|  |  |
| --- | --- |
| **Project Name**: | **Checklist Draft Date**: |
| **FHA Project Number**: | **Initial 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. | 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 | | *If applicable.* |
| 12. | Application for Insurance of Advance of Mortgage Proceeds\*\* | HUD-92403 | O | |  |
| 13. | Contractor’s Requisition\*\* | HUD-92448 | O | |  |
| 14. | Evidence of Zoning Compliance |  | C | | *Zoning endorsement to Title Policy, zoning opinion, or letter from the zoning authority.* |
| 15. | Evidence of Utility Access |  | C | | *Will serve & adequate capacity letters/agreements and Title Policy endorsement (if available).* |
| **Loan Documents, Escrow, and Repair Forms** | | | | | |
| 16. | Note (Multistate) | HUD-94001M & state addendum | C | | *State-specific provisions and/or addenda may be required.* |
| 17. | 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.)* |
| 18. | UCC Financing Statements (State & County) |  | C | |  |
| 19. | Regulatory Agreement | HUD-92466M | O | | *Include, as applicable: Rider for Affordable Projects; Residual Receipts Rider; Rider to Maintain Project’s Energy Performance as Consideration for MIP Reduction; 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.* |
| 20. | Lender’s Certificate | HUD-92434M | O | | *With all applicable exhibits and attachments.* |
| 21. | Building Loan Agreement | HUD-92441M | O | |  |
| 22. | Disbursement Agreement | Ex. C to HUD-92441M | O | | *If applicable.* |
| 23. | Borrower’s Oath | HUD-92478M | O | | *Must be given under oath in accordance with state law requirements for taking an oath.* |
| 24. | Agreement and Certification | HUD-93305M | O | |  |
| 25. | Operating Deficit Escrow | HUD-92476a-M | O | |  |
| 26. | Escrow Agreement for Working Capital | HUD-92412M | O | |  |
| 27. | Bond Guaranteeing Sponsor’s Performance | HUD-92477M | O | | *If applicable.* |
| 28. | Other escrow agreements, as required |  | O | | *If applicable, see Firm Commitment. List as appropriate.* |
| **Construction Documents** | | | | | |
| 29. | Owner-Architect Agreement (B108) & HUD Amendment | HUD-92408-M | | C | *For both design and supervisory architects, if different.* |
| 30. | Certification of Architectural / Engineering Fees |  | | O | *For both design and supervisory architects, if different. See sample language in Closing Chapter.* |
| 31. | Mortgagor’s and Architect’s Certificate of Payment | HUD-92403.1 | | O | *For both design and supervisory architects, if different.* |
| 32. | Evidence of Architects’ Errors & Omissions Insurance |  | | O | *For both design and supervisory architects, if different. Include both the Accord and certificate from MAP Guide Appendix A.5.8.3. See also Closing Chapter 19.5.4.3.* |
| 33. | Building Permit(s)\*\* |  | | C |  |
| 34. | AIA A201; HUD Construction Contract and HUD Supplementary Conditions | HUD-92442M  HUD-92554M | | O | *Include all appropriate exhibits.* |
| 35. | Assurance of Completion for Project |  | |  | *Either bonds or completion assurance agreement.* |
| a. Bonds |  | |  |  |
| i. Performance Bond | HUD-92454M | | C |  |
| ii. Payment Bond | HUD-92452A-M | | C |  |
| iii. Surety’s Power of Attorney |  | | O | *Original to be attached to each bond or to each Performance/Payment Bond set.* |
| iv. Surety’s Fax/Email Letter |  | | C | *To be sent on closing day from surety’s corporate office, not broker’s office, confirming Power of Attorney.* |
| b. Completion Assurance Agreement | HUD-92450M | | O |  |
| i. Evidence of Deposit or Letter of Credit |  | | C | *As applicable.* |
| 36. | Drawings and Specifications |  | | O | *Final, signed by Architect and collected by Housing staff.* |
| 37. | 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 19.6.5.4.* |
| 38. | Notice of Commencement |  | | C | *If project jurisdiction requires. Recording may also be required.* |
| **Certifications** | | | | | |
| 39. | Certified Closing Statement\*\* |  | C | |  |
| 40. | Consolidated Certifications - Borrower | HUD-91070M | O | | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 41. | Lender’s Byrd Amendment Certificate |  | O | | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 42. | Lender’s Assurance of Permanent Financing |  | O | |  |
| 43. | Tax Credit Equity - Assurance of Investor Contributions |  | C | | *If applicable.* |
| 44. | Lender’s Certification Electronic Submission of (MF) Closing Documents | HUD-5985 | O | | *Required while HUD General Counsel Memorandum dated March 16, 2020 related to the Covid-19 Pandemic remains in effect.* |
| **HUD Administrative Documents and Additional Requirements** | | | | | |
| 45. | Administrative Memo with attached Waivers and HUD-2 forms |  | O | | *If applicable.* |
| 46. | Previous Participation Certification Clearance | HUD-92530 | O | | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 47. | Closing Memorandum | HUD-290 | O | |  |
| 48. | Management Agent Certification | HUD-9839(a, b, or c, as applicable) | O | | *Unless previously collected by Housing, in which case a copy is sufficient.* |
| 49. | Affirmative Fair Housing Marketing Plan |  | O | | *If not approved prior to issuance of Firm Commitment – see Exhibit B.* |
| **Secondary Financing Loan Documents (Including Bridge Loans), Restrictive Covenants (including bonds/LIHTC), and Commercial Leases[[1]](#footnote-2)** | | | | | |
| 50. | Secondary Financing Documents |  | | C |  |
| a. Loan Agreement |  | | C | *If applicable.* |
| b. Note | HUD-92223M/HUD-91710M or 91712M, *as applicable* | |  | *If applicable. 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.* |
| 51. | 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.* |
| 52. | Bond Documents |  | | C | *If applicable. See Closing Chapter 19.4.10 for scope of HUD 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 |  |
| 53. | 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.* |
| 54. | 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.* |
| 55. | HUD Approval of Tax Deferral and Evidence of Payment or 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 Documentation** | | | | | |
| 56. | Section 8 HAP Assignment |  | | O | *If applicable.* |
| 57. | Consent to Collateral Assignment of HAP Contract | HUD-9649 or HUD-9649a | | O | *If applicable. See Closing Chapter 19.4.9.1.* |
| **Condo and Air Rights Documentation** | | | | | |
| 58. | Condominium & Air Rights Structures |  | | C | *If applicable, include recorded documents.* |
| 59. | Shared Use Agreement |  | | C | *If applicable.* |
| **Environmental Conditions and Mitigation Requirements** | | | | | |
| 60. | Evidence of Flood Insurance |  | | C | *If applicable* |
| 61. | 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/) |
| 62. | Evidence of Remediation Contract Insurance |  | | C | *If applicable.* |
| 63. | Environmental Permits |  | | C | *As applicable: U.S. and State Environmental Protection Agency Permit, Wetlands Permits from Army Corps of Engineers.* |
| 64. | Environmental reports or documentation related to special environmental conditions that must be confirmed by initial endorsement. |  | | C | *If applicable. See Ex. B to Firm Commitment* |
| 65. | All Environmental reports or documentation required by initial endorsement (rows 61-65) uploaded to HEROS Mitigation Follow-up Screen. |  | | C |  |

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