|  |  |  |
| --- | --- | --- |
| Project Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  |  | Checklist Draft Date ­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| FHA Project Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Closing Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

*The HUD Attorney will obtain two (2) sets of all documents in hard copy, and two (2) in electronic copy (unless otherwise agreed): originals (O), certified copies (Cert), or photocopies (C), as noted.*

*Where originals are requested, only 1 needs to be an original, and the rest may be copies. If a copy is requested, an original will be accepted.*

|  | **Item** | **HUD Form** | **#** | **Status and Comment** |
| --- | --- | --- | --- | --- |
| **FHA Commitment** |  |  |
|  | a. FHA Firm Commitment | Housing Notice 2018-03 | C | *Include all attachments.* |
| b. Amendments |  | C | *If applicable.* |
| c. Assignments |  | C | *If applicable.* |
| **Organizational, Due Diligence, and Other Supporting Documents** |
|  | Borrower’s Incumbency Certificate with Organizational Documents attached | O | *Update checklist as appropriate for entity type.* |
| a. Filed formation documents, from Secretary of State, as amended |  | C | *E.g., Articles of Organization, Certificate of Limited Partnership, or Articles of Incorporation. Certified within 30 days of closing.* |
| b. Operating Agreement / Partnership Agreement / Bylaws, as amended |  | C | *Must include HUD-required provisions and be certified by Borrower as current and correct.* |
| c. Authorizing Resolution |  | C | *If applicable (authority may be granted in governing agreement).* |
| d. Status certificate |  | C | *Dated within 30 days of closing.* |
| e. Qualification to Do Business in Project State |  | C | *For out-of-state entities, if applicable.* |
|  | For multi-tier entities, Borrowers are required to submit and list organizational documents for entities that appear in the Borrower’s signature block in the loan documents. | O | *If applicable. Update checklist as appropriate, patterned after item 2 above.* |
|  | ALTA Survey Plat with HUD Survey Certification |  | O | *Dated within 120 days of closing, if applicable.* |
|  | HUD Survey Instructions and Surveyor’s Report | HUD-91073M | O | *Last inspection within 120 days of closing, if applicable.* |
|  | Certificate of No Change to Survey |  | O | *If applicable.* |
|  | Title Insurance Policy, with HUD-required endorsements |  | O | *2006 ALTA form, where approved for use in the applicable jurisdiction.*  |
| a. Title Exception Documents |  | C |  |
| b. UCC Search Report |  | C |  |
| c. ALTA Closing Protection Letter |  | C | *If applicable.* |
| d. Title Agent Letter of Authority |  | C | *If applicable.* |
|  | Vesting Deed or Ground Lease |  | C | *Confirm legal description. A new Lease Addendum (HUD-92070M) is not required unless the ground lease has been materially modified from the version approved at the previous insured loan closing without HUD approval or the Ground Lease term doesn’t comply with the National Housing Act.* |
|  | UCC Financing Statements (State & County) |  | C |  |
|  | Opinion of Borrower’s Counsel | HUD-91725M | O | *Must include appropriate attachments.* |
| a. Certification of Borrower | HUD-91725M-CERT | O |  |
| b. Supporting legal opinion |  | O | *E.g., tax-exempt bonds and/or /LIHTC, property jurisdiction.* |
| c. List of pending litigation. |  | C |  |
|  | Exam (aka Application) Fee Pay.gov Receipt |  | O |  |
|  | Upfront Mortgage Insurance Premium (MIP) Pay.gov Receipt |  | O |  |
|  | Evidence of Zoning Compliance |  | C | *Zoning endorsement to Title Policy, zoning opinion, or letter from the zoning authority.*  |
|  | Evidence of Building Code Compliance |  | C |  |
|  | Evidence of Utility Access |  | O | *Title Policy endorsement or utility bill is acceptable evidence.* |
|  | Evidence of Critical Repair Completion |  | O | *If applicable* |
|  | Evidence of Flood Insurance |  | C | *If applicable.* |
| **HUD Closing Documents, Escrow, and Repair Forms** |
|  | Note (Multistate) | HUD-94001M & state addendum | C | *State-specific provisions and/or addenda may be required.* |
|  | Security Instrument | HUD-94000M & state addendum | O | *State-specific provisions and/or addenda may be required. Include Rider to Security Instrument – LIHTC Properties (Closing Guide § 5.5), if applicable. Also include, if applicable, Rider to Security Instrument Fee Joinder (for structures where borrower doesn’t hold fee title for tax abatement purposes.)* |
|  | Regulatory Agreement | HUD-92466M | O | *Include, as applicable: Rider for Affordable Projects, HUD-92466-R5; Residual Receipts Rider (Closing Guide § 5.5); Rider to Maintain Project’s Energy Performance as Consideration for MIP Reduction.*  |
|  | Request for Endorsement of Credit Instrument  | HUD-92455M | O | *With all applicable exhibits and attachments.* |
|  | Borrower’s Oath | HUD-92478M | O | *Must be given under oath in accordance with state law requirements for taking an oath.*  |
|  | Agreement and Certification | HUD 93305-M | O | *If applicable.* |
|  | Escrow Agreement for Non-critical, Deferred Repairs | HUD-92476.1M | O | *If applicable.* |
|  | Other escrow agreements |  | O | *If applicable, see Firm Commitment.* |
| **Certifications** |
|  | Certified Closing Statement |  | C |  |
|  | Lender Certification No Material Adverse Change |  | O | *May be qualified with: “to the best of lender’s knowledge” and/or “based on lender’s reasonable due diligence.”* |
|  | Consolidated Certifications - Borrower | HUD-91070M | C |  |
|  | Lender’s Byrd Amendment Certificate |  | O | *Unless collected previously by Housing.*  |
|  | Lender’s Assurance of Permanent Financing |  | O |  |
|  | Lender provided Aged Schedule of Accounts Payable |  | O |  |
|  | Borrower Certification re: Aged Schedule of Accounts Payable |  | O |  |
|  | Borrower Certified Rent Roll |  | O  | *Dated within thirty days of closing.* |
|  | Certificate Regarding Tenant’s Security Deposit |  | O | *If applicable.* |
|  | Owner Certification and Acknowledgement (MIP) | HUD-92013D | O | *If applicable due to qualifying Green, Affordable, or Broadly Affordable MIP Reduction* |
| **Secondary Financing Loan Documents, Restrictive Covenants, and Commercial Leases** |
|  | Loan Agreement |  | C | *If applicable.* |
|  | Note | HUD-92223M/HUD-91710M or 91712M | C | *If applicable. When debt is unsecured, use Surplus Cash Note or Residual Receipts Note if Residual Receipts Rider to Regulatory Agreement is used.*  |
|  | Mortgage |  | C | *If applicable.* |
|  | Subordination Agreement, or HUD Secondary Financing Rider | HUD-92420M | O | *When secondary financing is secured, use HUD Subordination Agreement for public secondary financing; if private, non-governmental secondary financing is approved, the HUD Secondary Financing Rider is used (Closing Guide § 5.1)*. |
|  | Disbursement Agreement |  | O | *If applicable.* |
|  | Restrictive Covenants/Use Agreements |  | C | *Use HUD Rider (Closing Guide § 5.3), if applicable. This includes instances when Housing permits affordability covenants ahead of the HUD Security Instrument pursuant to the Closing Guide and MAP Guide, with appropriate modifications; a sample of the revised Rider can be found here:* <https://www.hud.gov/program_offices/general_counsel/mffaqs>*.* |
|  | Commercial Space Leases (with Tenant Estoppel Certificates) |  | C | *If applicable. All commercial leases must be subordinate to Security Instrument, except as permitted by Program Obligations.* |
|  | Subordination and Attornment Agreement (and Non-Disturbance, if requested by lessee, and acceptable to Housing) |  | C | *If applicable. See MAP Guide Appendix 8 for guidance and sample SNDA.* |
| **HUD Administrative Documents and Additional Requirements** |
|  | Administrative Memo with attached Waivers and HUD-2 forms |  | O | *If applicable.* |
|  | Previous Participation Certification Clearance | HUD-92530 | C | *Unless previously collected by Housing.* |
|  | Management Agent Certification | HUD-9839 (a, b, or c, as applicable) | O | *Unless previously collected by Housing.* |
|  | HUD Representative’s Trip Report | HUD-95379 | O | *If applicable.* |
|  | Section 8 HAP Contract Assignment or Renewal  |  | O | *If applicable.* |
|  | HUD Prepayment Approval and supporting documents | HUD 9807 | C |  |
|  | Attendance List |  | O | *If closing by mail, include contact list for parties involved.* |
|  | Deal-specific conditions included in Firm Commitment |  |  | *If applicable.* |
|  | State law specific conditions included in Firm Commitment. |  |  | *If applicable.* |