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| **Telecommunications Tower Lease Checklist**  Section 232 | **U.S. Department of Housing and**  **Urban Development**  Office of Residential Care Facilities |

**Warning**: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

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| **Project Name:** |
| **Project Number:** |
| **Applicant Name:** |

**EARLY SUBMISSION REQUIREMENTS:**

A consultation with federally recognized tribes may be required when the addition of the telecommunications tower includes ground disturbance (digging). Tribal consultation must be initiated by HUD and the activity must not begin before HUD completes its environmental review. **If tribal consultation is required, the ORCF Account Executive should be notified as early as possible or upon submission of your request for this transaction** **so that a Tribal Consultation can be initiated by HUD.** The documentation required for this early submission, outlined in Exhibit 9 of this checklist, should be sent to the following email address: [OHPTribeNotice@hud.gov](mailto:OHPTribeNotice@hud.gov).

**SUBMISSION REQUIREMENTS:**

* This checklist should be used to request HUD approval of a Telecommunications Tower Lease.
* Lender shall transmit the checklist documents via the HUD Healthcare Portal (link [here](https://www.hud232portal.com/)). In the Portal, select *Asset Management > Project Request Form* > *Telecommunications Tower Lease.*
* It is **critical** that you name each file according to the naming convention provided in the checklist **highlighted in green**. These highlighted numbers are important codes that “guide” the Portal to recognize the type of transaction submitted, section number of the checklist, and the identity of the document. Therefore, using the naming conventions that follows, appropriate file names for this document include **90101-a\_Lender’s Consent [OR] 90101-a\_LendersConsent**. In both examples, the critically important portion of the file name is the five-digit number, dash, letter, and underscore that have been highlighted in green on the checklist.

| **No.** | **Item** | **Incl.** | **N/A** |
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|  | **90701-a\_**Copy of completed **Telecommunications Tower Approval Checklist** |  |  |
|  | **90702-a\_**Brief Narrative Describing the Proposed Transaction |  |  |
|  | **90703-a.1\_**Borrower-Operator-Agent Statement  Document must state that lease has been reviewed by Borrower’s legal counsel and that there are no objections to the conditions of the lease and/or protections of the property. |  |  |
|  | **90704-a.1\_**Certification from Licensed Professional Structural Engineer  Document must provide assurance that in the event of a cell tower collapse, the roof will sustain a fall/collapse without penetrating the building. In the event of a collapse, the cell tower must also be secured in a manner to prevent the tower from falling off the roof. |  |  |
| **5a.** | **90705-a.1\_**Subordination, Non-Disturbance and Attornment Agreement (SNDA) of Operating Lease (form HUD-91110-ORCF)  If SDNA is requested, the detailed explanation of why it would be in HUD’s best interest to permit must be provided. A sample SNDA is located in Housing Notice 2011-07. |  |  |
| **5b.** | **90705-a.2\_**Attorney’s Certification on Execution and Recordation (*See ORCF Loan Serving Guidance home page*) |  |  |
| **6.** | **90706-a.1\_**Telecommunications Tower Lease  Verify that all of the following requirements and provisions are included in the telecommunications tower lease.   * The lease may not be modified, extended or terminated without the prior written consent of the Lender/Mortgagee. * The lease may not be modified or extended without the prior written consent of HUD. * The lease must be assignable by the Lessor to the Mortgagee and/or HUD (i.e., upon foreclosure). * The lease is subordinate to the HUD-held or insured mortgage. * The lease will not be terminated by foreclosure or any other transfer of the mortgaged property; and, that in the case of foreclosure, the Mortgagee and/or HUD shall have the right to accept or terminate the lease. * The lease must contain a clause that states that the Lessee shall, upon receipt of notice of default under the mortgage, pay all rents payable under the lease to the Mortgagee and/or HUD. * The lease may not be modified, extended, or terminated without the prior written consent of the Mortgagee * The lease is conditioned on the tenant obtaining all variances, permits, license, or approvals required by applicable law. * The lease contains an acknowledgment by the Lessee that it has performed its own investigation of the property and has determined its suitability for use. * The lease grants the Mortgagor, its successors, and assigns the right to relocate any equipment, wiring, or cabling. * The lease permits the Mortgagor, its successors, and assigns the right to terminate the lease should:   1. Lessee default in payments owed under the lease;   2. Lessee’s authorized use of the premises materially interfere with Landlord’s use and operation of the property and building;   3. It be determined that the Lessee’s equipment constitutes a danger to the health and safety of the project’s residents or poses a danger to the structural integrity of the building. * A provision ensuring that hazardous waste materials will not be stored, used, generated, etc. * An Anti-Deficiency Provision. * A comprehensive list of the equipment to be installed. * Identification of responsible party for the maintenance of the equipment. * Description of where the equipment is located (i.e., roof of X building, etc.) * A comprehensive listing of any proposed improvements to the mortgaged property |  |  |
| **ENVIRONMENTAL REQUIREMENTS** | | | |
| **7.** | **90707-a\_**Environmental Review  A new Phase I ESA in accordance with ASTME 1527-13 (or the most recent edition) is required if installation of the telecommunications tower involves significant ground disturbance (digging) or any other activities that may result in contaminant exposure pathways.   1. **90707-a.1\_**Phase I Environmental Report 2. **90707-a.2\_**Draft HUD-4128 and additional reports (as applicable) 3. **90707-a.3\_**Phase II Environmental Report (if applicable) 4. **90707-a.4\_**Biological Assessment (if applicable) 5. **90707-a.5\_**Standard Flood Hazard Determination Form, FEMA No. 086-0-32 6. **90707-a.6\_**Other (if applicable): *[describe]* |  |  |
|  | **90708-a\_**State Historic Preservation Office letter-requirements  Provide all information that was sent to the SHPO and any response received. |  |  |
|  | **90709-a\_**Tribal Notification Information  ORCF must complete the Tribal Notification process, please review the [**Lender's Environmental Checklist**](http://portal.hud.gov/hudportal/documents/huddoc?id=223f-EnvChecklist_Apr2014.xlsx) for activities that may require Tribal consultation, including ground disturbance (digging). Tribal consultation must be initiated by HUD and the activity must not begin before HUD completes its environmental review. **If tribal consultation is required, the ORCF Account Executive should be notified as early as possible or upon submission of your request for approval of capital improvements** **so a Tribal Consultation can be initiated by HUD.** The documentation required for this early submission should be sent to the following email address: [OHPTribeNotice@hud.gov](mailto:OHPTribeNotice@hud.gov).To assist ORCF with this process, please provide the following.   1. **90709-a.1\_**Project description (Provide a very detailed description of the type of project, purpose of the project, the proposed activities/site work, and the current condition of the site [e.g., what is on the site now], and the estimated cost of the proposed activities) 2. **90709-a.2\_**Maps (Location map, aerial view, site layout map and topographic map) |  |  |
| **FINAL SUBMISSION DOCUMENTS** | | | |
|  | **90710-a\_**Final Submission Documents *(as applicable)*  When uploading, please clearly identify what the document is in the file name. |  |  |