

**NEW YORK CITY DISCRETIONARY FUNDED
PROPERTY ACQUISITION / CONSTRUCTION REIMBURSEMENT PROJECTS
SUBMISSION CHECKLIST**

FUNDING RECIPIENT:

(Please insert the full legal name of the Non-Profit Organization):

The Funding Recipient hereby submits the below-listed documentation to the City of New York (the “City”) upon review and certification as to each document’s truth and authenticity by the Funding Recipient’s executive officer or duly authorized representative.

Part A:

The Funding Recipient must provide DDC with all of the items listed in this section in order for the City to begin its review of the Funding Recipient’s proposed property acquisition. **Please note that all of the documents listed in this section must be forwarded to DDC’s Law Division along with the DDC Legal Questionnaire (Item No. 1 below) in order to initiate the City’s legal review process.**

If your organization is unable to provide any of the above-requested document(s), please indicate such inapplicable items by noting “N/A” in the chart above to highlight items that are not applicable to your organization’s property transaction. For all N/A item(s), please also attach a written explanation that includes the name of the document and the reason your organization can not provide the document(s) requested by the City.

Item No.:	Required Document Submittals:	Check if submitted
1.	<p><u>The City’s Capital Funding Request Form for Not-For-Profit Organizations*</u></p> <p>[*DDC should already have this documentation on file; however, the City may need additional information if there are any fields and/or attachments missing and/or if certain items require further clarification. <u>If necessary, the City also reserves the right to update this form and require its re-submission in part or whole at any time.</u>]</p>	
2.	<p><u>Organization’s Formation and Legal Status Documents*</u></p> <p>[*These documents should be submitted as part of the City’s Capital Funding Request Form; if not, then please make sure to include your organization’s certificate of incorporation, certificate of good standing and all amendments.]</p>	
3.	<p><u>CHAR500 Form*</u></p> <p>(If applicable, the City requires the submission of the most recent version filed with the Charities Bureau of the NYS Attorney General’s Office.)</p> <p>[*This document should be submitted as part of the City’s Capital Funding Request Form; if not, then please make sure to include your organization’s most recent submission to DDC. If your organization is not up-to-date with its CHAR500 filing, then please provide a copy of the waiver filed with the NYS Attorney General’s Office.]</p>	
4.	<p><u>Copies of any applicable City or State licenses and/or permits</u> (e.g., day care permit, nursing licenses, etc.)</p>	
5.	<p><u>Complete title search report, property survey and a copy of the title insurance or commitment.</u></p> <p>[*Title insurance must cover the City’s reimbursement portion of the project.]</p>	
6.	<p><u>Copies of any current mortgage(s) encumbering the property.</u></p>	

7.	<u>Current tenant information, including leases.</u>	
8.	<u>Copies of any other proposed and/or executed agreements which may affect the Funding Recipient's ownership or use of the property:</u> - Check if applicable: <ul style="list-style-type: none"> • <input type="checkbox"/> Covenants; • <input type="checkbox"/> Property restrictions; • <input type="checkbox"/> Easements; • <input type="checkbox"/> Landmark designation; and/or • <input type="checkbox"/> Other. 	
9.	<u>Property Appraisal, if applicable.*</u> [Required for acquisition projects.]	
10.	<u>Copy of the contract of sale, if applicable.*</u> [Required for acquisition projects.]	
11.	<u>Copy of current or proposed insurance policies for the property.</u>	
12.	<u>Complete set of rules of Coop or Condo Board, if applicable.</u>	
13.	<u>Funding Recipient's Acknowledged Ability to Cover Ten Percent (10%) of Project Costs.</u> [*Funding Recipient must provide an acknowledgment letter to the agency stating that it will be able to set aside at least ten percent (10%) of its own funds to cover project costs. For more details, please see the <i>NYC Guidelines for Discretionary Funded Projects.</i>]	
14.	<u>Scope of Work, if applicable.*</u> [*For construction reimbursement projects, Funding Recipient must submit a detailed cost estimate and proposal(s) for planned construction with supportive architectural drawings.] [*NOTE: DDC must obtain a complete scope of work before the agency may initiate the review of a project. Therefore, Funding Recipient will need to be able to pay for all initial design costs for construction out of its own funds.]	
15.	<u>Scope of Services at the property being improved or purchased with City-funds.</u> The Funding Recipient must prepare a detailed statement of the scope of services which the Funding Recipient will provide in the space being improved or purchased with City funds, which should include a written explanation of: <ol style="list-style-type: none"> 1) Who will receive services in the improved space? 2) Will there be fees for the services rendered? 3) How will the space be configured for these services, etc.? 4) How will the property used for a public City purpose? (I.e., DDC will need to see architectural drawings and construction plans necessary for the project in advance.) 	
16.	<u>Opinion of Counsel Letter*</u> [*DDC will not accept any revisions to the City's template opinion of counsel letter.] [*Please ask your counsel to provide four (4) original copies to be inserted as exhibits in the Funding Agreement.]	
17.	<u>Non-Discrimination Affirmation*</u> [*Please see DDC's Discretionary web page for this form. DDC must receive this form fully completed and signed, before the agency may proceed with a project.]	

Certified as to the Truth and Accuracy of All the Above Referenced Documents:

By: _____

Name: _____

Title: _____

Date: _____

Acknowledgment:

State of New York)
) ss:
County of _____)

On this ____ day of _____, 20__ before me personally came _____ (FULL NAME), who being by me duly sworn, did depose and say that s/he is the _____(OFFICIAL TITLE) of _____, the non-profit organization / corporation described in and which executed the foregoing instrument, and s/he duly acknowledged to me that s/he executed the same for and in behalf of the said non-profit organization / corporation for the uses and purposes mentioned therein.

Notary Public
(Stamp or Seal)

Part B:

The Funding Recipient must provide DDC with all of the items noted in this section in order for DDC to proceed with the necessary City approvals to allow for payment of property acquisition costs. However, it is important to note that the City may require additional documentation and/or information in order to actually approve and/or provide property acquisition funding. The City, therefore, reserves its rights to require additional document submissions, depending on the nature of each individual property acquisition.

Item No.:	Required Document Submittals:	Check if submitted**
1.	<u>Fully Executed Funding Agreement.</u>	
2.	<u>Executed Subordination Agreement by bank / lender, if applicable.</u> (See template agreement attached in <u>Exhibit 2.</u>)	
3.	<p><u>Proof of the fully executed and recorded Declaration of Restrictive Covenant (“RC”) in favor of the City’s interest in the property acquired.*</u></p> <p>[*The Funding Recipient’s Title Insurance company must provide an endorsement that indicates that the City’s RC is added to Schedule B as an exception. (See sample in <u>Exhibit 3.</u>)]</p> <p>[Note: Please present DDC’s “Affidavit of Exemption” (to be provided by the agency) to the title insurance company’s representative to exempt the Funding Recipient and the City from recording fees.]</p>	
4.	<p><u>Title Insurance Policy for the total amount of the project (including any private funds that are being used to purchase the property).</u></p> <p>[*DDC needs the title company to provide either: (a) a “Mortgagee Policy”; or (b) an “Owner’s Policy” coupled with an “Assignment of Title Claims” to the City (depending on the type of insurance offered by the title insurance company your counsel obtains – see DDC’s template language attached in <u>Exhibit 4.</u>)]</p> <p>[*Please also note that the Funding Recipient must receive clear title to the premises before the City may release funding. If any exceptions remain on title even after closing, please provide detailed information about each exception on title.]</p>	
5.	<p><u>VENDEX Affidavit of No Change*</u></p> <p>[*DDC will advise when to submit this documentation, as it is time sensitive.]</p>	
6.	<u>Tax Affirmation Form</u>	
7.	<u>If applicable, Executed and Recorded Condominium Agreement with the Condominium’s Board of Managers.</u>	
8.	<u>Insurance-Related Submissions required by the Funding Agreement.</u>	
9.	<p><u>Completed DDC Payment Requisition Forms with Supportive Documents*</u></p> <p>[*DDC’s payment requisitions must also include copies of all receipts and proof of payment.]</p>	

Certified as to the Truth and Accuracy of All the Above Referenced Documents:

By: _____

Name: _____

Title: _____

Date: _____

Acknowledgment:

State of New York)
) ss:
County of _____)

On this ____ day of _____, 20__ before me personally came _____ (FULL NAME), who being by me duly sworn, did depose and say that s/he is the _____ (OFFICIAL TITLE) of _____, the non-profit organization / corporation described in and which executed the foregoing instrument, and s/he duly acknowledged to me that s/he executed the same for and in behalf of the said non-profit organization / corporation for the uses and purposes mentioned therein.

Notary Public
(Stamp or Seal)

EXHIBIT 1

Opinion of Counsel Letter Regarding the Funding Recipient's
Ability and Authority to Enter Into the Property Acquisition
Funding Agreement with the City of New York

[Please see documentation attached.]

SUBJECT TO REVISION BY CITY

[Law Firm's Letterhead]

[Insert Date]

The City of New York, acting by and through its
Department of Design and Construction
30-30 Thomson Avenue
Long Island City, New York 11101

Re: Funding Agreement (the "**Agreement**") dated as of _____, 20__ between The City of New York (the "**City**"), acting by and through its Department of Design and Construction ("**DDC**") and _____ (the "**Company**"), and Declaration of Restrictive Covenant ("**Declaration**") dated as of _____, 200_ by the Company in favor of the City.

Ladies and Gentlemen:

We have acted as counsel for the Company, a New York not-for-profit corporation, in connection with the Agreement and the Declaration, and related agreements and transactions.

In so acting, we have been asked to render an opinion in connection with the execution, recordation and delivery by the Company of the Agreement, the Declaration and related agreements and transactions.

In delivering this opinion, we have examined the organizational documents of the Company, including, but not limited to, the Company's certificate of incorporation and by-laws, a certificate of good standing issued by the Secretary of State of the State of New York, as well as resolutions of the Board of Directors of the Company authorizing the execution, recordation and delivery of the Agreement and the Declaration by the Company and the performance by the Company of its obligations under each thereof. In addition, we have examined such matters of law as we have deemed necessary under the circumstances. In such examination, we have assumed the genuineness of all signatures on original documents and the conformity to original and certified documents of all copies submitted to us as conformed or purporting to be photostatic or telecopied copies. On the basis of the foregoing examination and assumptions and in reliance thereon, we are of the opinion that, as of this date:

1. The Company is duly formed and validly existing as a not-for-profit corporation under the laws of the State of New York and is duly qualified to conduct business in the State of New York.
2. The Company has the power and authority to execute, record and deliver the Agreement, the Declaration and the related documents and to perform and do all acts to be performed by it thereunder.
3. The execution, recordation and delivery of the Agreement, the Declaration and the related documents have been duly authorized by all necessary corporate action on the part of the Company and do not and will not: (a) contravene the certificate of incorporation or by-laws of the Company, (b) violate any provision of, or require any filing, registration, consent or approval under, any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Company, or (d) cause the Company

to be in violation of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award.

4. The Agreement, the Declaration and the related documents constitute legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms.

The foregoing opinions are subject to the following qualifications:

- (a) No person or entity other than the City or its successors or its counsel may rely or claim reliance on the opinions expressed herein.
- (b) The rights and remedies set forth in the Agreement and the related documents may be limited by bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium and other laws of general application and equitable principles relating to or affecting the enforcement of creditors' rights.
- (c) Certain remedies under the Agreement and the related documents may require enforcement by a court of equity and such enforcement is subject to principles of equity as courts having jurisdiction may impose, including, by way of example, but not by way of limitation, the right of a court of equity to refuse to specifically enforce obligations of the Company and/or grant equitable relief to the City.
- (d) We are licensed to practice law in the State of New York and our opinion is therefore limited to the laws of the State of New York and the federal laws of the United States.
- (e) The effect of laws hereinafter passed or court decrees hereinafter issued may limit or render unenforceable certain of your rights and remedies.

We assume no obligation to update or supplement this opinion to reflect any changes in any laws or court decisions which may hereafter occur. We do not render any opinion with respect to any matter other than those expressly set forth above.

Very truly yours,

[Law firm's name]

EXHIBIT 2

Subordination Agreement Required from
Mortgage Lenders and Banks

[Please see documentation attached.]

DRAFT – SUBJECT TO REVISION BY CITY

SUBORDINATION AGREEMENT

This instrument is made as of
_____, 200__, by

("Lienholder"), a _____,
having its principal place of business at

_____.

RECITALS

- A. _____ ("Lienholder") is the holder of a note secured by a mortgage (the "**Mortgage**") on the Mortgaged Property (as defined below), dated _____, 20__, executed by _____ and recorded on _____, 20__ in book _____, at page _____, as instrument _____, in the real estate records of _____ County, pertaining to the real estate located at _____ and further described as follows (the "**Mortgaged Property**"):
- B. _____, the owner ("**Owner**") of the Mortgaged Property has applied to the City of New York ("**City**") for funding ("**Funding**") in the form of City capital funds to cover certain costs and expenses incurred by Owner in connection with the development of the Mortgaged Property.
- C. It is a condition of the Funding that Owner execute, deliver and cause to be recorded against the property records of the Mortgaged Property a Declaration of Restrictive Covenant ("**Declaration**") in substantially the form attached hereto as Exhibit A in favor of the City, and that Lienholder subordinate its Mortgage to the Declaration.
- D. It is to the benefit of Lienholder that the City advance the Funding to Owner.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lienholder agrees as follows:

1. The Mortgage held by Lienholder shall be subject and subordinate to the Declaration.
2. Lienholder acknowledges that the City is relying on this instrument in its determination to advance the Funding to Owner. Lienholder agrees that the Declaration shall have the same validity, priority, and effect as if executed, delivered and recorded prior to the date of the Mortgage, provided, however, that nothing in this instrument shall in any way alter, change or modify the terms and

conditions of the Mortgage, or in any way release or affect the validity or priority of the Mortgage, except as provided herein.

Entered into this ___ day of _____, 20__.

("Lienholder")

By: _____
Name: _____
Title: _____

STATE OF _____)
 : SS.:
COUNTY OF _____)

On this _____ day of _____, 20__, before me, a Notary Public, personally appeared _____, to me personally known to be the _____, and who being by me duly sworn, subscribed their name to the foregoing instrument as an officer of said corporation and acknowledged the execution of such instrument as the voluntary act and deed of said corporation.

Notary Public

My Commission Expires: _____

EXHIBIT A

FORM OF DECLARATION OF RESTRICTIVE COVENANT

(SEPARATE ATTACHMENT)

[To be Attached in Final Version of Document.]

EXHIBIT 3

Sample Title Report / Insurance Endorsement

[Please see documentation attached.]

ENDORSEMENT

OWNERS

Attached to and forming a part of

Policy No. _____

Issued by

_____ **Title Insurance Company**

RE: Title No. _____

A. The following Exception is added to Schedule B as Exception __:

— Declaration of Restrictive Covenant by _____ in favor of The City of New York recorded in the _____ County Office of the Register of the City of New York on _____ in Reel _____ page _____.

Policy insures against any loss or damage occasioned by the existence of any presently recorded document not set forth in this Policy, which, by its terms, cuts off or subordinates the rights and obligations of the parties pursuant to the above-referenced covenant.

B. Nothing contained herein shall be construed so as to either alter the policy except as specifically set forth herein or to change the Effective Date of the policy which remains _____.

EXHIBIT 4

Template Agreement for Assignment of Title Insurance Claims

[Please see documentation attached.]

SUBJECT TO REVISION BY CITY

[LETTERHEAD OF FUNDING RECIPIENT]

_____, 20__

**[NAME OF TITLE COMPANY]
[ADDRESS]
[CITY, STATE, ZIP CODE]**

Re: Title Number: _____

Ladies and Gentlemen:

Reference is made herein to that certain policy of title insurance number _____ as of _____ (the "Title Policy"), and that certain Declaration of Restrictive Covenant, dated as of _____ made by _____ ("_____"), for the benefit of The City of New York (the "City") recorded on _____, 20__ in Reel _____ page _____, (the "Declaration"). Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Declaration.

The undersigned hereby assigns to the City the right to make a claim in the name of the undersigned as the insured under the Title Policy, brought solely by reason of any loss or damage occasioned by the existence of any presently recorded document not set forth in Schedule B to this policy, which, by its terms, cuts off or subordinates the rights and obligations of the parties pursuant to the Declaration. Furthermore, the undersigned consents that all proceeds of any such claims be paid to the City, Department of Design and Construction, 30-30 Thomson Avenue, 4th Floor, Long Island City, New York 11101, Attention: Commissioner; provided, however, that in no event shall any proceeds be paid to the City in any amounts in excess of the amount of the funds ("Funds") that has been disbursed under that certain Construction Agreement dated as of _____ by and between the City and _____, as amended from time to time.

The terms and provisions of this letter shall expire and be of no further force and effect upon the expiration of the Performance Term.

Please indicate your acceptance of and agreement to be bound by the terms and provisions of this letter by countersigning below and returning the same to the undersigned at the address listed above.

Yours sincerely,

By: _____
Name: _____
Title: _____

Accepted and Agreed:

TITLE INSURANCE COMPANY

By: _____
Name: _____
Title: _____