

5.1.4 Preparing and Recording the Affordable Housing Covenant and Agreement or Inclusionary Housing Agreement

For clarification purposes, if the residential project is subject to 2015 ARO, the developer shall enter into and record an Affordable Housing Covenant and Agreement (“AHA”). However, if the residential project is subject to the 2021 ARO, the appropriate agreement shall be the Inclusionary Housing Agreement (“IHA”). Both shall hereinafter be referred to as the “Agreement”.

Prior to the issuance of any building permit for the project, including, without limitation, excavation or foundation permits, interior demolition permits, and other phased construction permits, the developer must record the Agreement. The signed Affordable Housing Profile (“AHP”) and other documents required by DOH, as applicable, must be attached as an exhibit to the recorded Agreement. Failure to record the Agreement with the AHP attached as an exhibit, or any other exhibits required by DOH, or any errors found post recordation, will require the developer to re-record the Agreement.

Since the Agreement can take up to 45 business days to prepare once all required documents are received, developers are encouraged to submit all required due diligence documents as soon as possible to the ARO Project Manager and to ensure their completeness and accuracy in order to avoid delays. The required due diligence documents are:

1. An **executed and recorded** copy of the deed conveying title to the developer
2. A copy of the title policy showing the developer as the owner of the property and the named insured (**except** in the case of city land sales if this information is not available).
 - a. An **executed** waived title commitment/marked and **signed** title commitment is also acceptable
 - b. If there are any exceptions in the title policy, such as building code violations and litigation, evidence that the exceptions have been cleared
3. Organizational Structure Documents
 - a. Limited Liability Company
 - i. Articles of Organization for the LLC, certified by the Illinois Secretary of State.
 1. With the Illinois Secretary of State’s stamp of filing and date filed
 2. Along with any amendments filed with the Illinois Secretary of State, as required by law
 - ii. Operating Agreement of the LLC (if any), certified by the manager of the LLC.
 1. Along with any amendments
 2. Must be certified by the manager of the LLC identified in the Operating Agreement
 3. The manager identified in the Operating Agreement should be the same manager identified in the Articles of Organization or Certificate of Formation for Delaware (form LLC 5.5for IL), unless the Articles of Organization are silent
 - iii. Certificate of Good Standing for the LLC, issued by the Illinois Secretary of State (Form LLC-45.5).
 1. Foreign entities must also provide a Certificate of Good Standing from the Illinois Secretary of State
 2. Must not be older than 6 months

- b. Corporation
 - i. Articles of Incorporation, certified by the Illinois Secretary of State
 - 1. With the Illinois Secretary of State's stamp of filing and date filed
 - a. Along with any amendments filed with the Illinois Secretary of State, as required by law
 - 2. Foreign corporations: Submit a complete copy of the Articles of Authority to conduct business in Illinois
 - ii. By-Laws of the Corporation, if required by articles of incorporation or shareholders, certified by the Board of Directors or Shareholders, as applicable
 - iii. Certificate of Good Standing, issued by the Illinois Secretary of State
 - 1. Foreign entities must also provide a Certificate of Good Standing from the Illinois Secretary of State
 - 2. Must not be older than 6 months
 - c. Partnerships
 - i. General Partnership and Limited Liability Partnership
 - 1. Statement of Partnership Authority, along with any filed amendments, certified by the Illinois Secretary of State
 - a. An affidavit stating that the partnership has been legally formed, if a Statement of Partnership Authority was not filed with the IL Secretary of State
 - 2. Assumed Name (DBA-Doing Business As), if any, certified by the Cook County Clerk
 - 3. Partnership Agreement, certified by the partners
 - 4. Certificate of Existence, issued by the IL Secretary of State, no more than 6 months old (Not required for General Partnerships)
 - ii. Limited Partnerships and Limited Liability Limited Partnerships
 - 1. Certificate of Limited Partnership certified by the IL Secretary of State
 - a. If foreign, a Statement of Qualification certified by the Illinois Secretary of State
 - 2. Partnership Agreement
 - 3. Certificate of Existence, issued by the IL Secretary of State, no more than 6 months old
4. Resolutions and Consent of the Entity to enter into the Agreement, including Signatory authority. Please provide one document containing the following resolutions:
 - a. Authorization for the entity to enter into the Agreement (identify appropriate agreement: IHA or AHA)
 - b. Authorization for the person identified in the signature block to sign the Agreement
 - c. Name of the manager/partner/officer or shareholder authorized to act on behalf of the entity (signatory for the Agreement).
5. Copy of the ordinance approving the city land sale, financial assistance, or entitlement (or the administrative adjustment or ZBA decision, as applicable).
 - a. Certified passed ordinance can be obtained from the City of Chicago Clerk
 - b. Please do not send the ordinance package submitted for City Council introduction
6. Copy of the AHP, signed by the developer and the ARO Project Manager.

- a. If a House Number Certificate has been issued assigning a new address to the property, the AHP form should reflect the new address(es)
7. Floor plans submitted for building permit, dated, with affordable units highlighted.
 - a. Should identify the unit numbers
8. Copy of the Affordable Unit Details and Square Footage worksheet, with any changes made since the AHP was signed highlighted.
9. A copy of the House Number Certificate, issued by the Chicago Department of Transportation, if one was issued.
 - a. Along with any referenced survey(s)

If the unit mix/sizes have changed since the AHP was signed, the ARO Project Manager will work with the developer to update the AHP. Once the Agreement is finalized, the developer will sign and notarize the Agreement and coordinate with the ARO Project Manager on DOH's execution. Once fully executed, the developer, at its expense, will record an original of the executed Agreement, with the AHP attached as an exhibit, with the Cook County Clerk. The developer, at its sole expense, will also be responsible for recording any future amendments to the Agreement or any re-recording of the Agreement.