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

*Unless otherwise agreed, the HUD Attorney will obtain 3 sets of all documents: 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** |
| --- | --- | --- | --- | --- |
| 1. **FHA Commitment**
 |  |  |
|  | a. FHA Firm Commitment | HUD-92432 | C | *Include all attachments including HUD-executed 92264, 92264-A, and property insurance requirements and schedule. Include extensions, if applicable.* |
| b. Amendments, if any |  | C |  |
| c. Assignments, if any |  | C |  |
| 1. **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.* |
| b. Operating Agreement / Partnership Agreement / Bylaws, as amended |  | C | *Should 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 | *Should be dated w/in 30 days of closing.* |
| e. Qualification to Do Business in Project State |  | C | *For out-of-state entities, if applicable.* |
|  | Borrower’s Managing Member / General Partner’s Incumbency Certificate with Organizational Documents attached | O | *As applicable.* |
| a. Filed formation documents, from Secretary of State, as amended |  | C | *e.g., Articles of Organization, Certificate of Limited Partnership, or Articles of Incorporation.* |
| b. Operating Agreement / Partnership Agreement / Bylaws, as amended |  | C | *Should be certified by entity as current and correct.* |
| c. Authorizing Resolution |  | C | *If applicable (authority may be granted in governing agreement).* |
| d. Status certificate |  | C | *Should be dated w/in 30 days of closing.* |
| e. Qualification to Do Business in Project State |  | C | *For out-of-state entities, if applicable, and if required by state law.* |
|  | ALTA Survey Plat with HUD Survey Certification |  | O | *Dated within 120 days of closing.* |
|  | HUD Survey Instructions and Surveyor’s Report | HUD-91073M | O | *Last inspection within 120 days of closing.* |
|  | Title Insurance Policy, with endorsements |  | O | *2006 ALTA form, where approved for use in the applicable jurisdiction. HUD-required endorsements shall be attached. Title exception documents and pro forma policy should be received & reviewed prior to closing. Include authority letter for title agent, if applicable.* |
| a. Title Exception Documents |  | C |  |
| b. UCC Search Report |  | C |  |
|  | Deed or Ground Lease  | HUD-92070M, if Ground Lease | C |  |
|  | Evidence of Zoning Compliance |  | C | *Usually a zoning endorsement to Title Policy; if not, a zoning opinion or letter from the zoning authority may be needed.*  |
|  | Assurance of Utility Service |  | C | *Letters: water, sanitary & storm sewer, electricity, gas, & phone.* |
|  | Opinion of Borrower’s Counsel | HUD-91725M | O | *Should include appropriate attachments.* |
| a. Certification of Borrower | HUD-91725M-CERT | O |  |
| b. Supporting legal opinion |  | C | *Bond/LIHTC opinions, if applicable.* |
| c. List of pending litigation |  | C | *If applicable.* |
|  | Application for Insurance of Advance of Mortgage Proceeds | HUD-92403 | O |  |
|  | Inspection Fee Check |  | O | *If applicable.* |
|  | Mortgage Insurance Premium (MIP) Check |  | O | *If applicable.* |
|  | Additional Examination Fee Check |  | O | *If applicable.* |
|  | Special Conditions from Firm Commitment |  |  | *If applicable.* |
|  | Local Requirements |  |  |  |
|  | Attendance List |  | O | *If applicable.* |
| 1. **HUD Loan Documents**
 |
|  | 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.* |
|  | Regulatory Agreement | HUD-92466M | O |  |
|  | UCC Financing Statements (State & County) |  | C |  |
|  | Building Loan Agreement | HUD-92441M | O |  |
|  | Lender’s Certificate | HUD-92434M | O | *With all applicable exhibits and attachments.* |
|  | Lender’s Assurance of Permanent Financing |  | O |  |
|  | Certified Closing Statement |  | O |  |
|  | Agreement and Certification | HUD-93305M | O |  |
|  | Operating Deficit Escrow | HUD-92476a-M | O |  |
|  | Escrow Agreement for Working Capital | HUD-92412M | O |  |
|  | Other escrow agreements, if applicable |  | O | *List as required, see Closing Guide § 2.8.* |
|  | Borrower’s Oath | HUD-92478M | O | *Must be given under oath in accordance with state law requirements for taking an oath, in order to fulfill National Housing Act requirements.* |
| 1. **Construction Documents**
 |
|  | Owner-Architect Agreement (B108) & HUD Amendment | HUD-92408-M | C |  |
|  | Certification of Architectural / Engineering Fees  |  | O | *See sample language in Closing Guide § 5.7.* |
|  | Mortgagor’s and Architect’s Certificate of Payment | HUD-92403.1 | O |  |
|  | Architect’s Insurance Agent’s Certificate |  | C | *For both design and supervisory architects, if different.* |
|  | Building Permit(s) |  |  |  |
|  | Construction Contract and HUD Supplementary Conditions | HUD-92442MHUD-92554M | O | *Include all appropriate exhibits.* |
|  | 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.* |
|  | Plans and Specifications |  | O | *Final, signed by Architect and collected by housing staff.* |
|  | 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 § 3.5.D. of the Closing Guide.* |
|  | Notice of Commencement  |  | C | *If project jurisdiction requires. Recording may also be required.*  |
| **V. Secondary Financing Documents**  |
|  | Restrictive Covenants / Use Agreements |  | C | *With HUD rider if applicable.* |
|  | Secondary Financing Loan Documents |  | C |  |
| a. Loan Agreement |  | C |  |
| b. Note |  | C |  |
| c. Mortgage |  | C |  |
| d. Subordination Agreement, or Rider to Note and Mortgage | HUD-92420M | O | *If private, non-governmental secondary financing is approved, a Rider to the second mortgage is used (see Closing Guide § 5.1); if public financing, the HUD Subordination Agreement is required.* |
|  | Disbursement Agreement |  | O | *If applicable.* |
| **VI. Supplemental Bond/LIHTC Deliverables** |
|  | Restrictive Covenants / Use Agreements |  | C | *With HUD rider if applicable.* |
|  | Bond Counsel Opinion |  | C |  |
| **VII. HUD Administrative Documents and Additional Requirements** |
|  | Administrative Memo with attached Waivers and HUD-2 forms |  | O | *If applicable.* |
|  | Document Review Worksheets, if applicable |  | O | *If used by program staff to document compliance with cost, valuation, architectural, or other underwriting requirements.* |
|  | Previous Participation Certification Clearance | HUD-92530 | C |  |
|  | Closing Memorandum | HUD-290 | O |  |
|  | Environmental Permits |  | C | *As applicable: U.S. and State Environmental Protection Agency Permit, Wetlands Permits from Army Corps of Engineers.* |
|  | Bond Guaranteeing Sponsor’s Performance | HUD-92477M | O | *If applicable.* |
|  | Commercial Space Leases (with Tenant Estoppel Certificates) |  | C | *If applicable.* |
|  | Subordination, Non-Disturbance and Attornment Agreements |  | C | *If applicable.*  See sample form in Housing Notice 2011-07. |
|  | Lender’s Byrd Amendment Certificate |  | O | *Unless collected previously by Housing.*  |