

HPD FUTURE HOUSING INITIATIVE RIDER TO CONTRACT BETWEEN OWNER AND CONTRACTOR

General:

This Rider ("Rider") is annexed to and made a part of the Agreement ("Agreement"), dated _____, between _____ ("Owner") and _____ ("Contractor") for certain work described therein ("Work") at _____ ("Project").

The Agreement, this Rider, and any conditions, drawings, specifications, addenda, other documents listed in the Agreement (collectively, the "Contract") shall not be modified or amended without the prior written approval of the City of New York Department of Housing Preservation and Development ("HPD").

Contractor acknowledges that:

Owner has obtained a grant ("Grant") from NYSERDA to finance all or part of the cost of the [Future Housing Initiative Work Scope](#) (the "Approved NYSERDA Scope") and as such, the Contractor is obliged to meet certain requirements outlined in this Rider.

Building Performance:

- Project must be designed and certified to one of the following
 - PHI Classic
 - Phius+ 2018 Core or Phius+ 2021
 - Phius Prescriptive
- At least one person from the contractor team, and preferably all key supervisors who do not have previous experience building to a Passive House standard must attend a Passive House 101 training (approximately 1 hour long) prior to the Construction Kickoff Meeting.
- All primary subcontractors working on air barrier systems are encouraged to attend a Passive House 101 training prior to starting work on the project.
- Contractor must also commit to identifying a Future Housing Initiative "project champion" as the key point of contact with the program Technical Assistance Provider "TAP" team throughout the construction process.

High Performance Electric Equipment:

- Project must include the following equipment:
 - Electric high-performance heat pumps for space heating, cooling and domestic hot water
 - High-performance electric laundry equipment as defined in the Program Requirements or approved by the Program TAP team
 - Energy Recovery Ventilation (ERV) meeting Passive House requirements.
- All Systems and system components must be installed in accordance with manufacturer specifications and installation requirements, and in compliance with all applicable laws, regulations, codes, licensing and permit requirements including, but not limited to, the New York State Environmental Quality Review Act, NY State Historic Preservation Office, the Statewide Uniform Fire Prevention and Building Code and State Energy Conservation Construction Code, the National Electric Code, Fire Codes and all applicable State, city, town, or local ordinances or permit requirements.

Technical Requirements:

- In addition to items listed above and all HPD requirements, Contractor must agree to comply with the applicable HPD/NYSERDA Technical Requirements as listed in Exhibit A (the “Technical Requirements”)
- All projects will be subject to System Commissioning, per the Technical Requirements.
- **IMPORTANT:** The NYSEDA HPD Future Housing Initiative is directing a very high priority to preventing refrigerant leaks. Refrigerant leaks contribute substantially to global warming, will increase energy use in the building, and could place resident health at risk through inadequate heating and cooling. All technicians working with refrigerant charging and connecting refrigerant piping shall review and certify in writing that they have received and read Appendix A (HPD’s Refrigerant Charging and Leak Prevention Requirements) in the Technical Requirements and shall sign the refrigerant charging report.

Equipment Use & Maintenance:

Contractor shall provide the following set up and maintenance items:

- Preset all thermostats according to set-points and limits outlined in the Technical Requirements
- Participate in at least one meeting with the owner team and TAP to develop relevant training and documentation for building residents on the use of in-unit HVAC systems and related equipment (e.g., heat pumps, thermostats, ERVs).
- Participate in at least one meeting with owner team and TAP to develop relevant training and documentation for building staff on operation and maintenance of all Systems.
- Provide a detailed manufacturer’s operation handbook as well as a maintenance manual containing information on the Systems and related components and a schedule of required system maintenance, including maintenance and testing requirements of antifreeze solutions used on the project and any start-up/commissioning documentation for the system(s). For commercial-grade VRF systems or systems over 5-tons, the O&M manual must include as-built drawings.
- **OPTIONAL:** Have subcontractors provide a maintenance contract to the owner for all Systems specific to the NYSEDA Approved Scope that is fair and reasonable, and meets the minimum standards recommended by the System manufacturer(s).

Heat Pump System Warranties:

- Contractor shall provide for all Split Heat Pump Space Conditioning Systems:
 - 10-year or longer parts warranty
 - 1-year or longer labor warranty
- Contractor shall provide for all Room Heat Pump Systems:
 - Must have a minimum 12-month parts and labor warranty, with minimum extended 4-year warranty on the closed refrigeration system.
- Contractor shall provide for all Heat Pump Hot Water Heating Systems:
 - For Hybrid/Packaged systems (< 120 gal) - minimum 10-year warranty on parts, 1-year warranty on labor
 - For Split Systems - minimum 1-year warranty on parts and 5 years on the compressor, 1-year warranty on labor

Access, Reviews, Site Visits & Inspections:

- The TAP, NYSEDA and/or HPD may conduct the following site inspections, at minimum:
 - Commencement (“construction kick-off” meeting),
 - Open Wall (at completion of HVAC and plumbing system rough-in),
 - Final (substantial completion)
- The TAP shall be entitled to make additional visits as deemed necessary

- The TAP shall be entitled to inspect, review and approve or reject the Work on behalf of HPD or the approved representative and NYSERDA as necessary

Incentive Payment Structure:

Funds totaling the Final Incentive Amount will be paid directly from NYSERDA to the Owner in four milestones payments. Each milestone payment is expected to occur at common junctions (defined below) in the project timeline. Requisitions for milestone payments will adhere to the following sequence.

- a) For each milestone, there is a list of documents and/or commissioning reports that must be submitted to the TAP to demonstrate sufficient progress towards project conformance with Approved NYSERDA Scope goals. The **FHI Full Document Checklist** lists required submissions for each milestone. Documents shall be submitted to the TAP for review and stored on NYSERDA's SharePoint.
- b) When all required documents/reports are submitted and accepted for compliance by the TAP and the project has achieved each milestone definition, the TAP will issue a memo to NYSERDA indicating successful completion of the milestone requirements.
- c) Upon review of the TAP memo, relevant document checklist, and all submitted documents, NYSERDA will issue payment to the owner.
- d) Funding will be paid out in the milestones described below; provided that the milestones or the percentage of funds being disbursed may be modified, subject to the prior approval of HPD, NYSERDA and the Senior Lender.
 - i. Milestone #1 - After Closing: After closing of the HPD loan and submission of all outstanding documents, including documentation showing the project has achieved Passive House pre-certification, up to 5% of the total incentive amount will be released to cover costs associated with integrated design and Passive House pre-certification.
 - ii. Milestone #2 – Rough Ins: At completion of HVAC and plumbing rough-in, 40% of funds will be released to cover the costs of Approved NYSERDA Scope items.
 - iii. Milestone #3 - Substantial Completion: Upon issuance of the Temporary Certificate of Occupancy (TCO), Certificate of Substantial Completion (G704) as well as all other documents listed for this Milestone in the **FHI Full Document Checklist** an additional 40% of funds will be released.
 - iv. Milestone #4 - Final Completion: All remaining funds will be disbursed after all required remaining documents on the **FHI Full Document Checklist** are submitted including Passive House certification and all outstanding documentation. Failure to achieve final Passive House certification will not forfeit release of remaining funds if every reasonable effort is made to achieve certification and a detailed description of the reasons why the building failed to certify are provided and approved by NYSERDA.

Owner acknowledges that payment of the NYSERDA incentive will be made upon the TAP's approval of the Approved NYSERDA Scope items in accordance with the terms of this Agreement and the HPD loan documents. Owner shall comply with the requirements regarding disbursements in the HPD financing documents in order to requisition for HPD loan proceeds for the HPD portion of the Approved NYSERDA Scope items.

Owner acknowledges that any change order requests to the Approved NYSERDA Scope must be reviewed and approved by HPD, NYSERDA and Senior Lender, if any, and if so approved, NYSERDA may revise the Final Incentive Amount if a portion of the Approved NYSERDA Scope is removed or changed. Any relevant documentation should be included in a request (AIA G701, similar).

Bidding Requirements:

The contractor is required to separately itemize all costs specifically related to the project's Approved NYSERDA Scope. The following items must be itemized in the contractor's bid and on all subsequent payment requests:

- Itemized costs for the following:
 - Supply and Install of all Space Heating systems ("Systems") where applicable including all components, including interconnecting refrigeration piping, pipe insulation, and controls, and testing & commissioning of System, including refrigerant charging and refrigerant leak testing/prevention, and training of the owner in the controls.
 - Supply and Install of all Hot Water systems ("Systems") where applicable including all components, including interconnecting refrigeration piping, water piping, pipe insulation, and controls, and testing & commissioning of System, including refrigerant charging and refrigerant leak testing/prevention, and training of the owner in the controls.
 - Supply and install costs for all electric appliances
 - Supply and Install of all Ventilation systems ("Systems") where applicable
 - Supply and install cost of all envelope components required to achieve Passive House certification broken out by assembly:
 - Above Grade Wall Insulation
 - Below Grade Wall Insulation
 - Under Slab and Slab Edge Insulation
 - Roof Insulation
 - Windows and Doors
 - Other Upgrade (e.g. facade)
 - Supply and install costs for thermal bridge mitigation
 - Supply and install costs for air sealing measures
 - Supply and install costs for renewable energy system, if applicable
 - Supply and install costs for central laundry equipment, exhaust and make-up air systems
 - Cost for all additional coordination specific to the NYSERDA Approved Scope

AGREED TO AS OF:

OWNER: By (sign):

Name (print): Title:

CONTRACTOR: By (sign):

Name (print): Title:

Exhibit A: Technical Requirements

This project is subject to the following Technical Requirements (check all that apply):

- ☐ [Technical Requirements - Split System Heat Pump for Space Heating \(August 2024\)](#)
- ☐ [Technical Requirements - Heat Pump Water Heater \(August 2024\)](#)
- ☐ [Technical Requirements - Room Heat Pump \(August 2024\)](#)

Note that Technical Requirements may be updated periodically during the Future Housing Initiative. Projects will be subject to the technical requirements agreed to in this document but may optionally comply with new requirements.