|  |  |
| --- | --- |
| **Project Name**: | **Checklist Draft Date**: |
| **FHA Project Number**: | **Initial/Final Closing Date**: |

*Lender’s Counsel must submit two (2) sets of all documents in hard copy (except when instructed otherwise by the HUD Closing Attorney, and two (2) in electronic copy (see Closing Chapter 19.1.3.4 for specific requirements): originals (O) 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.*

*\*\* “Near closing” documents excepted from the Closing Coordinator’s initial readiness review in Closing Chapter 19.2.4*

|  | **Item** | **HUD Form** | **C/O** | **Status and Comment** |
| --- | --- | --- | --- | --- |
| **FHA Commitment & Attendance List** | | | | |
| 1. | a. FHA Firm Commitment | Housing Notice 2018-03 | C | *Include all attachments.* |
| b. Amendments |  | C | *If applicable.* |
| c. Assignments |  | C | *If applicable.* |
| d. Exhibit B – Additional Conditions |  | C | *Include deal-specific conditions, if applicable.* |
| 2. | Attendance List |  | C | *If closing by mail, include contact list for parties involved.* |
| **Organizational, Due Diligence, and Supporting Documents** | | | | |
| 3. | 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 60 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. Include provision that prohibits any changes that affect the obligations of the tax credit investor without written consent of Lender and HUD, if applicable.* |
| 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.* |
| 4. | ALTA Survey Plat with HUD Survey Certification |  | O | *Dated within 180 days of closing.* |
| 5. | HUD Survey Instructions and Surveyor’s Report | HUD-91073M | O | *Last inspection within 180 days of closing.* |
| 6. | 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.* |
| 7. | Vesting Deed or Ground Lease | HUD-92070M, if Ground Lease | C |  |
| 8. | 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., property or organizational jurisdiction; tax-exempt bonds and/or/LIHTC.* |
| c. List of pending litigation. |  | C | *If applicable.* |
| 9. | Exam (aka Application) Fee Pay.gov Receipt |  | O | *Include evidence of additional payment if loan amount has increased from amount proposed in application.* |
| 10. | Upfront Mortgage Insurance Premium (MIP) Pay.gov Receipt\*\* |  | O |  |
| 11. | Inspection Fee Pay.gov Receipt |  | O |  |
| 12. | Evidence of Utility Access |  | C | *Borrower certification that utilities are fully installed and bills are current is acceptable for projects with Level 2 or Level 3 alterations when additional (or changes to) utilities are not needed to support the repairs required by the Firm Commitment. The certification must also state that there is no requirement for additional (or changes to) utilities to support the post-closing work required by the HUD Firm Commitment.*  *When additional (or changes to) utilities are needed to support the repairs required by the Firm Commitment for projects with Level 2 or 3 alterations, will serve and adequate capacity letter/agreement from utility companies, and Title Policy endorsement (if available), are required.* |
| 13. | Evidence of Zoning Compliance |  | C | *Zoning endorsement to Title Policy, zoning opinion, or letter from the zoning authority.* |
| 14. | Evidence of Critical Repair Completion | HUD-95379 | O | *If applicable.* |
| 15. | Owner Contractor Agreement (AIA A107 or successor form approved for use by Housing) |  | C | *If applicable. Closing attorney should review for proper signatures and completeness, and confirm acceptability of terms with HUD underwriter or construction analyst.* |
| 16. | Owner Architect Agreement (AIA B104 or successor form approved for use by Housing) |  | C | *If applicable. Closing attorney should review for proper signatures and completeness, and confirm acceptability of terms with HUD underwriter or construction analyst. For both design and supervisory architects, if different.* |
| 17. | Architect’s Certificate of Liability Insurance |  | C | *If applicable. See MAP Guide 5.2.3.2; include certificate found at Appendix 5.A.5.8.3. For both design and supervisory architects, if different.* |
| 18. | Dimensional Drawings |  | C | *If applicable. Closing attorney should confirm acceptability with HUD underwriter or construction analyst.* |
| 19. | Building Permit(s)\*\* |  | C | *If applicable. Closing attorney should review for proper signatures and completeness, and confirm acceptability of terms with HUD underwriter or construction analyst.* |
| 20. | Evidence of Building Code Compliance |  | C | *If applicable.* |
| 21. | Tax Credit Equity - Assurance of Investor Contributions |  | C | *If applicable.* |
| 22. | Completion Assurance Documents for Off-Site Improvements | HUD-92479M, if using bond, HUD-91071M if using escrow | O | *Also, list other required documents if applicable and as required by HUD, pursuant to Closing Chapter 19.5.6.4.* |
| **Loan Documents, Escrow, and Repair Forms** | | | | |
| 23. | Note (Multistate) | HUD-94001M & state addendum | C | *State-specific provisions and/or addenda may be required.* |
| 24. | Security Instrument | HUD-94000M & state addendum | O | *State-specific provisions and/or addenda may be required. Include Rider to Security Instrument – LIHTC Properties, 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.)* |
| 25. | UCC Financing Statements (State & County) |  | C |  |
| 26. | Regulatory Agreement | HUD-92466M | O | *Refinance alternatives should be selected (including sections 2, 5, 7 and 8) for 223(f) w/ Expanded Work. Include, as applicable: Rider for Affordable Projects; Residual Receipts Rider; Rider to Maintain Project’s Energy Performance as Consideration for MIP Reduction. For 207/223(f) cooperative refinances, use Cooperative Rider to the Regulatory Agreement; Riders to the Regulatory Agreement for the Borrower, Master Tenant, Master Sub-lessee (Commercial), and the Master Sub-lessee (Residential) for master lease structures used to accommodate multifamily tax credit sources pursuant to MAP Guide Chapter 16.* |
| 27. | Request for Endorsement of Credit Instrument | HUD-92455M | O | *With all applicable exhibits and attachments. General contractor does not sign for 223(f) Expanded Work.* |
| 28. | Borrower’s Oath | HUD-92478M | O | *Must be given under oath in accordance with state law requirements for taking an oath. Section 4 need not be completed.* |
| 29. | Agreement and Certification | HUD 93305-M | O | *If applicable. General contractor does not sign for 223(f) Expanded Work.* |
| 30. | Escrow Agreement for Deferred Repairs  or  Escrow Agreement  for Deferred Repairs  and Debt Service –  223(f) | HUD-92476.1M  HUD-5960 | O  O | *If applicable.*  *If applicable. See ML 2020-11. Form may be modified if there are no post-closing repairs/alterations and the sole purpose is to satisfy the debt service requirement of the ML; contact HQ OGC for sample.* |
| 31. | Operating Deficit Escrow | HUD-92476a-M | O | *If applicable.* |
| 32. | Other escrow agreements |  | O | *If applicable, see Firm Commitment.* |
| **Certifications** | | | | |
| 33. | Certified Closing Statement\*\* |  | C |  |
| 34. | Consolidated Certifications - Borrower | HUD-91070M | O | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 35 | Lender’s Byrd Amendment Certificate |  | O | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 36. | Lender’s Assurance of Permanent Financing |  | O |  |
| 37. | Short Form Cost Certification\*\* | HUD-2205-A | O | *If applicable.* |
| 38. | Lender’s Certification Electronic Submission of (MF) Closing Documents | HUD-5985 | O | *Required while HUD Memorandum dated March 16, 2020 related to the Covid-19 Pandemic remains in effect.* |
| **HUD Administrative Documents and Additional Requirements** | | | | |
| 39. | Administrative Memo with attached Waivers and HUD-2 forms |  | O | *If applicable.* |
| 40. | Previous Participation Certification Clearance | HUD-92530 | O | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 41. | Management Agent Certification | HUD-9839(a, b, or c, as applicable) | O | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 42. | HUD Prepayment Approval and supporting documents | HUD 9807 or 9808 (for 202 Prepayments) | C | *If applicable.* |
| **Secondary Financing Loan Documents (Including Bridge Loans), Restrictive Covenants (including bonds/LIHTC), and Commercial Leases[[1]](#footnote-2)** | | | | |
| 43. | Secondary Financing Documents |  |  |  |
|  | a. Loan Agreement |  | C |  |
|  | b. Note | HUD-92223M/HUD-91710M or 91712M |  | *When debt is unsecured, use Surplus Cash Note; use Residual Receipts Note if Residual Receipts Rider to Regulatory Agreement is used.*  *When debt is secured, include “Required HUD language in Subordinate Note” from section 3(c) of either HUD-92420M or HUD-92907M, as applicable.* |
| c. Mortgage |  | C | *If applicable.* |
| d. Subordination Agreement | HUD-92420M/HUD-92907M *as applicable* |  | *If applicable. When subordinate lender is a public entity, use HUD-92420M; when subordinate lender is private entity, use HUD-92907M.* |
| 44. | Restrictive Covenants/Use Agreements |  | C | *Use HUD Rider/Amendment to Restrictive Covenants, if applicable. This includes instances when Housing permits affordability covenants ahead of the HUD Security Instrument pursuant to the MAP Guide, with appropriate modifications; a sample of the revised Rider can be found here:* <https://www.hud.gov/program_offices/general_counsel/mffaqs>*.*  *In cases where a LURA cannot be recorded by final closing, Borrower must certify to HUD that the approved draft will be recorded as soon as practicable. In such cases, Lender’s Counsel must include the certification and the approved*  *draft LURA in the Closing Docket. See Closing Chapter 19.4.11.2.* |
| 45. | Disbursement Agreement |  | C | *If applicable.* |
| 46. | Bond Documents |  | C | *If applicable. See Closing Chapter 19.4.10 for scope of review for each document.* |
|  | a. Bond Counsel Opinion |  |  |  |
|  | b. Trust Indenture/Funding Loan Agreement |  |  |  |
|  | c. Restrictive Covenant/Tax Regulatory Agreement |  | C | *Use HUD Rider/Amendment to Restrictive Covenants, if applicable* |
|  | d. Bond Disbursement Agreement or Loan Agreement |  | C |  |
|  | e. Bond Note |  | C |  |
|  | Equity Bridge Loan Rider – LIHTC Projects |  | C | *If applicable. See MAP Guide 19.16.* |
| 47. | 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.* |
| 48. | Subordination and Attornment Agreement for Commercial Lease (and Non-Disturbance, if requested by lessee, and acceptable to Housing) |  | C | *If applicable. See MAP Guide Appendix 8.6 for guidance and sample SNDA.* |
| 49. | HUD Approval of Tax Deferral and Evidence of Subordination of Tax Deferral Lien |  | O | *If applicable. Unless previously collected by Housing, in which case a copy is sufficient. See MAP Guide Chapter 7.16.4.* |
| **Section 8 and 202 Documentation** | | | | |
| 50. | Section 8 HAP Assignment |  | O | *If applicable.* |
| 51. | Section 8 HAP Renewal |  | O | *If applicable.* |
|  | Consent to Collateral Assignment of HAP Contract | HUD-9649 or HUD-9649a | O | *If applicable. See Closing Chapter 19.4.9.1.* |
| 52. | Repayment Agreement |  | O | *If applicable.* |
| 53. | 202 Prepayment Use Agreement |  | O | *If applicable.* |
| **Condo and Air Rights Documentation** | | | | |
| 54. | Condominium & Air Rights Structures |  | C | *If applicable, include recorded documents.* |
| 55. | Shared Use Agreement |  | C | *If applicable.* |
| **Environmental Conditions and Mitigation** | | | | |
| 56. | Evidence of Flood Insurance |  | C | *If applicable* |
| 57. | Wetlands and/or Floodplain LURA |  | C | *If applicable. Acceptable form can be found at* [*https://www.hudexchange.info/resource/4053/sample-restrictive-covenant-for-floodplains-and-wetlands/*](https://www.hudexchange.info/resource/4053/sample-restrictive-covenant-for-floodplains-and-wetlands/) |
| 58. | Evidence of Remediation Contract Insurance |  | C | *If applicable.* |
| 59. | Environmental reports or documentation related to special environmental conditions that must be confirmed by endorsement. |  | C | *If applicable. See Ex B of the Firm Commitment* |
| 60. | All Environmental reports or documentation required by endorsement (rows 57-60) uploaded to HEROS Mitigation Follow-up Screen. |  |  |  |

1. Additional tabs may be added when there are multiple secondary financing sources, restrictive covenants, etc. [↑](#footnote-ref-2)