



FY26 Capital Funding Guidelines

Revised November 2024

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INTRODUCTION TO CAPITAL FUNDING

Capital Project Goals

Enhancing cultural life in New York City through projects that:

- Increase public access to cultural programming throughout the City
- Contribute to the vibrancy and diversity of the City’s communities
- Preserve and promote the highest quality cultural facilities, programs, and collections
- Maximize the effectiveness of public/private partnerships
- Address agency priorities such as disability access, environmental sustainability, and the creation of affordable artist workspaces

Capital Funding Sources

New York City allocates capital funding to eligible cultural organizations on an annual basis. Capital appropriations are allocated by the following funding sources:

1. Borough President
2. City Council
3. Mayor (Executive Branch) represented by the Department of Cultural Affairs (DCLA)

A single capital project can be funded by one or more sources. Each funding source has its own deadline. However, the evaluation and eligibility criteria, which are governed by bond restrictions, are the same for all funding sources.

Municipal Bonds

City capital funding is highly restricted because expenditures are financed by the sale of municipal bonds. It is subject to the NYC capital budget appropriation process, along with other laws and regulations. Each City-funded capital project must realize a City Purpose and provide for the planning, construction, or reconstruction of a capital asset according to the City Comptroller’s Accounting Directive 10 (AD10), known as “Directive 10”.

Capital Funding versus Grant-Making

Unlike program funding, which is an *application* process to the Cultural Development Fund (CDF) overseen by the DCLA *Programs* team, capital funding is a *request* process overseen by the DCLA *Capital* team. Each request is evaluated by the DCLA Capital Projects Unit and assessed with the elected officials from whom funding has been requested.

Capital funding appropriations are *not grants*. Capital funding is not given to the organization; instead, NYC spends funds on the organization’s behalf. Regardless of funding source, all capital funds are administered by DCLA and are subject to City eligibility requirements and agency policies.

FY26 SUBMISSION DEADLINES

Submission Deadline	Funding Source
Thursday, February 20, 2025 at 5:00 pm ET	Requests that include Borough President (BP) funds
Thursday, March 20 2025 at 5:00 pm ET	Requests that include City Council (CC) funds
Thursday, March 20, 2025, at 5:00 pm ET	Requests only include Mayoral (DCLA) funds

BASELINE ELIGIBILITY REQUIREMENTS

Baseline eligibility requirements for capital funding:

- **Not-for-Profit Status:** Organization is a not-for-profit with documented tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Service Code.
- **Institutional or Programmatic Support from DCLA via:**
 - **Recipient of a Cultural Development Fund (CDF) Baseline Recommendation:** Organization has received a baseline CDF recommendation from the peer review panel process administered by the DCLA Programs team in one of the following fiscal years: FY 2022, 2023, or 2024.
(or)
 - **Member of the Cultural Institutions Group (CIG):** Organization is one of the 34 CIG members that is located on City-owned property and receives institutional support.
- **Site Control:** Organization demonstrates control of its property or space in the form of a deed or lease for at least the duration of the capital project's scope development, realization, and useful life (see [Exhibit 5](#)).
- **Non-Sectarian Use:** Organization guarantees that NYC capital funding will not be used to advance or support sectarian activity, including religious worship, instruction or proselytizing.
- **Organizational Capacity:** Organization demonstrates the ability to undertake the capital project and maintain and operate the asset throughout its useful life by having staff members at meetings with the City that are knowledgeable about or responsible for building/facility/site operations.
Note: Maintenance and operation costs are not capitably eligible. Organization is solely responsible for maintenance and operation costs before, during, and after the capital project.
- **Property Must Be Used by Funding Requestor:** All funds must be for projects that are used directly by the organization requesting funding in furtherance of its not-for-profit mission at the location stated in the Capital Funding Request Forms in conformance with the City Purpose Covenant.

Capital Funding Governance

Capital funds are secured by Government Bonds and are restricted for use through the Comptroller's Accounting Directive 10. Ultimately, capital funding requests and access to capital funds must be reviewed and approved by the Office of Management and Budget (OMB) and City's Bond Counsel as part of bond governance.

Directive 10: <https://comptroller.nyc.gov/wp-content/uploads/documents/Directive-10-Charges-to-the-Capital-Projects-Fund.pdf>

Frequently Asked Questions: <https://comptroller.nyc.gov/wp-content/uploads/documents/Directive-10-FAQs-Example-Scenarios-1.pdf>

Project Types Eligible for Capital Funding

Two types of projects are eligible for capital funding, as follows:

1. Construction / Renovation Capital Project	2. Equipment / Vehicle Capital Project
Construction of a new facility Expansion of an existing facility Significant upgrade or renovation of existing space* Replacement or upgrade of a building system (e.g., HVAC) <i>*If more than one space is being renovated, the spaces must be contiguous, or each must meet the financial threshold</i>	Equipment system (e.g., theatrical lighting) Standalone equipment (e.g., piano, fork lift) Passenger vehicle (10+ person capacity) Work vehicle (e.g., truck)

In the case of construction or renovation projects, charges to the capital budget can only be made for eligible projects that provide a **comprehensive betterment**, which is defined as **extensive**, physically **connected**, and **typically involve all four trades**: electrical, plumbing, mechanical, and general construction.

NOT ELIGIBLE for Capital Funding

Operational Expenditures

- Maintenance
 - Repair/Maintenance work (e.g., roof patching, masonry repointing)
 - Painting and carpeting unrelated to capital project
 - Extended warranties
 - Maintenance agreements and service contracts
- Staffing
 - Employee salaries
 - Training or staff development
 - Professional fees (e.g., consultant, owner's rep, or legal fees)
 - Administrative expenses (e.g., office supplies)

Studies

- Environmental assessments as a stand-alone item
- Feasibility studies

Signage

- Organization-specific signage
- Donor plaques or signage

Other

- Fixtures or equipment that require attachment to Real Property requested separately from a construction or renovation project
- Work performed prior to the capital appropriation
- Equipment purchased or any work begun prior to the capital appropriation
- Fundraising or financing (e.g., private acquisition payments)
- Custom databases
- Unique or excessively expensive items

Project Requirements

In order to be considered eligible for capital funding, a project must:

- Be comprehensive
 - Create a new asset/system
 - Replace or significantly upgrade an existing asset/system
- Fulfill a City Purpose
 - Provides a public benefit for the project's useful life

- Be a long-term investment with a useful life (as defined by New York's Local Finance Law) of:
 - Construction/Renovation = 10 to 30 years
 - Equipment = 3 to 15 years

Financial Requirements

The minimum City contribution to a capital project on non-City owned property is:

- \$60,000 for equipment
- \$250,000 for minimally attached equipment (as defined in [Exhibit 5](#))
- \$500,000 for construction/renovation

Your project must be fully funded before a Capital Project Manager begins reviewing the program form.

Project Cost Estimate

Standalone equipment, equipment system components, and/or vehicle(s) should include an estimate for the item(s), delivery, and 10% contingency.

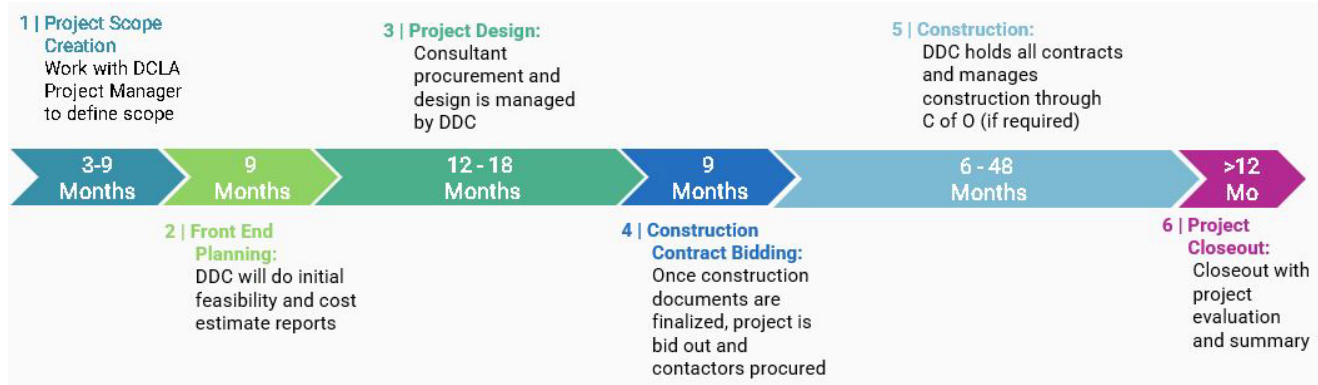
Construction/Renovation project cost estimates should include but are not limited to the following mark-ups (based on the total construction cost):

- Design Fee, 20%
- General Conditions, 12%
- Overhead and Profit, 15%
- Design Contingency, 10%
- Construction Contingency, 15%
- Construction Management Services, 15%
- Expanded Work Allowance, 10%
- Expedited Work Allowance, \$100,000
- Interfund Agreement fee (IFA), 15% unless otherwise recommended by a capital project manager
- Escalation fees calculated at a compounded rate of at least 8% per year to account for cost increases from the moment funds are awarded, on July 1 City Budget Adoption (on project start), up to and including design and the mid-point of construction
- Other fees and expenses that may apply to your project include:
 - Estimating allowance, 15%
 - Phasing allowance, 15%
 - Incidental asbestos and lead abatement allowances of at least \$15,000 or 3%, whichever is greater
 - Special inspections of at least 2% of the estimated bid amount

Preparing a Project Schedule (for Construction or Renovation projects)

In most cases, the City will manage your construction or renovation project. The following estimate is based on the average, pre-COVID timelines. It represents optimal durations without delays and are based on complete submissions and timely actions or responses. Timelines may be adjusted based on project scale and complexity.

If your organization's construction or renovation project is funded entirely by the City, use this timeline to help create your project budget with the appropriate number of years for escalation accounted.



Legal Requirements

Site Control – The property at/on which your project is based must be either:

- City-owned;
- Owned by the organization; or
- Leased by the organization for a term equal to or greater than the estimated useful life of the project, as determined by the City.

Use Restriction - The improved property or purchased equipment must be used consistently with the mission of the organization for the duration of the useful life of the improvement or equipment.

- For Construction / Renovation Projects:
 - Agreement Detailing Terms of Construction Project
 - The legal agreement detailing the terms and conditions of work related to the City-funded capital improvement project is determined based on the agency managing your organization's project (DDC or EDC).
 - Declaration of Restrictive Covenant (see sample in [Exhibit 1](#)):
 - Required for construction or renovation projects using capital funds on property that is not owned by the City.
 - The improved property must be used consistently with the mission of the organization for the duration of the useful life of the improvement.
 - A City Purpose Covenant that guarantees that the Project be used for the required purpose even if another party were to take control of the property at which the Project is located.
 - Must be signed by the Real Property Owner; if the property is owned by a third party (e.g., landlord, bank), the Declaration must be agreed to and signed by that property owner, ensuring the City has first priority interest on the property.
 - The Declaration (in a form provided by the City) must be executed and recorded with the Office of the City Register before the Organization can begin accessing City capital funds.
 - Subordination Agreement (see sample included in [Exhibit 1](#)):
 - May be required for construction or renovation projects that require a Restrictive Covenant.

- One of the requirements of the Covenant is that it must have a first priority position. No mortgages, liens or other interests can be filed against the property unless they are secondary to the City's Covenant through subordination.
 - Must be signed by any existing lien holders and recorded against the property; if the property is owned by a third party (e.g., landlord or bank), the lien subordination must be agreed to and signed by that third party's lender.
- For Equipment Projects:
 - Agreement Detailing Terms of Funding and Use
 - Every City-funded equipment purchase is subject to a legal agreement, which sets forth the terms and conditions of an organization's acquisition and use of the equipment
 - The type of agreement necessary is determined by the procurement method. Two common types include:
 - A Capital Equipment Letter Agreement (CELA) is the most common, and is used for equipment procured by the City for use by the organization
 - A Funding Agreement is only used for certain projects funded by the Borough President and/or City Council, where the organization is responsible for bidding and procurement of the equipment
 - Personalty Agreement:
 - May be required for certain equipment projects using capital funds for equipment systems that will reside on leased, non-City owned property and will minimally attach to the leased premises.
 - If required, must be signed by the property owner, i.e., the landlord that leases the property to you
 - Security Agreement:
 - Required for equipment projects using capital funds in which the standalone equipment or equipment systems are not purchased by DCLA directly.
 - Establishes the City's legal interest in the equipment and ensures that City-funded equipment is used in furtherance of a public purpose.
 - Must be signed by the organization receiving City capital funding

Local Laws and City Policy Compliance Requirements

City-funded projects must comply with Local Laws and City policies, including:

Green Building Laws and Regulations

- Local Law 86 of 2005, as amended by Local Laws 31 and 32 of 2016 and 51 of 2023
- Sustainable design intended to reduce energy and water consumption
- Largely applies to City-owned projects
- Also applies to non-City-owned property projects with City-funding of greater than 50% of the estimated project cost or funding over \$10M
- <https://www.nyc.gov/site/oec/green-building/green-building.page>
- See City Charter, Section 224.1:
<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCcharter/0-0-0-1041>

Local Laws 92 and 94 of 2019: Green and Solar Roof Requirements for New Buildings and Complete Roof Replacements

- Applies to projects with construction documents approved on or after November 15, 2019, unless the construction documents have attained a partial plan exam approval (i.e., BIS job status K) prior to the effective date.
- Mandates with some exceptions that all new buildings, and alterations of existing buildings (including

historic structures) where the entire existing roof deck or roof assembly is being replaced, must have a sustainable roofing zone covering 100% of the roof. The roof area designated as the sustainable roofing zone must be made of a solar photovoltaic electricity generating system, a green roof system, or a combination thereof.

- Local Law 92 of 2019: https://www1.nyc.gov/assets/buildings/local_laws/ll92of2019.pdf
- Local Law 94 of 2019: https://www1.nyc.gov/assets/buildings/local_laws/ll94of2019.pdf

Local Law 58 of 1987: Accessibility

- Mandates that the design and construction of buildings accommodate the accessibility needs of people with disabilities, including appropriate routes of movement in the interior and exterior of the building, interior room modifications, and adjustment of facilities.
- https://www1.nyc.gov/assets/buildings/local_laws/ll58of1987.pdf

Local Law 51 of 2017: Installation of Induction Loops

- Requires that new construction or rehabilitation projects with City financing and an estimated baseline construction cost of \$950,000 or more involving the construction of one or more “assembly areas” include the installation of induction loop assistive listening system in at least one assembly area. In addition, each security, information, or reception desk used for the checking-in or screening of persons attending a meeting or event held in a looped assembly area must be equipped with microloops.
- https://www1.nyc.gov/assets/mopd/downloads/pdf/laws_local-law_51.pdf

General Accessibility Considerations

- Accessibility requirements regulated by NYC Building Code A117.1 (New York City law)
- Americans with Disabilities Act (ADA) and 2010 ADA Standards for Accessible Design (Federal law)
- Path of travel: An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

Local Law 1 of 2013: M/WBE

- Ensures NYC certified minority and women-owned businesses have greater access to public contracting opportunities. Learn more: <https://www1.nyc.gov/site/mocs/partners/about-m-wbe.page>

WHAT TO PLAN FOR AFTER CONSTRUCTION

Once construction is complete, your building or space is your responsibility. Maintenance and operation costs are not eligible for NYC capital funding. Each organization is solely responsible for maintenance and operation costs before, during, and after the capital project. Plan for:

- An annual maintenance plan for any new buildings and/or building systems (including trainings, maintenance contracts, etc.)
- Facility managers
- Additional staff for operation of new spaces
- Operating expenses associated with the above

PREPARING YOUR CAPITAL FUNDING REQUEST

Capital Request Package Components

The Capital Funding Request Package consists of two (2) sections:

- 1) Organization Section
 - 2) Project Section: Appendix CR (Construction/Renovation), Appendix EQ (Equipment) or V (Vehicle)
- Clearly define your capital project and draft preliminary scope.
 - Gather cost estimates. Consider City requirements and markups when putting together final numbers.
 - Prepare a detailed 4-year Operating Budget with a statement of revenues and expenses, organized by fiscal year, and includes: two years of actuals, one year of current planned revenues and expenses in comparison to actual revenues and expenses (year-to-date), and one year of planned revenues and expenses. Note: The four-year Operating Budget is not the same as the Pro Forma Operating Budget required for Appendix CR.).
 - Meet with the elected officials (Borough President, City Council, and/or Mayor/DCLA) from whom you will be requesting funding and present your project to them.
 - If you are submitting more than one capital proposal, prioritize among the projects.
 - Incomplete submissions will not be considered.
 - Ask a DCLA Capital Project Manager to confirm your project's eligibility: capitalrequest@culture.nyc.gov

Funding Request Forms

1. Organization Section – 1 required per Organization

- Provide background information on your organization
- Total Amount Requested: Please list the total amount of funding you are requesting for **all** projects

Project Section (Appendices CR, EQ, V, or others provided by a capital project manager) – 1 relevant Appendix per Project Type

- The relevant Appendix/Appendices must be submitted through the CapGrants website
- Prioritize your request(s) as funding will be extremely limited
- A maximum of two (2) Construction or Renovation projects may be submitted; a maximum of one (1) of these Construction or Renovation projects may be a new project.
- No more than two Equipment projects (Appendix EQ or V) may be submitted
- Equipment projects (Appendix EQ or V) require a pre-review by a DCLA Equipment Project Manager before they are uploaded to CapGrants to ensure the items or systems are eligible (Pre-review of Equipment projects does not guarantee funding)
- Each project should be submitted as a separate Appendix (e.g., two construction projects--a building addition and an HVAC replacement--should be uploaded to CapGrants as two Appendix CR forms).
- Consider phasing larger projects so that you can begin a discrete scope even if you do not receive the full amount of your request
- Request the total amount of funding that is needed to accomplish the project, bearing in mind capital eligibility requirements, and notify your capital project manager if you intend to (or if it is possible to) submit multiple funding requests until the project is fully funded
- For Appendix CR, prepare a detailed Pro Forma Operating Budget that forecasts your organization's revenues and expenses during the Project and two (2) years following completion. Note: this is not the same as the five-year Operating Budget required in the Organization Section.

Supplemental Attachments – required per the Organization Section

- Organizational Chart - A diagram of your leadership and management structure, including the names

- of personnel who currently hold key positions. Include roles that affect the capital project.
- Board of Directors - A current list of all board members and their professional affiliations.
- Strategic Plan and/or Business Plan - A narrative explaining how the capital project fits into your organization's long-term strategy, and, if applicable, capital plan. The Strategic and/or Business Plan(s) should highlight goals and the strategies to achieve them, both in terms of programming and budgeting. Key figures, such as increased attendance or programming, should be explained.
- Operating Budget and Plan – Submitted as an Excel spreadsheet, a budget and plan spanning five consecutive years that complements the strategic/business plan with detailed financial figures. The five-year Operating Budget and Plan provides a statement of revenues and expenses, organized by fiscal year, that includes: two years of actuals, one year of current planned revenues and expenses in comparison to actual revenues and expenses (year-to-date), and two years of planned revenues and expenses. For projects that are in progress, the Organization's five-year Operating Budget and Plan should incorporate planned expenditures from the Pro Forma Operating Budget.

Supplemental Attachments – Appendix CR, EQ or V required as appropriate

- Project Cost Estimate and Breakdown - The project cost estimate should provide a breakdown of the soft costs such as design fees, hard costs such as construction costs by trade (e.g., mechanical, electrical, plumbing), in addition to the fees outlined in the Financial Requirements section of the Capital Funding Eligibility Guidelines. If the project will receive funding from a non-City funding source, please indicate which costs will be covered by the non-City source funding and which will be covered by City capital funding.
- Pro Forma Operating Budget – Submitted in an Excel spreadsheet file format in a design or layout similar in appearance to your operating budget, this type of budget explains the positive or negative impact on your operating budget as a result of the capital project during and at least one year after the relevant project type has been completed. Positive or negative impacts to your operating budget include, but are not limited to, changes to staffing (e.g., facilities, programming, and/or development), utility expenses (e.g., electricity or water), swing space rental fees, rental income, etc. If applicable, explain operating budget deficits, and how your organization plans to balance its operating budget during and after the relevant project type has been completed. The amounts reflected in the Pro Forma Operating Budget may not be the same as your operating budget. For projects that are in progress, the Pro Forma Operating Budget should be reflected in the Organization's five-year Operating Budget and Plan
- Current Certificate of Occupancy (or Letter of No Objection)
- Equipment List (if applicable) – A comprehensive list of each component being requested.
- Vehicle List (if applicable) – A comprehensive list of vehicles for which funding is being requested.

Other required documents as appropriate per the Mayor's Office of Contract Services (MOCS)

- Doing Business Data Form (DBDF): Enables the City to collect accurate, up-to-date identification information about organizations that have business dealings with the City. Local Law 34 of 2007 limits municipal campaign contributions from principal officers, owners, and senior managers of these organizations. The form must be completed, regardless of whether the people associated with it make or intend to make campaign contributions.
- Conflict of Interest Disclosure and Compliance Certification - The organization affirms, to the best of its knowledge, that no City Elected Official, nor any person associated with any City Elected Official, is an employee, Director or Trustee, Officer or consultant to/of, or has any financial interest, direct or indirect, in the organization, or has received or will receive any financial benefit, directly or indirectly, from the organization or from this funding.
- Lobbying Certification (City Council funding only) - If requesting City Council capital funds, this certification must be completed and signed by the Chief Executive Officer (or equivalent) of the Organization.

When requesting capital funds...

DO	DON'T
DO submit documents via CapGrants portal.	DON'T email forms to DCLA.
DO keep the original file format (PDF, Word, Excel).	DON'T submit incomplete forms.
DO submit by the deadline for specific funding sources.	
DO complete one (1) Organization Section form.	DON'T complete more than one (1) Organization Section form
DO complete one (1) Project Section Appendix PER PROJECT, including: Appendix CR: Construction or Renovation Appendix EQ: Equipment – Standalone or System Appendix V: Vehicle(s) Special Appendices for active City-managed projects with shortfalls or for repurposed funding available through a capital project manager	DON'T combine multiple projects onto a single Project Section Appendix form
DO meet with your funding source -- Borough President, Council Member , or Executive Branch / DCLA – prior to submitting so that they expect and can budget for your request.	DON'T blindside funding sources with surprise requests.

EXHIBIT 1

Sample: Declaration of Restrictive Covenant

DECLARATION OF RESTRICTIVE COVENANT

Dated as of _____

by

Location of Premises

Street Address: City or Town: County: Block:
Lot:

After Recording, Return to:

New York City Department of Cultural Affairs
31 Chambers Street, 2nd Floor New York, New York 10007
Attention: General Counsel

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (“Declaration”) is made as of the ____ day of _____, 20__ by _____, a _____ organized under the [Not-for-Profit Corporation Law of the State of New York – *please modify accordingly*] having an office at _____ (the “**Declarant**”) in favor of The City of New York, a municipal corporation of the State of New York (the “**City**”) acting by and through its Department of _____, having an office at _____.

W I T N E S S E T H

WHEREAS, Declarant is the fee owner of certain real property located in the Borough of _____, City of New York and State of New York, which property is designated as Block ___, Lot ___ on the Tax Map for such Borough and is also known by the street address of _____, _____, New York, all as more particularly described in Exhibit A attached hereto (such real property together with all improvements now or hereafter erected thereon, being hereinafter referred to as the “**Premises**”); and

WHEREAS, Declarant operates _____ at the Premises; and

WHEREAS, Declarant desires to undertake a project at the Premises (“**Project**”) consisting of the construction of certain improvements more fully described in that certain [funding agreement – *identify applicable agreement*] dated as of _____, 20__ by and between Declarant and the City (the “**Agreement**”); and

WHEREAS, Declarant has requested that the City provide funding for the Project; and

WHEREAS, the City has appropriated the sum of _____ Dollars (\$_____) to provide City Funds (as defined in Section 1 below) for the Project; and

WHEREAS, City Funds will be made available to Declarant by the City for the purposes of the Project pursuant to the terms the Agreement.

NOW, THEREFORE, in consideration of the award of City Funds and other good and valuable consideration the receipt of which is hereby acknowledged by Declarant, Declarant for itself and on behalf of its successors, heirs, assigns, legal representatives, lessees and transferees, including, without limitation, any owners and/or users of the Premises does hereby declare and agree that the Premises shall be hereinafter held, sold, transferred, conveyed and occupied subject to the restrictions, covenants, obligations and agreements set forth in this Declaration.

1. DEFINITIONS. For the purposes hereof the following terms shall have the following meanings. (Capitalized terms utilized and not otherwise defined herein shall have the meaning assigned to such terms in the Agreement):

“**Agreement**” has the meaning provided in the Recitals hereof. “**City**” has the meaning provided in the Preamble hereof.

“**City Funds**” means funds provided by the City to or for the benefit of Declarant and used in connection with the Premises.

“**City Purpose Covenant**” has the meaning provided in Section 3 hereof. “**Compliance**

Certificate” has the meaning provided in Section 4(d) hereof. “**Declarant**” has the meaning provided in the Preamble hereof. “**Declaration**” has the meaning provided in the Preamble hereof.

“**Force Majeure**” means any of the following acts and events that occur without the negligence or fault, and beyond the reasonable control, of Declarant or that of any of its successors, heirs, assigns, legal representatives, lessees and/or transferees including, without limitation, any owners and/or users of the Premises and of which Declarant (or the owner or lessee of the Premises at the time of the occurrence of such act or event of Force Majeure) has given the City written notice within thirty (30) days after such party knows of same: governmental actions, orders of any court of competent jurisdiction, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, terrorist acts, accidents, mechanical failure and acts of God (including, fire, flood or other inordinately severe weather conditions).

“**Indemnitees**” has the meaning provided in Section 9 hereof.

“**Lien**” means any lien (statutory or otherwise), encumbrance, lease, easement, option, restriction, estate or other interest including, but not limited to, mechanic’s, laborer’s, materialman’s and public improvement liens, restrictive covenant, security interest, mortgage, deed of trust, priority, pledge, charge, conditional sale, title retention agreement, financing lease or other similar right of others, or any other agreement to give any of the foregoing

“**Performance Term**” has the meaning provided in Section 3 hereof. “**Performance Term**

Commencement Date” has the meaning provided in Section 3 hereof.

“**Person**” means an individual, corporation, partnership, joint venture, estate, trust, unincorporated association; any federal, state, county or municipal government or any bureau, department or agency thereof; and any fiduciary acting in such capacity on behalf of any of the foregoing.

“**Premises**” has the meaning provided in the Recitals hereof. “**Project**” has the meaning provided in the Recitals hereof.

“**Register’s Office**” means the Office of the City Register of the City of New York for the County where the Premises are located.

“**Useful Life**” has the meaning provided in Section 4(a) hereof.

2. EFFECTIVE DATE AND TERMINATION. This Declaration shall become effective immediately upon execution by Declarant and shall terminate upon expiration of the Performance Term except for rights and obligations that accrued prior to termination.

3. CITY PURPOSE COVENANT. [THE FOLLOWING IS AN EXAMPLE OF A CITY PURPOSE COVENANT. EACH COVENANT MUST DESCRIBE THE PARTICULAR CITY PURPOSE BEING SERVED.] Declarant agrees that commencing on the date hereof and continuing until completion of the improvements contemplated by the Project the Premises shall be used solely for the development and construction of the Project, and commencing on the Performance Term Commencement Date and concluding (___) years¹ thereafter (the “**Performance Term**”) the Premises shall be used for the benefit of the people of the City as follows (“**City Purpose Covenant**”):

(a) [as a center that is dedicated to the presentation of music, performing arts and cultural programs that foster personal growth for children through music and artistic appreciation]² and which is operated for the benefit of one or more not-for-profit entities³;

(b) for purposes ancillary and incidental to the foregoing uses provided that such ancillary and incidental purposes relate to, promote, and do not derogate from, use of the Premises for the purposes authorized by Section 3(a) hereof;⁴ and

(c) for such other cultural, educational, artistic, community, social service or recreational use for the benefit of the people of the City as the City shall approve through the Mayor of the City of New York or the Mayor’s designee.⁵

¹ **THE PERFORMANCE TERM IS DETERMINED IN EACH CASE BY OMB.**

² **EXAMPLE OF USE**

³ **THIS PART IS REQUIRED**

⁴ **THIS SECTION CANNOT BE MODIFIED WITHOUT PRIOR APPROVAL FROM OMB COUNSEL**

⁵ **THIS SECTION CANNOT BE MODIFIED WITHOUT PRIOR APPROVAL FROM OMB COUNSEL.**

For the purposes hereof, “**Performance Term Commencement Date**” means the date on which the construction work contemplated by the Project has been substantially completed as evidenced by the issuance of a Certificate of Occupancy (Temporary or Final) for the entire Premises, or a Letter of Completion by the New York City Buildings Department, in either case, as required by applicable law, and the Premises can be utilized as required by the City Purpose Covenant.

4. **ADDITIONAL AGREEMENTS.** Declarant further covenants and agrees as follows:

(a) **No Destruction, Removal or Alteration.** Any property whether real or personal (including the Premises and any items of machinery and equipment) and any improvements to the Premises paid for in whole or in part with City Funds shall not be destroyed, removed or altered in any way by, through or as the result of the action or inaction of Declarant or that of any of its successors, heirs, assigns, legal representatives, lessees and/or transferees including, without limitation, any owners and/or users of the Premises before the expiration of the useful life (“**Useful Life**”) for such property as determined by the City’s Office of Management and Budget in its sole and absolute discretion based on the criteria set forth in New York State Local Finance Law Section 11.a, unless the City’s prior written consent shall have been obtained. It is understood and agreed that none of the following shall constitute a breach of this covenant: (i) destruction, removal or alteration of any such property or improvement before the expiration of its Useful Life as a result of the intervention of Force Majeure, (ii) the undertaking of any repair or restoration of the Premises and/or any improvements thereto as may be reasonably necessary to protect and preserve their character and functionality, and (iii) the removal and disposal of any item of machinery and/or equipment as may become worn or obsolete, provided that promptly after such removal, any such item of machinery and/or equipment shall be replaced with other machinery and/or equipment functionally comparable (or better) in all material respects to the removed machinery and/or equipment.

(b) **No Sale, Mortgage, Transfer or Assignment of the Premises.** Declarant shall not sell, mortgage, transfer or assign any interest to the Premises or any portion thereof to any Person, unless: (i) such sale, mortgage, transfer or assignment shall be approved by the City, (ii) if required by the City, such Person (i.e., the purchaser, mortgagee, transferee or assignee) shall execute an instrument in recordable form and otherwise reasonably satisfactory to the City in form and substance, a current form of which is attached hereto as **Exhibit C**, whereby such Person acknowledges that the Declaration can be enforced against the Premises and its owner, and agrees to be personally bound by each and every term, covenant and condition on the part of Declarant to be performed and/or observed under this Declaration as if such Person was the original Declarant hereunder, (iii) Declarant shall, or shall cause, said instrument to be recorded against the property records of the Premises in the Register’s Office, and (iv) Declarant shall provide the City with evidence of the execution and recordation of said instrument in accordance with the requirements of this Declaration. Any purported sale, mortgage, transfer or assignment of any interest to the Premises or portion thereof that fails to comply with the requirements of this **Section** shall be null and void and of no force or effect whatsoever as if such sale, mortgage, transfer or assignment shall not have been consummated.

(c) Restoration. If the Premises shall be damaged or destroyed by fire or other casualty, ordinary or extraordinary, foreseen or unforeseen, Declarant shall promptly restore the Premises to the extent and the value of, and to the extent reasonably practicable, the character of the Premises as they existed prior to said casualty such that the Premises can continue to be used in accordance with the City Purpose Covenant. Declarant shall so restore the Premises whether or not (i) such damage or destruction has been insured or was insurable, (ii) Declarant is entitled to receive any insurance proceeds, or (iii) the insurance proceeds are sufficient to pay in full the cost of the restoration of the Premises. However, if after a fire or other casualty the Premises cannot be repaired or restored so that the Premises can continue to be used in accordance with the requirements of the City Purpose Covenant, unless the City agrees otherwise, the insurance proceeds shall be allocated between Declarant and the City as follows: (a) to the City, an amount equal to the amount of City Funds actually disbursed to Declarant; and (b) the balance, if any, to Declarant.

(d) Certificate. On the anniversary of the date of this Declaration and on each anniversary thereafter, Declarant (or the owner of the Premises at such time) shall provide the City with a certificate, substantially in the form annexed hereto as Exhibit B, certifying that the Premises are held, occupied and used in compliance with the requirements of this Declaration (the “**Compliance Certificate**”). The Compliance Certificate shall be signed by the Chief Executive Officer of Declarant or that of the owner of the Premises at such time.

(e) Inspections. At any time and from time to time upon reasonable prior notice, the City and its officers, employees, servants, consultants and agents shall be permitted to enter the Premises to confirm that the Premises are being used in compliance with the requirements of this Declaration.

(f) No Discrimination; Sectarian and Other Uses. The Premises shall not be used to unlawfully discriminate against any Person on the basis of race, religion, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or political affiliation. Any portion of the Premises the acquisition, construction or improvement of which shall have been paid for with City Funds shall not be used to advance religion or support sectarian activity, including religious worship, instruction or proselytization. Notwithstanding the preceding, subject to the requirements of the City Purpose Covenant, such portion of the Premises may be made available to any Person, including Declarant itself, on a neutral, non-discriminatory basis for any religious or nonreligious purposes or activities, provided that such portion of the Premises is generally made available to the general public for such purposes or activities on substantially similar terms and conditions, the availability of such portion of the Premises for such purposes or activities on such terms and conditions is made known to the general public, and the use of such portion of the Premises for any such purposes or activities is occasional and temporary.

(g) Green Building Standards Law. If the amount of City Funds and the nature of the improvements contemplated by the Project trigger the requirements of the Green Building Standards Law (New York City Charter Section 224.1 and Chapter 10 of Title 43 of the Rules of the City of New York), Declarant shall comply with the requirements of said Green Building Standards Law in the construction of the improvements contemplated by the Project.

5. REPRESENTATIONS AND WARRANTIES. Declarant represents and warrants that:

(a) There are no restrictions of record on the use of the Premises, nor any present or presently existing future estate or interest in and to the Premises, nor any Lien of any kind, on or with respect to the Premises, which prevent, preclude or delay, or may prevent, preclude or delay, the imposition, performance and/or observance of the restrictions, covenants, obligations and agreements of this Declaration which have not been extinguished or subordinated to this Declaration.

(b) The execution, delivery, performance and recordation of this Declaration by Declarant has been authorized by all necessary corporate action of Declarant and does not and will not: (i) require any consent or approval by any Person, which has not been obtained and is in full force and effect on the date hereof, (ii) contravene the charter or by-laws of Declarant, (iii) 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 Declarant or its affiliates, (iv) result in a breach of, or constitute a default or require any consent, which has not been obtained and is in full force and effect on the date hereof, under any indenture or agreement, lease or instrument to which Declarant is a party or its properties may be bound or affected, or (v) cause Declarant to be in violation of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award, or in default under any such indenture, agreement, lease or instrument.

6. REAL COVENANTS. Declarant understands and agrees that the restrictions, covenants, obligations and agreements contained in this Declaration shall be real covenants running with the land and shall inure to the benefit of the City and its successors and assigns, and bind Declarant and its successors, heirs, assigns, legal representatives, lessees and transferees, including, without limitation, any owners and/or users of the Premises.

7. RECORDING. Declarant shall file and record, or shall cause to be filed and recorded, immediately upon execution hereof, this Declaration in the Register's Office and shall cause the Register's Office to index this Declaration against the Premises. Promptly upon recordation hereof Declarant shall deliver to the City true and complete copies of this Declaration bearing the recording information and certified by the Register. If Declarant fails to record this Declaration and/or deliver copies thereof to the City as required hereby, the City may record this Declaration, at the sole cost and expense of Declarant and all recording fees and other fees, costs and expenses including, without limitation, any and all expenses for the purchase of a reasonable number of certified copies of the recorded Declaration shall be immediately paid by Declarant to the City.

8. SUBORDINATION; CONFLICTING LIENS. Any present or future estate in and to the Premises and any Lien of any kind at any time arising, claimed or asserted in and to or with respect to the Premises shall be subject and subordinate to this Declaration. Accordingly, Declarant for itself and on behalf of its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises shall cause any Person that at any time asserts any right or claim in and to or with respect to the Premises to subordinate any such right or claim to the Premises to this Declaration.

In addition, Declarant for itself and on behalf of its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises agrees that it shall not permit the imposition of any restriction on the use of the Premises that conflicts with the City Purpose Covenant in any manner without first obtaining the written consent of the City, and that any such restriction imposed on the Premises in violation of the foregoing requirement shall be unenforceable for the duration of the Performance Term.

9. **INDEMNIFICATION.** Declarant agrees that it shall defend, indemnify and save the City and its, officials, employees, agents and servants (collectively, the “**Indemnitees**”) harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, court costs and reasonable attorneys’ fees and disbursements, that may be imposed upon, or incurred by, or asserted against, any of the Indemnitees resulting from the execution and delivery of this Declaration, the recordation thereof or the failure of Declarant or any of its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises to perform or observe any restriction, covenant, obligation or agreement of this Declaration on its or their part to be performed or observed.

10. **REMEDIES AND ENFORCEMENT.** Declarant understands, acknowledges and agrees as follows:

(a) The City is an interested party to this Declaration and Declarant consents to enforcement by the City, administratively or at law or equity, of the restrictions, covenants, obligations and agreements contained herein.

(b) Monetary damages would not be adequate or sufficient to compensate the City for a breach of any of the restrictions, covenants obligations and/or agreements of this Declaration. Accordingly, in addition to any other remedies available to the City administratively, at law or equity, under this Declaration or otherwise, the City may obtain a mandatory and/or prohibitory injunction compelling Declarant to specifically perform and observe the restrictions, covenants, obligations and agreements contained in this Declaration or to remedy any failure on the part of Declarant or any of its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises to perform or observe any such restriction, covenant, obligation or agreement.

(c) No right or remedy conferred upon the City in this Declaration is intended to be exclusive of any other right or remedy contained in this Declaration or at law or equity. Every such right or remedy shall be cumulative and shall be in addition to each other right and remedy contained in this Declaration or now or hereafter available to the City at law, in equity, by statute or otherwise.

11. **NOTICES.** All notices, approvals, consents and other communications to the parties hereunder shall be in writing, delivered by hand or sent by registered or certified mail, return receipt requested, or by nationally recognized overnight mail service that provides a receipt to the sender. Receipt of a notice by the party to whom the notice is transmitted will be deemed to have occurred: (i) upon receipt, if hand delivered; (ii) five days from the date of mailing, if mailed; or (iii) the next business day after transmittal by overnight delivery service.

(a) All notices and correspondence to the City must be delivered to the following addresses and addressees or to such other address(es) or addressee(s) of which the City may notify Declarant its successors, heirs, assigns, legal representatives, lessees or transferees including, without limitation, any owners and/or users of the Premises from time to time:

Title: Address: _____

New York, New York _____

with copies to:

Title: Address: _____

New York, New York _____

and

Title: Counsel
Address: New York City Office of Management and Budget 75 Park Place
New York, New York 10007

(b) All notices and correspondence to Declarant its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises will be delivered to the following address(es) and addressee(s) or to such other address(es) or addressee(s) of which Declarant its successors, heirs, assigns, legal representatives, lessees or transferees including, without limitation, any owners and/or users of the Premises may notify the City from time to time:

Name: Title: Address: _____

12. MISCELLANEOUS.

(a) Headings and Captions. The descriptive headings and captions used in this Declaration are for the purposes of convenience only and do not constitute a part of this Declaration.

(b) Governing Law. This Declaration and its performance shall be governed by and construed in accordance with the laws of the State of New York, excluding New York's rules regarding conflict of laws and any rule requiring construction against the party drafting this Declaration.

(c) Amendments. This Declaration may not be amended except by an instrument in writing signed by the City and Declarant.

(d) Waiver. No failure by the City to exercise, and no delay in exercising, any right, power or privilege under this Declaration, and no course of dealing between the City and Declarant and/or any other Person shall constitute a waiver of any such right, power or privilege nor preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(e) Severability; Invalidity of Certain Provisions. The provisions of this Declaration are intended to be severable. If any term or provision of this Declaration or the application thereof to any Person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Declaration, and the application of such term or provision to Persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby and each term and provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

(f) "Including". **"Including"** as used in this Declaration, shall be deemed to mean "including, without limitation."

(g) Required Provisions of Law Controlling. It is understood and agreed that each and every provision of law required to be inserted in this Declaration should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein or is not inserted in correct form, then this Declaration shall forthwith, upon the application of the City, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of the City.

(h) Construction of Terms and Words. All terms and words used in this Declaration regardless of the number and gender in which they are used shall be deemed and construed to include any other gender, masculine, feminine or neuter, as the context or sense may require, with the same effect as if such numbers and words had been fully and properly written in the required number and gender.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written and by a duly authorized signatory agrees for itself and on behalf of its successors, heirs, assigns, legal representatives, lessees and transferees including, without limitation, any owners and/or users of the Premises to be bound by this Declaration.

[NAME OF DECLARANT]

By: _____
Name:
Title:

Sample

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

On the ____ of _____ the year 20__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Sample

EXHIBIT A PREMISES

(SEPARATE ATTACHMENT)

Sample

EXHIBIT B COMPLIANCE CERTIFICATE

(SEPARATE ATTACHMENT)

Sample

COMPLIANCE CERTIFICATE – REAL PROPERTY

Name of Funding Recipient: _____

Name of Declarant/real property owner if other than Funding Recipient:

Address of Premises: _____

Block/Lot: _____

Declaration of Restrictive Covenant (the “Declaration”): Date _____

City Register File Number (CRFN):

City Purpose Covenant Performance Term (No. of years):

Please note that in certain circumstances, such as if the real property is owned by the City, the State of New York or the Federal Government, there would be no Declaration. Check here if applicable: ☐

Instructions: Certifications must be completed for each Premises or property address for which the Funding Recipient has received capital funding from the City of New York (the “City”). This Certification must be signed by an authorized officer of the Funding Recipient and the real property owner if the owner is other than Funding Recipient. Defined terms utilized and not otherwise defined herein shall have the meanings assigned to such terms in the Declaration or Funding Agreement.

Amendments to Declaration: If amendments were executed to the original Declaration, please identify each amendment and its respective date in the space below.

<p>Sample</p>

Funding Agreements or other City capital contracts for Real Property Projects at the Premises: If the City funded multiple real property projects in relation to the Premises, list all relevant funding agreements, the date(s) of such agreement(s) and the applicable project managing agency in the space below.

CERTIFICATION: I, _____, am an authorized officer of the Funding Recipient, and I certify as to the truthfulness of the responses provided herein.

1. (a) Funding Recipient holds, occupies and uses the Premises solely in conformance with all requirements under the Declaration, including the City Purpose Covenant: Yes ☐ No ☐
- (b) In the space below, for the preceding 12-month period, please (i) describe in detail how the Premises have been used by the Funding Recipient in conformance with the City Purpose Covenant, (ii) identify the number of staff and persons served, (iii) list the number of days of use, days used during the average week and regular hours of operation, (iv) identify any and all additional or alternative uses, activities, programs and services beyond those set forth in the City Purpose Covenant and (v) if portions of the Premises were rented to other users, list the entities renting space in the Premises and the purpose of such rental.

Sample

- (c) Are the Premises used exclusively to provide services that are available to all residents of the City regardless of race, religion, creed, color, national origin, sex, age, disability, marital status, sexual orientation or political affiliation? **Yes** ☐ **No** ☐

If Yes or No, please explain.

2. (a) Has any portion of the Premises been used at any time for religious or sectarian activity including religious worship, instruction, prayer or proselytization or otherwise been used to plan and organize such activities?

Yes ☐

No ☐

- (b) If applicable, was such religious or sectarian activity reviewed by the City prior to the execution of the Declaration? Yes ☐ No ☐

- (c) In the space below, please describe such activities and identify the frequency and duration of such activities.

- (d) If Yes is the response to (a) above, has the portion of the Premises used for such religious or sectarian activity been improved and/or constructed with City capital funds or, have any common elements been improved and/or constructed with City capital funds? Yes ☐ No ☐

- (e) If Yes is the response to (d) above, please describe how such religious or sectarian activity complies with the terms of the Declaration.

3. (a) Has the Declaration been recorded with the Office of the City Register of the City of New York as the first priority lien interest on the title of the Premises?

Yes ☐

No ☐

- (b) Are the Premises held free and clear of any lien or encumbrance of any kind other than a subordinate lien?

Yes ☐

No ☐

If No is the response to (a) and/or (b) above, please explain in detail in the space below. **If NO is the response to (a) above, Funding Recipient must take immediate action to record the Declaration as a first priority lien interest on the title of the Premises.**

4. (a) Have any of the improvements to the Premises, paid for in whole or part with City funds, been altered, demolished, destroyed by fire or other casualty or removed? Yes ☐ No ☐

(b) If Yes is the response to (a) above, (i) describe any alterations to the City-funded portion of the Premises, (ii) describe any damage and/or destruction to the Premises and the date of such event, (iii) describe any restoration work needed to remediate any damage or destruction and (iv) if applicable, identify the period of time Funding Recipient was unable to use the Premises due to the impairment event and restoration work.

5. Funding Recipient (i) is a not-for-profit corporation in good standing under the laws of the State of New York, (ii) has not experienced a material adverse change in the financial condition of its business or operations, (iii) is not in default or breach of its obligations under any written agreement with the City, (iv) complies with all Requirements applicable to the use and operation of the Premises and (v) has not received a notice of default in the payment to the City of any taxes, sewer rents or water charges:

Yes ☐

No ☐

If No, please explain.

6. If applicable, has Funding Recipient maintained the required insurance coverage for the Premises as mandated by the Funding Agreement(s)? **Yes** ☐ **No** ☐

If Yes, describe the type of coverage (e.g., commercial general liability insurance, property insurance), the insurance provider, the dollar amount of coverage and the term of coverage.

If No, explain why such insurance is not maintained.

7. Optional - additional relevant information: Provide in the space below any information that Funding Recipient would like the City to take into consideration:

(Print Name of Authorized Representative of Funding Recipient)

(Title)

(Signature)

(Date)

Sample

CERTIFICATION OF DECLARANT – REAL PROPERTY OWNER

I, _____, hereby certify by my signature below, that I am the Authorized Officer of _____, the owner of the Premises as defined in the Declaration of Restrictive Covenant. I hereby certify to the City of New York, the Premises have been held, occupied and used in compliance with the requirements of the Declaration of Restrictive Covenant.

Dated as of: _____

(Print Name of Real Property Owner)

(Print Name of Authorized Representative)

(Title)

(Signature)

Sample

EXHIBIT C

SAMPLE SUBORDINATION

This Subordination is made as of _____, 20__, by _____ (**"Mortgagee"**), a _____, having its principal place of business at _____.

RECITALS

- A. Mortgagee is the holder of a note(s) secured by the mortgage(s) set forth on Schedule A annexed hereto (collectively, the **"Mortgage"**), pertaining to the real estate located at _____, __, New York __, and designated as Tax Block ____ Lot __ on the Tax Map for the City of New York, Borough of _____ (and as further described on Exhibit A, the **"Mortgaged Property"** or **"Premises"**), which Mortgage is recorded in the Office of the City Register of the City of New York ("City Register's Office") as specified on Schedule A.
- B. _____, the owner (**"Owner"**) of the Mortgaged Property, has applied to The City of New York (**"City"**) for City capital funds (**"Funding"**) to subsidize 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, among other things, Owner execute[d], deliver[ed] and record[ed] or cause[d] 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 B] [dated _____ and recorded _____ at the City Register's Office under CRFN _____] in favor of the City and New York City Department of Cultural Affairs (**"DCA"**).
- D. The Declaration requires, among other things, that Mortgagee execute this Subordination, subordinating its Mortgage to the Declaration and agreeing to the terms contained herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagee agrees as follows:

- 1. The Mortgage held by Mortgagee shall be subject and subordinate to the Declaration.
- 2. [Mortgagee agrees that the Declaration shall have the same validity, priority, and effect as if executed, delivered and recorded prior to the date

the Mortgage was executed, delivered and recorded.] *[delete this paragraph if Declaration executed and recorded before Mortgage]*

3. If Mortgagee or its designee takes title to the Mortgaged Property, Mortgagee hereby acknowledges that the Declaration is enforceable against the Premises and its owner, and agrees to: (a) be personally bound by each and every term, covenant and condition of the Declaration as if Mortgagee was the original Declarant under the Declaration, and (b) include in any deed, indenture or other instrument of conveyance of fee title interest of the Premises: (i) a covenant that the purchaser or other transferee of said interest agrees to be personally bound by each and every term, covenant and condition of the Declaration as if said purchaser or transferee was the original Declarant under the Declaration, and (ii) an acknowledgement by said purchaser or transferee that the Declaration may be enforced against the Premises and its owner.
4. [Mortgagee acknowledges that the City and DCA are relying on this instrument in its determination to make the Funding available to Owner.] *[delete this paragraph if Funding Agreement executed and registered before Mortgage]*
5. The terms, covenants and agreements of this Subordination shall inure to the benefit of the City, DCA and its respective successors, assigns and transferees and shall be binding upon Mortgagee and its successors, assigns, nominees and transferees.
6. This Subordination shall be recorded in the City Register's Office and indexed against the Mortgaged Property and the Mortgage.

IN WITNESS WHEREOF, Mortgagee has caused this Subordination to be executed by its duly authorized officer as of the day and year first written above.

MORTGAGEE:

By: _____

Name:

Title:

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

On the ____ day of _____ in the year 201_ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

My Commission Expires: _____

Sample

SCHEDULE A THE MORTGAGE

[List of all mortgages (dates, parties, amounts) and recording information (date, CRFN or Reel Page)]

Sample

EXHIBIT A MORTGAGED PROPERTY

Sample

EXHIBIT B

FORM OF DECLARATION OF RESTRICTIVE COVENANT

[Delete if already recorded]

Sample

EXHIBIT 2

Capital Equipment Catalog

Capital Equipment Catalog FY25

This sample equipment meets the requirements for capital eligibility.

Equipment systems must be at least \$50,000 with all components integral to system function.

DCLA does not manage initial outfitting projects.

Theatrical Lighting System

Minimally comprised of the following 4 component types: control, power interface, cable, and lighting instrument

C-Clamps
Control console with monitors
Dimmers, relays, or power distribution boxes
DMX cables
LED lighting instruments (static and automated)
Lighting instruments/units (static and automated)
One (1) lens or lens tube per engine
Safety cables
Stage cables
Wing Faders

Sound System

Minimally comprised of the following 5 component types: audio capture and/or playback, mixer, amplifier, speaker, and cable

Assisted listening systems
Audio Processing: storage, level compression, data compression, transmission, enhancement (e.g., equalization, filtering, noise cancellation, echo or reverb removal or addition, etc.)
Cable/snakes/DI boxes
Computer
Intercom
Microphones
Mixer
Multi-formatted playback/recorder
Preamp and amps
Racks
Speakers (clamp or chain mounted)
Stage monitors
Transmitters and receivers

Audio/Visual System

Minimally comprised of the following 5 component types: audio/video capture and playback, mixer, projector, speaker, cable

Audio and/or video mixer
Audio multi-formatted playback/recorder
Cables (including CAT 6, Firewire)
Computer
Converters
DCP, Blu-ray, and DVD players, writers, decks
Hard drives
Multi media controllers/switchers
Projector/lens
Racks
Speakers (clamp or chain mounted)
Video cameras
Video monitors

IT System
Cables Firewire Internal hard drives Keyboards/Mice Mac and PC CPUs with transferable OEM operating software Monitors Printers and scanners Servers Speakers Switches Wireless access points
Seating System
Connected auditorium chairs, risers and railings Telescopic Seating (not attached)
Staging System
Platforms, frames, decking
Vehicles
Each vehicle must meet the \$50,000 minimum Passenger vehicles that seat at least 10 people Pick-up trucks Cargo vans
Vehicles / Heavy Machinery
Each piece of equipment must meet the \$50,000 minimum CNC router Forklift Tractor Trailer
EXAMPLES of INELIGIBLE EQUIPMENT
This is a sample list of the equipment not approved by DCLA for Capital Equipment. Batteries (rechargeable, single use) Cases/storage tubs Chair lifts and elevators (these qualify as a construction project) Desks/bookcases/chairs Drones Dust covers Exhibits (vitrines or display cases, customized content) Hand trucks/carts Installation services for performance-related equipment (lighting, sound, and AV) Ladders Laptops and tablets Maker/work space components that are not \$50,000 each Make-up Stations Marley/dance floors Projection screens Safes Snow throwers or blowers Soft-goods (backdrops, curtains, scrims) Software (any subscription software and associated hardware) Software (application, non-transferable license) Stanchions and ropes Stands (microphone, speaker, music, camera, tripods, gimbals) Temporary or movable structures that involve one or more trades to install Training, manuals, or warranties Trash or recycling containers Vehicle attachments (temporary snow plows, mulchers) VR/AR equipment, software and licenses Walkie talkies or two-way radios unconnected to rest of system

EXHIBIT 3

Sample: Capital Equipment Annual Use Certification (AUC)

**CAPITAL EQUIPMENT
ANNUAL USE CERTIFICATION FORM**

ORGANIZATION NAME:

ORGANIZATION ADDRESS:

YEAR ACQUIRED / DESCRIPTION OF CITY-FUNDED EQUIPMENT:

NO.	STATEMENT *	TRUE	FALSE
1.	The Equipment has not been altered, relinquished, replaced, disposed of, or removed to another location (except as necessary for maintenance or repair) without the City's consent.		
2.	The Equipment has been used and maintained in a responsible and lawful manner by the Organization for its City Purpose or such other purpose approved by the City, and not for personal, family or household, or religious use.		
3.	The Equipment has not been damaged or destroyed, lost or stolen, in whole or in part by fire or other casualty without immediate notification to the City.		
4.	The Equipment has not become subject to any lease, lien, mortgage, assignment, interest, or other encumbrance.		
5.	The Equipment was used in accordance with the terms and conditions of the Capital Equipment Letter Agreement, Funding Agreement or other legal agreement, as applicable, for all or part of July 1, 20xx through June 30, 20xx.		

**Capitalized terms are defined in the applicable Capital Equipment Letter Agreement or Funding Agreement.*

If you answered FALSE to statement 1 through 5, explain:

6. For the preceding 12-month period, please (i) describe in detail how the Equipment has been used by the Organization in conformance with the City Purpose Covenant, (ii) identify any and all additional or alternative uses, activities, programs and services beyond those set forth in the City Purpose Covenant, (iii) identify any operators of the Equipment, (iv) identify the number and type

of persons served, and (v) describe the frequency of use of the Equipment.

7. Is the Equipment being used or stored in a new location that is different than the one described in the Capital Equipment Letter

Agreement or Funding Agreement? Please answer: YES ☐ NO ☐

8. Attach a copy of the current certificate of insurance, Certification by Broker or Agent, and Additional Insured Endorsement (listing “The City of New York, including its officials and employees” as an additional insured) evidencing the coverage required under the City Capital Equipment Letter Agreement or the Funding Agreement.

CERTIFICATION:

I certify by my signature below that (i) I am an authorized representative of the Organization and (ii) the above is a true and correct statement of the condition and use of the Equipment as of the date hereof and during the last twelve (12) months.

Name/Title: _____ **Date:** _____

Signature: _____

Complete and sign this form. Send this document, current certificate of insurance, Certification by Broker or Agent, and Additional Insured Endorsement to the Department of Cultural Affairs at capitalinventory@culture.nyc.gov no later than July XX, 2024.

Keep a copy for your records.

EXHIBIT 4

Questions and Answers About the Doing Business Data Form

Doing Business Accountability

Questions and Answers About the Doing Business Data Form

What is the purpose of this Doing Business Data Form (DBDF)?

To collect accurate, up-to-date identification information about organizations that have business dealings with the City of New York in order to comply with Local Law 34 of 2007 (LL 34), a campaign finance reform law.

LL 34 limits municipal campaign contributions from principal officers, owners and senior managers of entities doing business with the City and mandates the creation of the Doing Business Database to allow the City to enforce the law. The information requested in this DBDF must be provided, regardless of whether the organization or the people associated with it make or intend to make campaign contributions.

No sensitive personal information collected will be disclosed to the public.

Why have I received this DBDF?

The contract, franchise, concession, grant or economic development agreement you are proposing on, applying for or have already been awarded is considered a business dealing with the City under LL 34. No proposal or application will be considered and no award will be made unless this DBDF is completed.

Most transactions valued at more than \$5,000 are considered business dealings and require completion of the Doing Business Data Form. Exceptions include transactions awarded on an emergency basis or by “conventional” competitive sealed bid (i.e. bids that do not use a prequalified list or “Best Value” selection criteria.) Other types of transactions that are considered business dealings include real property and land use actions with the City.

What individuals will be included in the Doing Business Database?

The principal officers, owners and certain senior managers of organizations listed in the Doing Business Database are themselves considered to be doing business with the City and will be included in the Database.

- **Principal Officers** are the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer (COO), or their functional equivalents. See the DBDF for examples of titles that apply.
- **Principal Owners** are individuals who own or control 10% or more of the organization. This includes stockholders, partners and anyone else with an ownership or controlling interest in the entity.
In addition, as of January 2018, the DBDF must report organizations, as well as individuals, that own 10% or more of the entity. If you have not yet completed a form that does so, do so with this form.
- **Senior Managers** include anyone who, either by job title or actual duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any contract, concession, franchise, grant or economic development agreement with the City. At least one Senior Manager must be listed or the DBDF will be considered incomplete.

I have already completed a Doing Business Data Form; do I have to submit another one?

Yes. An organization is required to submit a DBDF each time it enters into a transaction considered a business dealing with the City, including contract, concession and franchise proposals. The DBDF has both a Change option, which requires only information that has changed since the last DBDF was filed, and a No Change option, so no organization should have to fill out the entire DBDF more than once.

If you have already submitted a DBDF for one transaction type (such as a contract), and this is the first time you are completing a form for a different transaction type (such as a grant), please select the Change option and complete Section 4 (Senior Managers) for the new transaction type.

Will the personal information on this DBDF be available to the public?

No. The names and titles of the officers, owners and senior managers reported on the DBDF will be made available to the public, as will information about the organization itself. However, personal identifying information, such as home address and date of birth, will not be disclosed to the public, and the home address will not be used for communication purposes.

I provided some of this information in PASSPort; do I have to provide it again?

No. Unlike PASSPort, you can complete a form that certifies there are no changes since the previous certification or Doing Business Data Form. To request a report of all officers, owners and managers currently certified in the Doing Business Database please contact Doing Business Accountability at 212-298-0600 or doingbusiness@mocs.nyc.gov.

What organizations will be included in the Doing Business Database?

Organizations that hold \$100,000 or more in grants, contracts for goods or services, franchises or concessions (\$500,000 for construction contracts), or that hold any economic development agreement or pension fund investment contract, are considered to be doing business with the City for the purposes of LL 34. Because all of the business that an organization does or proposes to do with the City will be added together, the DBDF must be completed for all transactions valued at more than \$5,000 even if the organization doesn't currently do enough business with the City to be listed in the Database.

No one in my organization plans to contribute to a candidate; do I have to fill out this DBDF? Yes. All organizations are required to return this DBDF with complete and accurate information, regardless of the history or intention of the entity or its officers, owners or senior managers to make campaign contributions. The Doing Business Data Form must be complete so that the Campaign Finance Board can verify whether future contributions are in compliance with the law.

My organization is proposing on a contract with another firm as a Joint Venture that does not exist yet; how should the Data Form be completed?

A joint venture that does not yet exist must submit a DBDF for each of its component firms. If the joint venture receives the award, it must then complete a form in the name of the joint venture.

How long will an organization and its officers, owners and senior managers remain listed on the Doing Business Database?

- **Contract, Concession and Economic Development Agreement holders:** generally for the term of the transaction, plus one year.
- **Franchise and Grant holders:** from the commencement or renewal of the transaction, plus one year.
- **Pension investment contracts:** from the time of presentation on an investment opportunity or the submission of a proposal, whichever is earlier, until the end of the contract, plus one year.
- **Line item and discretionary appropriations:** from the date of budget adoption until the end of the contract, plus one year.
- **Contract proposers:** for one year from the proposal date or date of public advertisement of the solicitation, whichever is later.
- **Franchise and Concession proposers:** for one year from the proposal submission date.

For information on other transaction types, contact Doing Business Accountability.

How does a person remove themselves from the Doing Business Database?

When an organization stops doing business with the City, the people associated with it are removed from the Database automatically. However, any person who believes that they should not be listed may apply for removal. Reasons that a person would be removed include that they are no longer the principal officer, owner or senior manager of the organization. Organizations may also update their database information by submitting an update form. Removal Request and Update forms are available online at <https://www.nyc.gov/site/mocs/opportunities/dba.page> or by calling 212-298-0600.

What are the campaign contribution limits for people doing business with the City?

Contributions to City Council candidates are limited to \$250 per election cycle; \$320 to Borough President candidates; and \$400 to candidates for citywide office. Please contact the NYC Campaign Finance Board for more information at www.nyccfb.info, or 212-306-7100.

The DBDF is to be returned to the City office that issued it.

If you have any questions about the Doing Business Data Form please contact Doing Business Accountability at 212-298-0600 or doingbusiness@mocs.nyc.gov.

7/2023

Glossary

Accessibility – A characteristic of products, services, programs, and facilities can be independently used by people with a variety of disabilities.

ADA – Americans with Disabilities Act of 1990 is a federal law that prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

Affiliate and Related Organization – An entity that (i) directly or indirectly through another entity, controls, is controlled by, or is under the common control with the submitting organization, and/or (ii) is listed in the submitting organization’s audited financial statements or Form 990. For the purpose of this Capital Request Form, control is defined as the direct or indirect ability to determine or significantly influence the direction of management and policies of another entity by contract or through control or ownership of a majority voting interest in the governing board.

Capital Asset – Tangible property or other kind of asset that meets the minimum cost, minimum useful life, and other criteria for capital funding as set forth in the Comptroller’s Accounting Directive 10.

CEQR – The City Environmental Quality Review is a process by which agencies of the City review proposed discretionary actions to identify the effects those actions may have on the environment. (See the [Mayor’s Office of Environmental Coordination for Environmental Review](#) website).

City – The City of New York.

City Purpose – Specific purpose to be served by the Project for the benefit of the City.

City Purpose Covenant – The covenant entered into with the City requiring the property be used for a City Purpose (see “City Purpose” above).

Comprehensive Betterment – A complete renovation to different areas of a building, facility, or element of infrastructure. The work must be extensive, connected, and usually involves all four trades, including: (1) mechanical; (2) electrical; (3) plumbing; and (4) general construction. In the case of interior spaces, a complete renovation involves the complete redesign of a space including new floor plans.

Comptroller’s Accounting Directive 10 (AD10 or Directive 10) – The City of New York Comptroller’s Internal Control and Accountability Directive 10 which sets forth the definition of a Capital Asset and the baseline criteria for projects to be eligible capital projects. The current version may be found at: <https://comptroller.nyc.gov/wp-content/uploads/documents/Directive-10-Charges-to-the-Capital-Projects-Fund.pdf>. Note that Directive 10 is subject to occasional revision; the current version will be applied at the time your project is reviewed.

Construction or Renovation Project – (i) the construction of a new building or other Capital Asset or (ii) improvements, expansions, upgrades, rehabilitations, and betterments to an existing Capital Asset; expanding or adding to the size of a building, structure, or other Capital Asset; and/or retrofitting a building, structure, facility, or other Capital Asset for a wholly new or significantly changed use. The minimum amount of City funding that can be allocated for a construction or renovation project on private property is \$500,000.

Contiguous Space – More than one space or area of a building, facility, or element that is physically near and functionally related to each other (i.e., spaces or areas that are dependent upon each other and necessary for the

asset to function for its primary purpose).

DCAS – New York City Department of Citywide Administrative Services.

DDC – New York City Department of Design and Construction.

Directive 10 – See definition for Comptroller’s Accounting Directive 10

DMV Lien - New York State Department of Motor Vehicles Notices of Lien. See also “Security Agreement” below.

EDC – New York City Economic Development Corporation.

Equipment System – A group of related elements that are mutually dependent upon each other and physically connected or connected through a wireless network. Note that some elements of equipment systems may not be eligible if integrated into the Real Property (e.g., certain cabling and wiring run through the walls). For additional restrictions, see also the definition of “Minimally Attached Equipment System” and “Fixtures” below. Examples of equipment systems include, but are not limited to:

- Performance related equipment, such as lighting or sound; and
- Networked computer systems.

The City will not provide funding for Equipment System(s) if its value would not justify the cost of relocating and reusing such items if necessary.

Any equipment, including fixtures, that does not meet the definition of an Equipment System may be considered ineligible or part of the Real Property and subject to the limitations on funding of Real Property described herein.

DCLA does not manage initial outfitting projects. Requests in CapGrants for initial outfitting will be deemed ineligible.

FEP – Front End Planning is part of DDC’s scope development process during which DDC’s FEP Unit performs an early review of project proposals with sponsor agencies in order to ensure that goals, budgets, scopes and schedules align. The DDC FEP process identifies assumptions, complexities, and risks; makes scope recommendations; and provides a preliminary cost estimate based on current and prior capital project experience.

Fiscal Year – references the City’s fiscal year beginning each July 1 and ending on June 30.

Fixtures – Items attached to the Real Property and subject to the requirements with respect to Real Property. Examples include, but are not limited: to equipment that ties into a building system (such as electrical or plumbing), cables running through a conduit or behind a wall, millwork or built-ins, items that are recessed or flush mount, etc. See also “Minimally Attached Equipment System” below.

Form UCC-1 – Uniform Commercial Code Financing Statement Form 1, which serves as public notice that a lien has been created, or an interest in another’s property, often as collateral for a debt. The name and address of the debtor and secured party are specified, in addition to a description of the collateral. Such notice is usually filed in the office of the Secretary of State in the state where the debtor/borrower is located. See also the definition of “Security Agreement” below.

Form UCC-3 – Uniform Commercial Code Financing Statement Form 3, which serves as public notice of an

amendment or termination of a lien (i.e., changing or adding to information that was previously filed on the Form UCC-1). See also the definition of “Form UCC-1” above.

Full Time Equivalents (FTE) – FTE is a unit of measurement that estimates the number of full-time employees in an organization by combining the hours of all employees and dividing by the number of employees.

- To calculate the full-time staff equivalents (not including full time employees), divide the part-time employee's weekly hours by the standard hours of a full-time employee's workweek. For example, if a company's full-time workweek is 40 hours and a part-time employee works 20 hours, their FTE would be 0.5.
- For the purposes of this funding request, DCLA is asking for staff members only. Project specific temporary positions, such as performers or crew for productions and events, should not be included.

Hard Costs – Costs and expenses in connection with a Construction Project that result in tangible assets, including (a) payments to contractors, subcontractors, suppliers and material men for labor performed and materials supplied, and (b) costs and expenses for labor, services, facilities or equipment necessary for the construction of the asset and that meet all legal requirements for City funding.

Interfund Agreement (IFA) –A mechanism that the City uses to reimburse the General Fund (Expense Budget) for the cost of City employees who work on capital projects.

Letter of No Objection – A letter issued by the New York City Department of Buildings to confirm the legal use of a building constructed before 1938.

Minimally Attached Equipment System – Equipment that is attached to the Real Property, but in such a manner that it can be removed without damage. Such forms of attachment include but are not limited to attachment through the application of bolts, nuts, screws, or nails. Please note that many large items, such as seating units, are often bolted in some manner to the Real Property. If an Equipment System Project involves Minimally Attached Equipment, the City capital funding for the Equipment System must be at least \$250,000 at each location.

Such Equipment must be easily removable, transportable, and reusable at minimal cost in another location if the City is forced to take possession of such Equipment. Any equipment that exceeds Minimal Attachment is considered a Fixture, see also the definition of “Fixtures” above.

OMB – New York City Mayor’s Office of Management and Budget.

Operating Budget and Plan – A financial statement of revenues and expenses organized by year that covers five consecutive years: two years of actuals, one year of current planned revenues and expenses in comparison to actual revenues and expenses (year-to-date), and two years of planned revenues and expenses.

Organization – A not-for-profit organization operating within the five boroughs of the City that is requesting funds from the City to acquire, construct or reconstruct a Capital Asset that such organization will use to provide services to the people of the City.

Performance Term – The period during which the Project funded by the City must be used for the established City Purpose. This term may be no less than the useful life of the Project (see definition below).

Pledged Private/Non-City Funds – Signed and dated commitments by lenders and/or donors other than the City, including New York State and the U.S. Federal Government, to make a gift or grant during a specified period according to specified terms for the Project specified in the Capital Funding Request forms applicable to the

Organization's funding request. The Organization must have signed commitment letters from donors or pre-approval letters from lenders.

Pro Forma Operating Budget – A type of budget, similar in appearance to an operating budget, that shows the projected positive or negative financial impact to an organization's operating budget as a result of a capital project during and at least one year after project completion. Positive or negative impacts to your operating budget include, but are not limited to: changes to staffing (e.g., facilities, programming, and/or development), utility expenses (e.g., electricity or water), swing space rental fees, rental income, etc.

Project – The capital funding proposal specific to each completed Appendix.

Project Address – Address, borough, block and lot designation specifying the location of each Project to be funded by the City. Every parcel of land in the City has a borough, block, and lot designation. This designation is used to identify property by City agencies for tax purposes, zoning and other tracking purposes. To find the block and lot numbers for a property, enter the borough, house number and street name at the City's Department of Finance website (<https://a836-acris.nyc.gov/CP/LookUp/Index>).

Real Property – Immovable property including land, buildings, and fixtures thereto.

Received Non-City Funds – Amount(s) of money paid to the Organization, or cash available, from non-City sources, for the Project specified in the Project Section applicable to the Organization's funding request.

Requested Non-City Funds – Amount(s) of money for a Project sought from sources other than the City, either through application or appeal, and for which, as of the date of submission of this Request Form, the Organization **is awaiting an award decision** (i.e., pending approval or denial). These sources include, but are not limited to, individuals, government entities, and foundations.

Restrictive Covenant – In the case of construction or reconstruction of Real Property (including fixtures and all personal property attached to Real Property), a Declaration of Restrictive Covenant constituting the City Purpose Covenant will be recorded as a senior lien against the recipient's property and will run with the land for the useful life as determined by the City. The City Purpose Covenant does not secure repayment of the City funds. Rather, it requires that the Project be used for the required purpose even if another party were to take control of the Project. See also "City Purpose" above and the sample form of Declaration of Restrictive Covenant, attached hereto as [Exhibit 1](#).

Security Agreement – For Projects involving the purchase of Equipment or Vehicle(s) that will be owned by the organization, a Security Agreement will be entered into requiring that the property be used in compliance with the City Purpose Covenant. A DMV Lien will be filed reflecting this Security Agreement for vehicles. See also "City Purpose" above.

SEQR – State Environmental Quality Review required in New York State for most Projects or activities proposed by a state agency or unit of local government, and all discretionary approvals (permits) from a New York State agency or unit of local government, entailing an environmental impact assessment.

Soft Costs - Costs and expenses in connection with a Project that do not directly result in tangible assets but are essential to the creation of the tangible Capital Asset, including, e.g., (a) design and architectural services and (b) project management services.

Standalone Equipment – A single item of equipment that is not a fixture and alone meets or exceeds the baseline minimum cost of \$50,000 and five-year-useful life criteria under Directive 10.

Subordination Agreement – For Real Property Projects, an arrangement whereby a creditor such as a mortgage holder or other lienholder agrees to make subject to the City’s Declaration of Restrictive Covenant, any loan, mortgage or lien held by such creditor. Subordination is accomplished by a legal agreement in which the lienholder agrees to be bound by the terms of the City’s Covenant and grants to the City a priority.

Except in the case of a lien held by United States Department of Housing and Urban Development (HUD), for Equipment System Projects, a creditor such as a mortgage holder or other lienholder must execute a legal agreement in which such lienholder agrees to exclude the Equipment from any loan, mortgage or lien held by such creditor.

See sample form of a Subordination Agreement included in [Exhibit 1](#).

Title Insurance - A policy issued by an insurance company guaranteeing that the title to a parcel of Real Property is clear and properly in the name of the title owner, and that the owner has the right to deed the property (convey or sell) to another. Should a problem later arise with the title (such as an incomplete recordation of an existing senior lien), the insurance company will pay the damages to the new title holder or secured lender or take steps to correct the problem. The City requires Title Insurance for Projects involving the recordation of Declaration of Restrictive Covenant against Real Property to ensure the Restrictive Covenant has first priority and to provide the City with rights to make a claim under the policy should any defects in the title exist. The property owner can purchase either a fee owner’s or mortgagee’s title policy that includes within the policy (1) a form of endorsement recognizing the existence of the Covenant; and (2) an assignment to the City of rights under the policy to sue for any breach of the endorsement or mortgagee’s title policy, which treats the City’s covenant like a mortgage. The amount of the title insurance policy should match the amount of City funding for the capital project (at least a minimum).

UDAAP - Urban Development Action Area Projects include a designation to property developed on formerly City-owned land. The program encourages the construction of residential housing in these designated areas, in conformance with land-use standards and the law.

ULURP – Uniform Land Use Review Procedure is a standardized procedure created by the New York City Charter which provides for public review of the use, development, or improvement of Real Property subject to City regulation.

Useful Life – The expected life of the capital project is based on engineering estimates of actual useful life and Section 11(a) of the New York State Local Finance Law which sets forth the maximum bonding terms, known as periods of probable usefulness (“PPU”) for different categories of capital work and assets. Under Directive 10, the City may not fund any assets with a useful life that is less than five years.

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