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| **HUD Attorney Closing Checklist** Operating Loss Loan/Supplemental LoanSection 232/223(d) - COVID | **U.S. Department of Housing** **and Urban Development** |

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

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| **Project Name:** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Project Number:** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****Project Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** **Section of the Act: 232/223(d) - COVID**  |

**SUBMISSION REQUIREMENTS:**

Items marked with an asterisk (\*) must be dated day of closing.

**Closing Documents specific to the Section 232/223(d) COVID Operating Loss Loan Program can be found on the** [**ORCF Website**](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/underwriting/223d) **under “Section 232/223(d) – COVID Documents”.**

Each document should be scanned and separately and must use a naming convention that includes the item number and name from this checklist. **Example: 1\_HUD-90024-ORCF - Contact List**

**Post-Closing Transaccess Submission INSTRUCTIONS TO LENDER’S COUNSEL:**

Please send a media file (any type of electronic file storage including CD, thumb drives etc.) of PDF copies of all final, executed, recorded documents as accepted by HUD counsel at closing, in the order of the following checklist, directly to:

OHP Records Archiving

Department of Housing and Urban Development (HUD)

451 Seventh St., S.W., Room No. B282

Washington, D.C.  20410

When sending in the documents, please email the HUD Closing Coordinator, indicating that you have mailed the media file to the address above.  Each document should be scanned and saved to the media file separately and should use a naming convention that includes the item number and name from this checklist.

***NOTE:******Changes to the following items will not be considered under this transaction type and must be approved prior to application submission****:*

* + ***Account Receivable Financing***
	+ ***Management Agents***
	+ ***Participants***
	+ ***Secondary Financing***

|  **No.** | **Item** | **N/A** | **Incl.** |
| --- | --- | --- | --- |
|  | Current Contact List ([HUD-90024-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/90024_orcf.docx)) |  | [ ]  |
| 2.2.a | Executed Firm Commitment *(Extended and/or not expired as of date of closing.)*Executed Amendment(s) | [ ]  | [ ] [ ]  |
| 3 | Approvals, Request for Waiver of Housing Directive ([HUD-2-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/2_orcf.docx?web=1)) | [ ]  | [ ]  |
| 4 | Lender’s Narrative – Section 232/223(d) – COVID Operating Loss Loan ([HUD-90011t-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/90011torcf.docx)) and Addenda  |  | [ ]  |
| 7 | Amendment to Intercreditor Agreement ([HUD-92322-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92322-orcf.pdf)) Amendment to Intercreditor to add new FHA HUD Loan Documents associated with the 223(d) to Schedule 2. If FHA lender on 223(d) loan is different than FHA lender existing 232 loan, submit redlines of requested changes, as appropriate | [ ] [ ]  | [ ] [ ]  |
| 8 | Supplemental Deposit Account Control Agreement(s) (DACA) providing FHA lender on 223(d) a subordinate interest in the accountCash flow chart from underlying 232 loan last accepted by HUD together with a certification that no changes to this existing cash flow structure have taken placeCash Flow Chart ([HUD-92323-ORCF, Exhibit C-1](https://www.hud.gov/sites/dfiles/OCHCO/documents/92323_orcf.docx)) (note: this cash flow chart should match the existing cash flow chart last approved by HUD) | [ ] [ ] [ ]  | [ ] [ ] [ ]  |
| 9 | Deposit Account Instructions and Services Agreement (DAISA) (no changes will be required, unless this agreement specifically references the underlying 232 loan; in this case, an amendment referencing the supplemental loan OR a supplemental agreement acknowledging the 223(d) lender’s subordinate interest will also be required.) | [ ]  | [ ]  |
| 10.a10.b | Master Tenant Estoppel Certificate ([HUD-92339-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92339_orcf.docx))\*Master Lease and Supplemental Master Lease Addendum – Section 232/Section 223(d) ([HUD-92211A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92211A_orcf.docx?web=1));  | [ ] [ ]  | [ ] [ ]  |
| 11 | Copy of existing Cross Default Guaranty of Subtenants ([HUD-92331-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92331-orcf.pdf)); or or Joinder plus Cross Default Guaranty of Subtenants | [ ] [ ]  | [ ] [ ]  |
| 12.a12.b12.c | Operator Lease Estoppel Certificate ([HUD-91117-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/91117_orcf.docx?web=1))\* Operator Lease and Supplemental Addendum to Operating Lease ([HUD-91116A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/91116A_orcf.docx?web=1))Copy of Operating Lease – If changes to Operating Lease is required by Special Condition, submit redlines of request changes, as appropriate. | [ ] [ ] [ ]  | [ ] [ ] [ ]  |
| 13.1.a – 13.3.g | Borrower’s Organizational Documents**:** For trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

|  |  |  |
| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ]  LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing ResolutionC. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. . Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing.* | [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 14.1.a – 14.3.g | Organizational Documents for Entities within Borrower’s Signature BlockFor trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

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| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ]  LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing.* | [ ] [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 15.1.a – 15.3.g | Master Tenant’s Organizational DocumentsFor trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

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| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ]  LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing.* | [ ] [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 16.1.a –16.3.g | Organizational Documents for Entities within Master Tenant’s Signature BlockFor trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

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| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ]  LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing.* | [ ] [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 17.1.a –17.3.g | Operators’ Organizational Documents For trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

|  |  |  |
| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ] LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing* | [ ] [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 18.1.a – 18.3.g | Organizational Documents for Entities within Operator’s Signature BlockFor trusts, submit the Trust Agreement and the Certification or Affidavit of Trust

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| --- | --- | --- |
| [ ]  Corporation | [ ]  Partnership | [ ] LLC |
| A. Certification of No Change\* | A. Certification of No Change\* | A. Certification of No Change\* |
| B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing | B. Authorizing Resolution C. Good Standing |
| D. Incumbency | D. Incumbency | D. Incumbency |

*Good Standing Certificates (or similar) must be dated within 30 days of closing* | [ ] [ ] [ ] [ ] [ ]  | [ ] [ ] [ ] [ ] [ ]  |
| 20 | Current Facility License(s) Administrator License(s) |  | [ ] [ ]  |
| 22  | Long Term Debt Service Escrow ([HUD-92476C-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92476C_orcf.docx))\*Other Escrows, ***if required by Special Condition.*** | [ ] [ ]  | [ ] [ ]  |
| 23 | Survey or Survey Certification, ***if required by Special Condition.***  | [ ]  | [ ]  |
| 24 | Request for Endorsement of Credit Instrument ([HUD-92455-ORCF)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92455-orcf.pdf)\* |  | [ ]  |
| 25 | Special Conditions to the Firm ***(Provide evidence showing each condition is satisfied)****(*[*Special Condition Matrix*](https://www.hud.gov/sites/documents/SPECIAL_CONDI_MAT-F.DOCX?web=1)*)** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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 |  | [ ] [ ] [ ] [ ] [ ]  |
| 25 | Borrower’s and Operator’s Certification - No Adverse Actions *(Per Firm Commitment Paragraph #19)* |  | [ ]  |
| 30.a30.b | Guide for Opinion of Borrower’s Counsel ([HUD-91725-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/91725-orcf.pdf))\* and Exhibit A to Opinion of Borrower’s Counsel – Certification ([HUD-91725-CERT-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/91725cert-orcf.pdf))\* | [ ] [ ]  | [ ] [ ]  |
| 31 | Guide for Opinion of Master Tenant’s Counsel ([HUD-92335-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92335_orcf.docx))\* | [ ] [ ]  | [ ] [ ]  |
| 32 | Guide for Opinion of Operators’ Counsel, and Certification ([HUD-92325-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92325_orcf.docx?web=1))\* | [ ] [ ]  | [ ] [ ]  |
| 33 | Ground Lease with Amendment to Lease Addendum (covering the 223(d) loan as well as the existing 232 loan) ([HUD-92070-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92070_orcf.docx)) | [ ]  | [ ]  |
| 35 | Supplemental Security Instrument/Mortgage/Deed of Trust ([HUD-94000A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/94000A_orcf.docx?web=1))\* |  | [ ]  |
| 36 | SupplementalHealthcare Regulatory Agreement – Borrower ([HUD-92467-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92467_orcf.docx?web=1))\* |  | [ ]  |
| 37 | Borrower UCC-1 Financing Statements | [ ]  | [ ]  |
| 38 | Copy of existing Memorandum of Master Lease | [ ]  | [ ]  |
| 39 | Supplemental Healthcare Regulatory Agreement – Master Tenant ([[HUD-92338-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92338_orcf.docx?web=1)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92338_orcf.docx?web=1)) | [ ]  | [ ]  |
| 40 | Supplemental Master Tenant Security Agreement ([[HUD-92340A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92340A_orcf.docx?web=1)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92340A_orcf.docx?web=1)) andSupplemental Master Tenant Assignment of Leases and Rent ([[HUD-92334A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92334A_orcf.docx?web=1)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92334A_orcf.docx?web=1)) | [ ] [ ]  | [ ] [ ]  |
| 41 | Master Tenant UCC-1 Financing Statements | [ ]  | [ ]  |
| 42 | Copy of existing Memorandum of Operator Lease | [ ]  | [ ]  |
| 43 | Supplemental Healthcare Regulatory Agreement – Operator ([[HUD-92467A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92467A_orcf.docx?web=1)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92467A_orcf.docx?web=1))\* | [ ]  | [ ]  |
| 44 | Supplemental Operator Security Agreement ([[HUD-92323A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92323A_orcf.docx?web=1)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92323A_orcf.docx?web=1)) and Supplemental Assignment of Leases and Rents ([HUD-92324A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92324A_orcf.docx?web=1)) | [ ] [ ]  | [ ] [ ]  |
| 45 | Operator UCC-1 Financing Statements  | [ ]  | [ ]  |
| 46 | Supplemental Master Lease Subordination Agreement/SNDA ([HUD-92333A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92333A_orcf.docx?web=1)), Joinder plus existing Subordination Agreement/SNDA  | [ ] [ ]  | [ ] [ ]  |
| 47 | Supplemental Subordination, Non-Disturbance and Attornment Agreement of Operating Lease (SNDA) ([HUD-91110-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/91110_orcf.docx?web=1)) | [ ]  | [ ]  |
| 49 | If the Project has existing commercial leases, provide a certification that no changes to the commercial leases have occurred.  | [ ]  | [ ]  |
| 50 | Title1. Title Policy from existing 232 insured loan (policy taken at last HUD closing or last approved by HUD) and
2. Mortgage modification endorsement (or other state specific endorsement bringing the coverage forward) to reflect mortgage modification related to cross default and
3. New Title Policy for 223(d), including title exception documents (will show existing 232 security instrument in B-1) and
4. Updated UCC-1 and Docket Search Certificates
 |  | [ ] [ ] [ ] [ ] [ ]  |
| 51 | Supplemental Healthcare Facility Note ([HUD-94001A-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/94001A_orcf.docx)) *(Endorsement dated day of closing by HUD Attorney)*  |  | [ ]  |
| 53 | Closing Statement\* ***(Utilize most current Sources & Uses page of form HUD-92264a-ORCF)**** Invoices
 |  | [ ] [ ]  |
| 54 | Payment receipt - MIP |  | [ ]  |
| 56 | Payment receipt – FHA Application Fee |  | [ ]  |
| 59 | Evidence of Insurance Coverage - Certification of Insurance ([[HUD-92435-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/92435_orcf.docx)](https://www.hud.gov/sites/dfiles/OCHCO/documents/92435_orcf.docx?web=1))*(Coverage as required per the Firm Commitment and applicable Amendments)****(Signed and Dated)***  |  | [ ]  |
| 60 | Cover Letter |  | [ ]  |
| 72 | Letter from Senior Mortgagee (i) consenting to Supplemental Mortgage and (ii) confirming that Senior Mortgage is current | [ ]  | [ ]  |
| 7373.a73.b | Modification of First Mortgage Loan Documents1. First Mortgage Loan Documents
2. Modification of Mortgage (including required Cross Default Language)
3. UCC-3 Financing Statements
 | [ ] [ ] [ ]  | [ ] [ ] [ ]  |
| 75 | Copy of Updated Borrower Consolidation Certification ([HUD-90013-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/90013_orcf.docx?web=1))Copy of Updated Operator Consolidation Certification ([HUD-90015-ORCF](https://www.hud.gov/sites/dfiles/OCHCO/documents/90015_orcf.docx)) |  | [ ] [ ]  |
| 77 | Lender’s Current Payment Letter\* for existing insured loan (e.g., 223f) of Firm | [ ]  | [ ]  |
| 80 | Attendance List |  | [ ]  |
| Other | Additional Documents of Extra Circumstances ***Only if applicable per Special Condition*** | [ ]  | [ ]  |