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Governor

# Homes and Community Renewal

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Commissioner/CEO

## LIHTC/SLIHC Regulatory Agreement Document Submission Checklist for LIHTC/SLIHC Project Awardees/Owners (due to HCR at least 30 days prior to Construction Finance Closing)

**To:**

**From:**

**Project Name and ID:**

**Date:**

**Owner/Sponsors must submit Items #1 – 5 below to their assigned project manager:**

1. Updated project narrative to reflect the project as currently configured.
2. Construction Closing Title Policy Commitment or Pro Forma Title Policy for the property (detailing the interest(s) of all entities which will own an interest in the project property and providing a description of the property (Schedule A).
3. Draft Amended and Restated Partnership or Operating Agreement which incorporates the operating deficit guarantee (per Section 2040.2(o) of the QAP), if applicable.
4. Tax Credit Owner Information
  - a. Email address to which HCR's Office of Legal Affairs (OLA) should send the draft agreement to the owner's contact person for review and the contact person's phone number.
  - b. Name and address to which OLA should send the executed LIHTC Regulatory Agreement so that the owner can sign and date the agreement, have the signature(s) notarized, and have the agreement filed and recorded with the locality.
  - c. Sample Owner Signature Block for all entities which will be signatories to the LIHTC Regulatory Agreement (all entities which own an interest in the property, including Housing Development Fund Corporations or other entities which are "nominees" or "fee owners" must sign the agreement), and documentation establishing the authority of all signatories to execute the agreement on behalf of all entities.

5. Resolutions or Consents of the LLC/LP and HDFC or other project owner (and any entity which is acting on behalf of such entity) authorizing the execution of the LIHTC/SLIHC Regulatory Agreement and granting the individuals or entity(ies) authority to execute the agreement with the Division of Housing and Community Renewal.

**Additional Internal HCR Project Manager Regulatory Agreement Submission to OLA Requirements (#6 –11):**

6. Units and Income approved by UW for construction closing

7. LIHTC/SLIHC Reservation Letter

8. Draft LIHTC/SLIHC Regulatory Agreement

*\* Fill out the Agreement based on the instructions set forth in the comments section (also fill out the signatory information and the acknowledgement of signature by Notary). Note, all entities which own an interest in the property (including Housing Development Fund Corporations which are “nominees”) must be listed on the cover page, the first paragraph of the agreement, and on the signature page.*

*\* When entering information requested in the comments section, remove the brackets in actual text of the document.*

*\* Remove the comments prior to sending the draft agreement to the assigned attorney.*

9. Construction Closing Underwrite or Underwriting Exhibit E Information Sheet, including confirmed operating deficit guarantee amount

10. Incorporation document package, including project ownership organizational chart (HCR Project Managers – please submit package to HCR Content Server named “ProjectID – Incorporation Documents year-month-day”).

## 11. Not-For-Profit Information

- a. Is the project included in the NFP set-aside in the LIHTC/SLIHC Reservation Letter\*? Y N  
*\*A project is included in the LIHTC nfp set-aside if the following language is contained in Attachment A of the LIHTC reservation letter: "This Project has been included as part of the Qualified Nonprofit Organization set-aside of Section 42(h)(5)(A) of the Code. Pursuant to Section 42(h)(5)(B) of the Code, a qualified nonprofit organization shall own an interest in the Project and materially participate in the development and operation of the Project on a regular, continuous and substantial basis (pursuant to the standards set forth in Section 469(h) of the Code)." If the above language is NOT included in Attachment A of the LIHTC reservation letter, the project is not included in the LIHTC nfp set-aside, select "No" above. If the above language is included in Attachment A of the LIHTC reservation letter, the project is included in the LIHTC nfp set-aside, select "Yes" above.*
- b. Extent of the non-profit organization participation in the project (see Attachment A of the LIHTC/SLIHC Reservation Letter).

c. Name of the Not-For-Profit:

d. Role of the Not-For-Profit, i.e., owner, service provider, general partner:

*ALL required submission items above are to be collected and organized by the assigned HCR project manager, then emailed to OLA in one comprehensive package. Email the submissions to the assigned HTFC closing attorney if project has HTFC capital subsidy. Email to LIHTC standalone attorney for all LIHTC/SLIHTC standalones.*

September 2023