is the Pre-Qualification package (Attachment A) with applicable forms and a sample cover letter to be sent to prospective bidders. Since pre-qualification proceeds at the same time that the architect is completing the construction documents, no time is lost in the process. Although Sponsors and other members of the development team may be involved in the pre-qualification and bid processes below, **the architect should take primary responsibility for directing these activities.**

Approximately two months before a Sponsor expects to go to bid, the Sponsor and the architect should draw up a list of general contractors that are potential bidders on the project. This list should be simultaneously sent to the HHAP PM and HHAC's TA along with a draft prequalification package.

A request may be made of the Sponsor to:

- Add or remove firms based on experience with contractors in the area.
- Add or remove firms based on the objective of maximizing the participation of businesses owned by minorities, women and disabled veterans (M/WBE, SDVOB).

Following a review of this list, the Sponsor sends the Pre-Qualification package to the approved firms on the list. The development team should review Pre-Qual packages for the contractors' experience, financial capacity, projected manpower and references. The HHAP PM and the HHAC TA will also perform this due diligence resulting in an approved list of GCs who may bid the job.

Once the contractors return the Pre-Qualification packages and the material has been reviewed and approved, the architect can prepare the bid package for review and approval.

Upon approval of the bid package, the job can go out to bid.

Steps leading to bid package approval:

1. Submission of prequalification package/ approved.
2. Approval of proposed bidders.
3. Draft Bid Package submitted/ approved.
4. Bid package released.
5. Bids submitted and reviewed.
6. Architect develops a bid analysis matrix.

The analysis matrix should be sent to the HHAP PM and the HHAC TA along with the Sub-Contractors Utilization Forms, which indicate the major sub-contractors that the firms intend to use.

Of course, it is understood that contractors cannot make final commitments at this stage in the process, but the forms should indicate intent, and are included to emphasize the importance of utilizing minority, women or disabled veteran- owned businesses (M/WBE, SDVOB) in the Pre-Qualification process.

A meeting or conference call should then be scheduled to review this matrix with HHAP's PM and HHAC's TA. If it is the opinion of HHAP that not enough qualified firms have been found, Sponsors may be requested to find additional contractors to pre-qualify. It is recommended that Sponsors visit the sites of previous work done by these contractors to assure that bidders have performed high quality work on similar projects. The final determination of which firms are qualified to bid must be approved by HHAC. While additional contractors may be pre-qualified prior to the actual solicitation of bids, Sponsors are urged to avoid last minute additions to the list as this may delay the bidding process.

If HHAC determines that a firm does not meet prequalification standards, the reason(s) for disqualification should be documented by the architect.

Preparation of The Bid Package

See the **FB Tab 12** for the standard HHAP Bid Package (Attachment B). Share this with the architect as early as possible in the development process.

The HHAP PM will discuss any questions or concerns a Sponsor may have regarding these materials. The bid package that is sent in the mail by Sponsors for the final review must include all requested items and documents. **Bid prices must be held for a minimum of 120 days following the receipt**

of bids, allowing time for bid review and negotiation, and for approval and execution of the Final HHAC Award Agreement.

In the bid package, please note that HHAC requires the inclusion of the 2007 edition of the AIA A101, which is the standard Agreement (contract) between Owner and Contractor, and the 2007 edition of the AIA A201, which is the General Conditions of the Construction Contract.

The architect can provide these documents to Sponsors. It is imperative to note that these AIA documents are modified for HHAC's purposes. HHAC's Rider A modifies, and must be attached to, the AIA A101.

A note about Riders:

Different Riders may apply depending on the other funders involved in development.

The HHAP PM will provide the appropriate Rider to Sponsors.

HHAC's Supplementary General Conditions modifies, and must be attached to, the AIA A201. Both attachments can be found in the Bid Package.

HHAC requires that language permitting arbitration be deleted from the contract. Sponsors and Sponsor's legal or architectural consultants should make no revisions to the AIA documents as modified by HHAC or HHAC's TA. The architect should limit any additional supplementary general conditions to critical items such as insurance requirements and other project-specific provisions. Please note that any proposed changes in these documents will have to be reviewed by the HHAP PM and OTDA's Division of Legal Affairs, which may cause delays in bidding the project.

Discuss with the HHAP PM the procedures for site tours or walk-through by prospective

contractors and the forwarding of addenda to bidders. These procedures must be incorporated in the bid package.

The Bid Process & Proposed Construction Contract Negotiation

Upon receipt of HHAP's approval of the architect's construction documents, the list of potential bidders, and the bid package, the architect should mail the bid documents to all pre-qualified and approved contractors, or should establish the protocol for contractors to obtain the documents. All bids should be sealed and bids must all be opened at the same time, and in the presence of HHAC and/or HHAC's TA.

A minimum of three bids are required. The architect should then prepare a bid tabulation/analysis and send it to the HHAP PM and the HHAC TA. The bids are reviewed for reasonableness in terms of total cost, bid breakdowns, and completeness.

The review of the bids by the HHAC TA and the HHAP PM with the Sponsor and the architect will result in the noting of any issues that require further clarification.

Since bidders will have been pre-qualified, the final decision should focus on the actual dollar amount of the bid and the allocation of costs. Unless there are important mitigating factors, the lowest responsible bidder should be selected. However, if the lowest bid exceeds the amount budgeted for construction under the HHAC award, it may be necessary to negotiate the price down with the lowest bidder, value engineer the project or, in some instances, re-bid the job. Any negotiations be coordinated with the HHAC TA.

If the project will use the services of a pre-selected general contractor or construction manager, at the discretion of HHAC, 50% of the total construction value may need to be competitively bid to subcontractors. In Lieu of bidding 50% of the total construction value, HHAC may, at its sole discretion,

accept a bid plan and matrix for review and approval.

Draft Contract Approval

Upon the resolution of any outstanding issues regarding the bids, and when the Sponsor, the architect, and HHAC's TA have agreed on the lowest responsible bid, a proposed contract should be drawn up. This **draft** contract must be approved by HHAC's TA and then signed by the selected contractor. Sponsors will find the HHAP Construction Contract Policies in the **FB Tab 14**.

Contracts often are negotiated right up to closing. The non-successful bidders should be informed once a GC is selected.

Execution of Notes and Mortgages

Upon receipt of all internal review approvals of the project, a construction closing will be scheduled at which time the FA/FLA will be executed. This document describes the basic rights and responsibilities of both parties during the term of the contract. The FA/FLA supersedes the PCA, if applicable, and will cover not only the period during the development and construction of the project but also the project's operational phase from the date HHAC approves the project for occupancy. During the operational phase, HHAC expects that the project will operate as homeless housing with appropriate support services provided to the residents.

At construction closing, HHAC will require that the Sponsor sign notes and mortgages which are to be recorded. The mortgages will equal the total HHAC FA/FLA. A copy of the boilerplate Building Loan Agreement, notes, and mortgages, can be found in the **FB Tab 15**. Also required at closing is evidence of the approved title policy insuring these mortgages and listing HHAC on the mortgage title policy as insured as follows: **"New York State Office of Temporary and Disability Assistance and the New York State Homeless Housing and Assistance Corporation, their successors and/or**

assigns." HHAC prefers first lien position, however, HHAC will negotiate with other funders to be co-equal.

Please ensure that one complete set of executed construction contract documents are sent to the HHAP PM and two sets are sent to HHAC's TA (one for HHAC's TA and one for the Field Representative).

Insurance – General Requirements

The **FB Tab 15** contains HHAC's requirements for mortgage title insurance and instrument survey. Property and liability insurance must also be provided, similarly listing HHAC (also provided as Appendix C within).

The instructions below detail the language needed to correctly fill-in the Hazard/Builder's Risk and Owner's General Liability sections of the **FB Tab 15**.

- **Hazard/ Builder's Risk.**

Name NYS OTDA and HHAC as Mortgagee and Loss Payee (and Certificate Holder) as follows:

"New York State Office of Temporary and Disability Assistance and the New York State Homeless Housing and Assistance Corporation, their successors and/or assigns, at 40 North Pearl Street, #10B, Albany, NY 12243."

- **Owner's General Liability, Contractor's General Liability, and/or Demolition Contractor's General Liability.**

Name NYS OTDA and HHAC as Additional Insureds and Certificate

Holders. Include the language “30 days prior written notice of cancellation.”

Only if requested by HHAC, include HHAC’s designated architectural consultant as an Additional Insured.

There will also be insurance required of the GC, found in the Forms Book, **Document XIII**, Bid Package. Depending on the nature of the project, additional legal documents may be required.

GC is required to have one of the following:

- Payment and Performance Bond.
- Letter of Credit.
- On projects that include low-income housing tax credits, a Guarantee of Completion will be accepted as well.

Section II - The Construction Phase

Typically, the FA/FLA and the GC contract are executed at closing. A construction kickoff meeting will be scheduled within days of closing. Attendees should be the Sponsor and:

- Sponsor’s representative and personnel that will handle requisitions.
- Members of the development team involved in the monitoring of the project construction.
- Other funding representatives.
- Contractor.
- Architect.
- Owner’s representative.
- MWBE/SDVOB monitoring.
- HHAP PM.
- HHAC TA.
- Construction or field engineer.

It is preferred that in multi-funded projects all funders and their construction monitors attend to assure a uniform approach to construction. Sponsors will find an outline of an agenda for this meeting in the **FB Tab 16**. Any items not yet resolved will be highlighted

along with who will be responsible for specific action.

All payments and change orders will need to be approved by all funding sources.

Roles Defined

The first part of the construction kickoff meeting is intended to clarify roles of the various parties during construction. Contact information is exchanged, the responsibilities are explained, and the lines of communication are agreed upon. During the meeting, a schedule of inspections and requisition meetings will be established. Inspections are generally performed weekly and the schedule is set at the construction kickoff meeting. Requisition meetings are held monthly. The projected construction start date and the anticipated completion date are also discussed.

Generally, the contractor will have secured the building permit and any other permits required.

Also considered at this meeting are the overall plans for delivery, removals, shop drawings and logs, submittal process, daily logs, reports, manuals, and security. The coordination of all these elements is the contractor’s responsibility.

Payment Procedures

HHAC payments are made as reimbursable costs. Payments under the HHAC FA/FLA will be made only after the Sponsor submits a request for disbursement to the HHAP PM. All claims must be accompanied by a completed and original Form 101 document, found in the **FB Tab 8**. This form certifies the amount of funds a Sponsor is requesting to be allocated among the approved project cost categories contained in the Schedule of Values. The HHAP PM will provide this form to the Sponsor. A 10% retainage is typically held on the General Contractor contract until substantial completion of work.

If a requisition to HHAP includes construction costs, the Sponsor must submit original versions of Forms AIA G702 and G703 (Contractor's Application and Certificate for Payment) that have been approved and signed by the GC, the architect and by HHAC's TA. The HHAC TA will only sign the G702 if all items claimed by the contractor are complete and satisfactory. Please note: The HHAC TA is verifying the percentage of work completed, not the dollar amount completed. HHAC will only pay claims that have been approved by HHAC's TA. Copies of these forms are found in the **FB Tab 17**.

Construction Status Reports

HHAC's TA will issue monthly written status reports on the progress of construction. These reports keep the HHAP PM informed of what is happening during the construction of the project. HHAC's TA appraises HHAP of the forward movement of construction.

HHAC's TA's job is to monitor construction; to observe, report, and recommend on any necessary action needed by the HHAP PM. For example, if a job is moving too slowly, all the parties must be alerted to take steps to rectify the problem. The HHAC's TA will monitor safety, schedules, percentage of completion, quality of work, the timeliness of required inspections, and the professionalism of contractor and architect. Any problems or deficiencies will be noted in the status report. The HHAC TA will flag problems as they occur to facilitate a rapid response.

Change Orders

If the contractor proposes a change order, it must first be submitted to the architect and to HHAC's TA. The change order must be submitted on form AIA G701 (refer to the **FB Tab 17**) and include any backup documentation required by the architect and HHAC's TA. When the architect and HHAC's TA approve the change order, it should be forwarded to the HHAP PM. The change order cannot process without HHAP approval. The HHAP PM will not approve any change order that has not been

approved by the architect and HHAC's TA first.

If there are problems, the HHAP PM will work with all parties to achieve consensus. The architect must maintain a change order log and the Sponsor must provide a copy to the HHAP PM. Note that if payment for a change order is requested from HHAP an original signed G701 must be provided in the requisition package.

Close Out Construction Documents

Certificate of Substantial Completion

The architect is required to issue the certificate of substantial completion. This notifies the Sponsor and the contractor of the completion of the work under the contract, i.e., that the building is ready for use and complete except for relatively minor work items. HHAC's TA must approve the certificate of substantial completion and will notify HHAC of this approval. Upon issuance of this substantial completion certificate, applicable warranty and equipment guarantee periods generally begin, if applicable. Determination of warranty amount and period will be negotiated in the General Contractor's contract. This certificate is required before final payment is made.

Punchlist

The architect will work with the GC and HHAC's TA to develop the "punchlist," a list of incomplete construction items. Punchlist items typically account for about 5% to 10% of the value of the work.

Delay often occurs here compared to the previous rate of work progress.

Based upon prior negotiation, the final amount of payment to be held as a portion of the retainage is usually agreed to be twice the value of the Punchlist. Delivery of equipment operating manuals and warranties are often on this punchlist. A schedule

should be set for the completion of these items and a date set for re-inspection by the architect and HHAC's TA. The Sponsor attends this final inspection.

Retainage

Once the architect has certified that the construction is 100% complete and a title continuance has been submitted, the Sponsor may request the payment for the reduction of retainage and final architect's payment. Typically, the HHAC GC Contract Rider will include a 1.5% retainage for a 1-year warranty period. The retainage will be released after the Sponsor submits a request to HHAC based on the satisfactory performance under the warranties.

In the absence of a 1.5% retainage, an alternate warranty that is satisfactory to HHAC is allowed.

Waiver of Liens

The contractor delivers waivers of liens to the architect with each application for payment after the first request. These are standard American Institute of Architects' forms, which are legal instruments designed to protect the project premises from claims against the title by unpaid mechanics and/or material suppliers. To ensure the project is free of liens, the Sponsor should arrange for a title search continuance during the construction period at 50%, 80% and 100% of completion. A final title search should be secured 90 days after construction completion or at permanent conversion. Contractor requisitions will not be processed unless lien waivers are up to date. If title search continuances are performed with requisitions for other funders (typically the Bank's construction loan) please forward copies of these to the HHAP PM, in lieu of the milestones listed above.

As-Built Drawings

The provision of "as built" drawings are a requirement of the construction contract.

These drawings reflect the final architectural plans for the building including any changes made during construction. They could be useful to Sponsors in the future should problems arise with the construction work or should any additional work of the premises be necessary.

Municipal Inspections and Required Certificates

The contractor must request an inspection from the local building authority and/or fire department if their approval is required by the local municipality to obtain a Certificate of Occupancy. If the project is licensed, certified or regulated by a state or local agency, the Sponsor should contact that agency to determine what, if any, final inspections are needed prior to occupying the project premises. The contractor must distribute copies of these inspections and certificates to the architect for the Sponsor; HHAC and the HHAC TA must also receive copies.

Section III - The Establishment Phase

Rent Up

A Certificate of Occupancy (CofO) is issued by the authorized building code inspector upon completion of an inspection process, affirming that the construction complies with applicable building codes, rules and regulations. Upon receipt of a copy of the CofO and documentation that all the other steps listed above have been completed, the project can begin to move residents in, with HHAC approval. When approximately 50% of the HHAP units are rented, an Operational Phase letter will be issued (refer to the **FB Tab 19**). The date contained in this notice represents the first day of the required contract term.

As part of the Appendix B, a sufficient pool of referrals sources will have been established. It is the expectation of HHAP that those referrals sources are utilized. In most

instances the referral pool will consist of the local Department of Social Services, the local Continuum of Care (CoC), and other local providers/ human service agencies, such as homeless shelters and mental health facilities. The referral sources will take into consideration the target population.

At approximately 60% construction completion, the HHAP PM will set up an Establishment Phase/ Rent-up meeting to review referrals sources for initial rent-up. This is specifically important for projects receiving operating funds from Empire State Supportive Housing Initiative (ESSHI) and/ or Medicaid Redesign Team (MRT) funds, to ensure proper referral sources are being utilized. A copy of the Rent-up forms can be found in the **FB Tab 18**. HHAP will request weekly or monthly updates throughout the rent-up process. If the building will be mixed use/ income, the affordable units should be reported on as well.

ESSHI and MRT

Projects that include Medicaid Redesign Team (MRT) capital funding will be expected to coordinate their rent-up procedures with HHAP and the Department of Health (DOH) to ensure the highest Medicaid users in the area are being referred. MRT capital funding will also require certain reporting on tenants during the operational phase.

Projects receiving ESSHI operating funding will need to adhere to ESSHI's 25% rule. Projects of 15 or more ESSHI qualifying individuals, with 30 or more units in total, will be required to set aside 25% of the designated ESSHI units for high-cost, high-need Medicaid users (refer to the **FB Tab 18**). MRT eligible individuals include those who are both homeless and have one or more of the following:

- Serious Mental Illness
- Substance Use Disorder

- HIV/AIDS
- Chronically homeless
- Frail elderly/ seniors
- Developmentally Disabled

Maintenance Orientation

The Sponsor, the building superintendent and other appropriate members of the staff should have an orientation meeting with the contractor to become familiar with the building's systems. The contractor should inspect the building with management and maintenance personnel to demonstrate plumbing and electrical shutoffs, boiler operation, etc. It is recommended that this orientation to the building and its systems be videotaped for future reference.

Events and Ceremonies

If planning a ground breaking or ribbon cutting, please submit a Briefing Form (refer to the **FB Tab 20**) to the HHAP PM four weeks in advance of the proposed date.

Conclusion

Please contact the HHAP PM immediately if any condition arises that threatens the progress or operation of the project. HHAP will work to assist Sponsors in any way possible. HHAC looks forward to everyone's continued cooperation and to a productive working relationship. Sponsors have been instrumental in providing additional housing for New York State's homeless population. HHAC congratulates you on your success and looks forward to a long, collaborative relationship.

Appendix I

Internal Review Process (IRP) Checklist

Internal Review Process (IRP) Checklist			
Requirements Prior To The Approval of The Final Loan Agreement			
	Required	Received	Comments
Architect's Contract (Executed)			Require AIA B102 & B201 w/ HHAC Riders
Architect's Errors & Omissions Insurance			
Construction Documents for review and approval by HHAC			
Phase I			
Phase II			
Remediation/Environmental plans			
SHPO			
CEQR			
SEQR			
Schematics Design with cost estimate			
Design Development with cost estimate			
Construction Documents with cost estimate			
Specifications Book			
When Bidding Out GC			
Contractor bid plan - List firms to be solicited			
Contractor's Prequalification package - A305 1986 with all attachments including current audited financials			
Sample Bid Package to HHAP/ HHAC TA for review			
Bid matrix with owner/Architect/ HHAC TA recommendation			
With Pre-Selected GC			
From Sponsor- how GC was selected			
Contractor's Prequalification package - A305 1986 with all attachments including current audited financials			
Contractor's-bidders list (SUBS)			
Subcontractor Bids. 3 for each trade bid. Bid totals must equal a minimum of 50% of contract value			
Bid Matrix			
Applies to Both Pre-selected GC & GC Selected Through Bid Process			
Draft Construction Contract w/required riders			AIA A201 & AIA A102 W/Riders. GMP for pre-selected. HHAC/HPD Rider on joint deals
List of major subs			
Contractor's Bonds certifying the NYS OTDA and HHAC as additional insured/ multiple obligee*			
Contractor's Insurance certifying NYS OTDA and HHAC as additional insured*			
GC Letter of Credit for 10% of construction costs			
Progress Schedule			

Internal Review Process (IRP) Checklist			
Requirements Prior To The Approval of The Final Loan Agreement			
	Required	Received	Comments
Schedule of Values/ Trade Payment Breakdown			
MWBE/SDVOB Plan as Rider to GC Contract			
HHAC TA Sign-Off			Needed for IRP Review
IRP Documents			
Appendix B			Reviewed by Budget, Audit, MWBE, Contracts & Legal
Site Control			
Evidence of Site Control			
ULURP approval			
Appraisal			
Non-HHAP Development Funds - Evidence of Commitment			Reviewed by Budget, Audit, MWBE, Contracts & Legal
Source 1			
Source 2			
Source 3			
Source 4			
Source 5			
Source 6			
Source 7			
Operating Funds - Evidence of Commitment			Reviewed by Budget, Audit, MWBE, Contracts & Legal
Source 1			
Source 2			
Source 3			
Source 4			
Licensing			
Operating Certificate			
Other (specify)			
Due Diligence Items – Sponsor and/or Guarantor			Legal & Contracts - IRP Sign-Off
Certificate of Incorporation			
All amendments of the Certificate of Incorporation with filing info			
The latest version of the corporation's bylaws			
501c3 Determination letter			
Sectarian Organization Form			

Internal Review Process (IRP) Checklist

Requirements Prior To The Approval of The Final Loan Agreement

	Required	Received	Comments
Board of Directors Profile – latest version			
Audited Financial Statement Most current FYE			Need most current Financials to include A-133 report, classified balance sheet, management letter, list of affiliates, and separate audited financial statements of any significant affiliate. AUDIT – IRP SIGN-OFF
Certificate of Good Standing – Long Form			Within 30 days of closing
Enabling resolution setting out all of the activities the organization will engage in with regard to the project			Draft approved prior to closing
Incumbency/Secretary's Certificate with regard to both the bylaws and the enabling resolution			Draft approved prior to closing
Not for Profit Co-Sponsor			
Certificate of Incorporation			
All amendments of the Certificate of Incorporation with filing info			
The latest version of the corporation's bylaws			
501c3 Determination letter			
Sectarian Organization Form			
Board of Directors Profile			
Audited Financial Statement Most current FYE			Need most current Financials to include A-133 report, classified balance sheet, management letter, list of affiliates, and separate audited financial statements of any significant affiliate. AUDIT – IRP SIGN-OFF
Certificate of Good Standing - Long Form			Within 30 days of closing
Enabling resolution setting out all of the activities the organization will engage in with regard to the project			Draft approved prior to closing
Incumbency/Secretary's Certificate with regard to both the bylaws and the enabling resolution			Draft approved prior to closing
Documents required for organizations with HDFC			
Certificate of Incorporation			
All amendments of the Certificate of Incorporation with filing info			
The latest version of the corporation's bylaws			
501c3 Determination letter			
Sectarian Organization Form			
Board of Directors Profile			
Certificate of Good Standing - Long Form			Within 30 days of closing
Enabling resolution setting out all of the activities the organization will engage in with regard to the project			Draft approved prior to closing
Incumbency/Secretary's Certificate with regard to both the bylaws and the enabling resolution			Draft approved prior to closing
Documents Required for Projects (with an LP)			
Certificate of Limited Partnership			
Partnership Agreement			
Copy of each amended or restated LPA (admitting investor)			

Internal Review Process (IRP) Checklist

Requirements Prior To The Approval of The Final Loan Agreement

	Required	Received	Comments
Sectarian Organization Form			
Consent of partners (if required under LPA)			
Certificate of Good Standing - Long Form			Within 30 days of closing
Enabling resolution setting out all of the activities the organization will engage in with regard to the project			Draft approved prior to closing
Incumbency/Secretary's Certificate with regard to both the bylaws and the enabling resolution			Draft approved prior to closing
Documents Required for General Partner			
Certificate of Incorporation			
All amendments of the Certificate of Incorporation with filing info			
501c3 Determination letter			
Board of Directors Profile			
The latest version of the corporation's bylaws			
Copy of the proposed enabling resolution comprehensively setting out all of the activities the organization will engage in with regard to the particular project			
Certificate of Good Standing			
Incumbency/Secretary's Certificate with regard to both the Operating Agreement and the enabling resolution			
Documents Required for Projects (with an LLC)			
Certified Articles of Organization			
Operating Agreement and any amendments thereto			
Sectarian Organization Form			
A copy of the proposed enabling resolution comprehensively setting out all of the activities the organization will engage in with regard to the particular project			
Long form Certificate of Good Standing			
Incumbency/Secretary's Certificate with regard to both the Operating Agreement and the enabling resolution			
Managing Member Documents			
Certified Articles of Organization			
Evidence of Publication of Managing Member			
Operating Agreement and any amendments thereto			
A copy of the proposed enabling resolution comprehensively setting out all of the activities the organization will engage in with regard to the particular project			
Long Form Certificate of Good Standing			

Internal Review Process (IRP) Checklist			
Requirements Prior To The Approval of The Final Loan Agreement			
	Required	Received	Comments
Incumbency/Secretary's Certificate with regard to both the Operating Agreement and the enabling resolution			
HHAC Legal documents			
Final Loan/Award Agreement			
Building Loan Agreement			
Building/Purchase/Project Mortgages			
Building/Purchase/Project Notes			
Guarantor of Performance			
Subordination and Intercreditor Agreement			
Other (specify)			
Survey & Title			
Survey certified to NYS OTDA & HHAC			
Title policy proforma certified to NYS OTDA & HHAC			
Other (specify)			
Opinions			
Tax Exemption/Abatement Private Opinion			
Corporate			
Acquisition Documents			
Declaration of Interest & Nominee Agreement			
Assignment & Assumption Agreement			
Insurance (and any additional required)			
Owner's General Liability			Reference HHAP ID # on certificate
Builder's Risk			
Flood Insurance or Evidence that Improvements are not in Flood Area			
MWBE Approved Plan https://ny.newnycontracts.com/			MWBE - IRP Sign Off
Appendix Z			
EEO Policy Statement (OTDA-4970)			
EEO Staffing Plan (OTDA-4934.1)			
Subcontractor Utilization Plan (OTDA-4937)			
Subcontractors and/or Suppliers Letter of Intent to Participate (OTDA-4938)			
Sponsor set up to report in SUMP/NYS Contract System			
Service Disabled Veterans Plan https://ogs.ny.gov/Veterans/			SDVOB - IRP Sign Off
Appendix Y			
Use of SDVOB (OTDA-4200)			

Internal Review Process (IRP) Checklist			
Requirements Prior To The Approval of The Final Loan Agreement			
	Required	Received	Comments
SDVOB Utilization Plan (OTDA-SDVOB-100)			
Plans & Specs			
1 Full set - signed by owner, architect & GC			
1 half set			
Specifications Book signed by owner, architect & GC			
Bank Account Documentation			
Copy of signature card w/2 signatures			
Confirmation letter from Bank			
Letter to HHAP with Bank Wire Information			
Other			
Draw Schedule			Must allow for when MWBE & SDVOB participation comes into the project
Management Agreement			
Development Agreement			
Management & Operating Plan			
Notice to Proceed			
Building Permits			
Resume of Superintendent			

Appendix II

Mortgagee Title Insurance and Instrument Survey Requirements

Mortgagee Title Insurance and Instrument Survey Requirements For HHAC Funded Projects

Regarding the Mortgagee Title Insurance:

Title Commitment and Searches

Please provide a complete title commitment with Schedule A, Schedule B, and copies of all underlying deeds and exception documents. In addition, please provide mortgage, tax, UCC, bankruptcy, municipal, departmental, and similar searches as available based on the location of the project.

Value of Policy

The Mortgagee Title Insurance Policy MUST be a current form ALTA policy in an amount which represents HHAC's *total* investment in the project (i.e., the purchase money, building loan & project cost amounts reflected in the applicable HHAC notes and mortgages)

Endorsements Required on the Mortgagee Title Insurance Policy/Pro Forma Include:

- Standard New York Endorsement Access
- Waiver of Arbitration
- Environmental Protection Lien [TIRSA 8.1 – For Mortgages Made to the State of New York or a Public Benefit Corporation Thereof – Please Note: Nothing may be excepted under (b) of same]
- Land Same as Survey
- Tax Parcel (Single Tax Lot) Mortgage Tax
- ALTA 9
- Leasehold Endorsements (where applicable) Cluster Site Endorsement (where applicable)
- Variable Interest Rate Endorsement (where applicable)

The Mortgagee Title Insurance Pro Forma/Policy must insure the following: “New York State Office of Temporary and Disability Assistance and the New York State Homeless Housing and Assistance Corporation, their successors and/or assigns”

Instrument Survey must be read into title

Regarding the Instrument Survey:

Title exceptions should be plotted (if possible) and listed on the survey and the legal description should be reprinted accurately on the survey.

HHAC will require one (1) original, one (1) copy, and one (1) reduced copy (to 8 1/2" x 11") of the Instrument Survey of the project premises certified to: “New York State Office of Temporary and Disability Assistance and the New York State Homeless Housing and Assistance Corporation, their successors and/or assigns”

Appendix III

Insurance Terms

New York State Homeless Housing and Assistance Corporation (HHAC)

Insurance – General Requirements

All policies shall be in a form acceptable to HHAC and shall be issued by a financially sound company with an A. Best rating of A+ or better, and shall contain the standard New York (non-contributing) mortgage endorsement or an equivalent endorsement acceptable to HHAC. All policies shall be for such amounts as deemed appropriate by HHAC, given generally accepted insurance practices and similar properties in like locations.

Architect's and General Contractor's AIA contracts shall include the standard HHAC riders, which may include additional insurance or Payment and Performance/ Letter of Credit requirements.

1. Hazard/ Builder's Risk* - including collapse coverage and flood insurance (if property located in a HUD designated flood hazard area), as well as supplemental or extended coverage.
2. Owner's General Liability**- also including personal injury, property damage, vehicle use, workers' compensation.
3. Contractor's General Liability**- also including personal injury, property damage, vehicle use, workers' compensation.
4. Demolition Contractor's General Liability**- also including personal injury, property damage, vehicle use, workers' compensation.

* Naming NYS OTDA and HHAC as Mortgagee and Loss Payee as follows: New York State Office of Temporary and Disability Assistance and the New York State Homeless Housing and Assistance Corporation, their successors and/or assigns, at 40 North Pearl Street, #10B, Albany, NY 12243.

**Naming NYS OTDA and HHAC as Additional Insureds and including 30 days prior written notice of cancellation. Also including HHAC's designated architectural consultant as an Additional Insured, if requested by HHAC.

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40 North Pearl Street
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