

## Appendix 3 Summary of Program Specifications and Limitations

### 3A. Specifications and Limitations by Program

<b>New Construction/Substantial Rehabilitation</b>				
SOAs	220	221(d)(4)	231	241(a)
Minimum # of Units	5	5	8	5
Criterion 3 (maximum % of cost except as noted)	90% - for projects with 90% or greater rental assistance; 87% - for projects meeting the Affordable Housing definition and for which the achievable tax credit rents are at least 10% below market. 85% - for market rate projects or tax credit projects without a significant rent advantage (i.e., the achievable rents are at least 10% below market.)		Same as Section 221(d) (4) except for Sub Rehabs which will be controlled by the applicable percentage of “as rehabilitated” value.	90% of the HUD-estimated value of the improvements, additions or equipment. The cost of the repairs and transaction costs will be recognized as the value, so long as any additional land purchased or contributed is no more than the FMV.
Criterion 4 (Statutory Limit on cost per unit)	Where percentages are required, enter the same percentage applied under Criterion 3. See Chapter 8 for complete details and the MF Housing website: <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hicost/hicost">http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hicost/hicost</a> on information for per family unit limits and the HCP by jurisdiction.			The Suppl. Loan, when added to the outstanding balance of the mortgage covering the project or facility, may not exceed the max. stat. limit. Applicable to the building and unit type for the SOA under which the existing first mortgage is insured.
Criterion 5 (maximum % of NOI required for debt service incl MIP)	90% (1.11 DSCR) – for projects with 90% or greater rental assistance 87% (1.15 DSCR) – for projects that meet the Affordable Housing definition and for which the achievable tax credit rents are at least 10% below market. 85% (1.176 DSCR) - for market rate projects or tax credit projects without a significant rent advantage (i.e., the achievable rents are at least 10% below market.) .			90% (1.11 DSCR)

Minimum Vacancy and Collection Loss rates	3% - <ul style="list-style-type: none"> <li>Projects with HAP contracts covering 90% or more of the units;</li> </ul> 5% <ul style="list-style-type: none"> <li>Properties meeting at least the minimum LIHTC set aside requirements with or without income averaging, (20% of the units set aside for tenants earning not more than 50% of area median income; 40% of the units set aside for tenants earning no more than 60% of area median income); and</li> <li>Attainable tax credit rents at least 10% below market</li> </ul> 7% <ul style="list-style-type: none"> <li>LIHTC properties with any percentage of units set aside but without a 10% discount to market; or</li> <li>Market rate properties</li> </ul>			
Occupancy Restrictions	Section 231 insured mortgages are restricted to elderly person (aged 62 or older) and/or persons with disabilities. See Chapter 3.5 for definition of disabled persons. Age Restricted Projects Not Eligible for Section 220.			
Underwritten Commercial Physical Occupancy	The lesser of 80% or that indicated by market.			N/A
Commercial Space Limit	25%	25%	25%	25%
Commercial Income Limit (% of effective Gross Income)	30%	15%	15%	15%
BSPRA/SPRA Allowances	Available for Section 220, 221 and 231 for profit motivated borrowers and limited distributions borrowers For Section 231, allowed on New Construction if no Developer fee; n/a for Section 231 Sub. Rehab. deals.			BSPRA/SPRA is not available.
HUD Application Fee	\$3.00 per \$1,000 of required mortgage amount. For market rate projects, one half of the application fee is due at pre-application and the other half is due with the application for Firm Commitment. For affordable projects the entire amount is paid at the Firm Commitment stage, regardless of whether or not a Pre-Application is filed with HUD. Refer to Chapter 3.1.JJ. for Application fees for Opportunity Zone projects.			
HUD Inspection Fee	\$5 per thousand of the mortgage amount for new construction & \$5 per thousand of the total of all improvement costs for substantial rehabilitation. The inspection fee is no longer calculated on BSPRA and SPRA.			
Maximum Lender Fees and Charges	3.5% of the mortgage amount, (this calculation may consist of any combination of origination, financing, and permanent placement fees as long as it also includes the lender's legal fee). Financing and placement fees up to 5.5% are permissible in bond transactions. Third party costs (e.g., appraisal, market study, PCNA, and other organization costs) may be included as mortgageable soft costs in the mortgage calculations and are not included in the limitation on lender fees.			

## Refinance/Acquisitions

SOAs	223(f) Refinance	223(f) Acquisition	223(a7)
Minimum # of Units	5	5	8 for Section 231, 5 for all other programs
Criterion 2	N/A		Original principal amount of the existing insured mortgage that is to be refinanced (or the sum of the original principal amount of all mortgages to be refinanced if two or more mortgages on one single property are being refinanced.)
Criterion 3 (maximum % of value)	90% - for projects with 90% or greater rental assistance 87% - for projects meeting the Affordable Housing Definition and have 10% achievable rents below market rents. 85% - for market rate projects or tax credit projects without a significant rent advantage (i.e., the achievable rents are at least 10% below market.)		N/A
Criterion 4 (Statutory Limit on cost per unit)	Where percentages are required, enter the same percentage applied under Criteria 3. See Chapter 8.10.A for complete details and the MF Housing website for the latest high cost factors: <a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfinfo">http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfinfo</a>		N/A
Criterion 5 (maximum % of NOI required for debt service incl MIP)	90% of NOI (1.11 DSCR) - for projects with 90% or greater rental assistance; 87% of NOI (1.15 DSCR) - for projects that meet the definition of Affordable Housing and for which the achievable Tax Credit rents are at least 10% below market rents; or 85% of NOI (1.176 DSCR) - for market rate projects or tax credit projects without a significant rent advantage (i.e., the achievable rents are at least 10% below market.)		95% of NOI (1.05 DSCR)- for projects with greater than 90% of units assisted by PBRA and Coop Housing insured under Section 213 90% of NOI (1.11 DSCR)- all other projects
Criterion 7 (maximum % of cost of acquisition)	For Acquisition Projects:  90% - for projects with 90% or greater rental assistance; 87% - for projects meeting the Affordable Housing Definition and for which the achievable Tax Credit rents are at least 10% below market rents; or 85% - for market rate projects or tax credit projects without a significant rent advantage (i.e., the achievable rents are at least 10% below market.)		N/A
Criterion 10 (maximum % of value for cash out transactions)	For Refinance Projects:  The greater of 80% of LTV, or the Cost to Refinance.		Amount based on the cost to refinance the existing insured

		mortgage and other permitted debt, permitted repairs, capital improvements, and loan closing charges
Minimum Vacancy and Collection Loss rates	<p>3% -</p> <ul style="list-style-type: none"> <li>Projects with HAP contracts covering 90% or more of the units;</li> </ul> <p>5%</p> <ul style="list-style-type: none"> <li>Properties meeting at least the minimum LIHTC set aside requirements with or without income averaging, (20% of the units set aside for tenants earning not more than 50% of area median income; 40% of the units set aside for tenants earning no more than 60% of area median income); and</li> <li>Attainable tax credit rents at least 10% below market</li> </ul> <p>7%</p> <ul style="list-style-type: none"> <li>LIHTC properties with any percentage of units set aside but without a 10% discount to market; or</li> <li>Market rate properties</li> </ul>	Actual Occupancy
Appraised Residential Physical Occupancy	Based upon operating history and prevailing market conditions. ( See Chapter 7.5.G for detailed discussion.)	
Underwritten Commercial Physical Occupancy	The lesser of 90%, the actual occupancy rate of the of the subject or that indicated by market.	
Appraised Commercial Physical Occupancy	Based upon operating history and prevailing market conditions.	
Commercial Space Limit	25%	existing commercial space only
Commercial Income Limit (% of Effective Gross Income)	20%	existing commercial income only
Repair threshold calculations	Total aggregate cost of rehabilitation (including contingencies or allowances) as defined in Chapter 5.1.B.	No cash out – repairs limited to \$1,600 per unit (Refer to Chapter 5.1.E.4)
HUD Application Fee	\$3.00 per \$1,000 of requested mortgage amount. Refer to Section 3.1.JJ for Opportunity Zone project fees.	\$1.50 per \$1,i000 of requested mortgage amount.
HUD Inspection Fee	For loans insured pursuant to Section 207/223(f), the inspection fee is the following: <ol style="list-style-type: none"> <li>\$30 per unit where the repairs/improvements are greater than \$100,000 in total but \$3,000 or less per unit.</li> <li>The greater of \$30 per unit or 1% of the cost of repairs or \$1,500, where the</li> </ol>	No Inspection Fee

	<p>repairs/improvements are more than \$3,000 per unit.</p> <p>3. \$1,500 where the total repairs/improvements are less than \$100,000, which may be decreased by the Regional Center or Satellite Office, if the lender elects to take responsibility for the inspection.</p>	
<p>Maximum Lender Fees and Charges</p>	<p>3.5% of the mortgage amount, this calculation may consist of any combination of origination, financing, and permanent placement fees as long as it also includes the lender's legal fee. Financing and placement fees up to 5.5% are permissible in bond transactions. Third party costs (e.g., appraisal, market study, PCNA, and other organization costs) may be included as mortgageable soft costs in the mortgage calculations, and are not included in the limitation on lender fees.</p>	<p>See 18.3.F</p>

### 3B. Developer Fees by Program

#### 1. Section 223(f) Program

<b>DEVELOPER FEES – SECTION 223(f)</b>				
<b>Development Type</b>	<b>Basis for Fee Calculation</b>		<b>Amount</b>	<b>Mortgageable/ Non Mortgageable</b>
Market	N/A		N/A	Not Mortgageable
LIHTC	Allocation Agency Allowed Fee		Agency Fee Limit	Mortgageable
RAD - Non LIHTC	Total Budget	(Note 1)	10%	Mortgageable
RAD - LIHTC	Allocation Agency Allowed Fee		Agency Fee Limit	Mortgageable
202 Refinance - Non LIHTC	Total Acceptable Development	(Note 2)	15%	Mortgageable
202 Refinance - LIHTC	Allocation Agency Allowed Fee		Agency Fee Limit	Mortgageable
202 Re-Refinance - Non LIHTC	N/A		N/A	Not Mortgageable
202 Re-Refinance - LIHTC	Allocation Agency Allowed Fee		Agency Fee Limit	Mortgageable
NOTE 1 - Fee is based on total budget amount (not including acquisition, reserves or developer fee).				
NOTE 2- Acceptable Development cost includes cost of acquisition, rehabilitation, loan prepayment, reserves and transaction costs.				
General Notes - For Section 236 or other assisted, non LIHTC Projects, follow general guidelines for developer fee for both 223(f) and 221(d)(4) loan programs. The 223(a)(7) program prohibits a developer fee in all cases.				

## 2. New Construction/Substantial Rehabilitation Programs

<b>DEVELOPER FEES – NC/SR</b>				
<b>Development Type</b>	<b>Basis for Fee Calculation</b>	<b>Amount</b>		<b>Mortgageable/ Non Mortgageable</b>
Market/For Profit Owner	BSPRA	10%	(Note 1)	BSPRA is Mortgageable
Market/ Non-profit Owner as Single Asset Mortgagor Entity	Mortgage Amount	8%	(Note 2)	Mortgageable
LIHTC	Allocation Agency Allowed Fee	Agency Fee Limit		Mortgageable (so long as no BSPRA or SPRA)
RAD - Non LIHTC	Total Budget	10%	(Note 3)	Mortgageable
RAD - LIHTC	Allocation Agency Allowed Fee	Agency Fee Limit	(Note 4)	Mortgageable
202 Rehab - Non LIHTC	Total Acceptable Development Cost	15%	(Note 5)	Mortgageable
202 Rehab – LIHTC	Allocation Agency Allowed Fee	Agency Fee Limit		Mortgageable
202 Rehab- 2nd Refinance Non LIHTC	N/A	0%		N/A
202 Rehab-2nd Refinance LHITC	Allocation Agency Allowed Fee	Agency Fee Limit		Non-Mortgageable
General Note: For purposes of this Matrix, NC/SR includes 221(d)(4), 220, 231 NC and, except as to BSPRA, 241(a)				
<p>NOTE 1 - BSPRA is specified in statute and based on total development costs (not including acquisition cost). Use is limited to a for-profit borrower or a non-profit sponsor with a for-profit controlled borrower.</p> <p>NOTE 2 - Development Fee is based upon 8% of the mortgage but not less than \$40,000 nor more than \$400,000. The total fee may be increased to 2% of loan above \$5M. (Notice H 96-63). This calculation also applies to a non-profit borrower under the 231SR program.</p> <p>NOTE 3 - Fee is based on total budget amount (not including acquisition, reserves or developer fee.)</p> <p>NOTE 4 - Per ML 2012-20, Section IV.N.3, for sub rehab projects with an IOI between Borrower and GC, Developer Fee is interchangeable with BSPRA. Projects can use one or the other but not both.</p> <p>NOTE 5 - Acceptable Development cost includes cost of acquisition, rehabilitation, loan prepayment, reserves and transaction costs.</p> <p>NOTE 6 - For Section 236 Projects, or other assisted, on LIHTC projects, follow general guidelines for developer fee for both 223(f) and 221(d)(4) loan programs.</p>				

### 3 C. MAP Guide Senior Housing Waiver Certification Form (sample form)

**U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner**

#### **Certification of Compliance with the Fair Housing Act**

(For use only in conjunction with age restrictions in FHA-insured properties)

Applicant must check appropriate options (*i.e.*, For a refinance, 1; For substantial rehabilitation, 2):

1. Refinance

\_\_\_\_\_ If the application is for a refinance loan, Owner/Borrower certifies that the housing identified in the application for FHA-insured financing is not required by a HUD program to provide housing to non-elderly persons (including children and persons with disabilities), and meets all elderly and/or age use restrictions imposed by the relevant federal, state or local program. In addition, Owner/Borrower certifies that the housing is operated consistent with the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and its regulations, 24 C.F.R. parts 100 and 103. Owner/Borrower does not discriminate based on race, color, religion, national origin, sex, or disability. Owner/Borrower is operating the housing as housing for older persons, as defined in the Fair Housing Act, 42 U.S.C. § 3607(b)(2), allowing it to exclude families with children under the age of 18. Owner/Borrower certifies that for at least 3 years the housing in its entirety has been:

Intended and operated for occupancy by persons 55 years of age or older, pursuant to 42 U.S.C. § 3607(b)(2)(C); 24 C.F.R. § 100.304-100.307, ~~for at least 3 years,~~ specifically:

- (i) at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older, pursuant to 42 U.S.C. § 3607(b)(2)(C)(i); 24 C.F.R. § 100.305; and
- (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent to be housing for persons 55 years or older, pursuant to 42 U.S.C. § 3607(b)(2)(C)(ii); 24 C.F.R. § 100.306; and

- (iii) the housing facility or community complies with HUD's rules for verification of occupancy, including conducting and maintaining a record of reliable surveys and affidavits at least once every two years showing that at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older, and producing such surveys and affidavits upon request, pursuant to 42 U.S.C. § 3607(b)(2)(C)(iii); 24 C.F.R. § 100.307.

## 2. Substantial Rehabilitation

\_\_\_\_\_ If the application is for a substantial rehabilitation loan, Owner/Borrower certifies that the housing identified in the application for FHA-insured financing is not required by a HUD program to provide housing to non-elderly persons (including children and persons with disabilities), and meets all elderly and/or age use restrictions imposed by the relevant federal, state or local program. In addition, Owner/Borrower certifies that the housing is operated consistent with the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and its regulations, 24 C.F.R. parts 100 and 103. Owner/Borrower does not discriminate based on race, color, religion, national origin, sex, or disability. Owner/Borrower operates the housing as housing for older persons, as defined in the Fair Housing Act, 42 U.S.C. § 3607(b)(2), allowing it to exclude families with children under the age of 18. Owner/Borrower certifies that for at least 3 years the housing in its entirety has been:

Intended and operated for occupancy by persons 55 years of age or older, pursuant to 42 U.S.C. § 3607(b)(2)(C); 24 C.F.R. § 100.304-100.307, ~~for at least 3 years,~~ specifically:

- (i) at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older, pursuant to 42 U.S.C. § 3607(b)(2)(C)(i); 24 C.F.R. § 100.305; and
- (ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent to be housing for persons 55 years or older, pursuant to 42 U.S.C. § 3607(b)(2)(C)(ii); 24 C.F.R. § 100.306; and
- (iii) the housing facility or community complies with HUD's rules for verification of occupancy, including conducting and maintaining a record of reliable surveys and affidavits at least once every two years showing that at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older, and producing such surveys and affidavits

upon request, pursuant to 42 U.S.C. § 3607(b)(2)(C)(iii); 24 C.F.R. § 100.307.

*(Type or clearly print the following information):*

**Owner/Borrower** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Location  
of the Project:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section of the  
Act under which FHA  
Insurance is sought:** \_\_\_\_\_

**BY: Signature:** \_\_\_\_\_

\_\_\_\_\_ Authorized Agent

\_\_\_\_\_ Title

**Date:** \_\_\_\_\_

**Warning: Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.**

### 3D. Senior’s Housing: Definitions

<b>TERM</b>	<b>DEFINITION for Guidance Purposes</b>
Mixed-Population	An occupancy scheme allowing for heads of household who are either 62 years of age or older or non-elderly persons with disabilities. Used in the context of the age threshold eligibility waiver for FHA refinancing.
Elderly	A general term referring to persons or households headed by persons who are over age 55 or 62, depending on the context of the reference.
“62+ HOH”	Refers specifically to households in which at least one person is or must be age 62 or older and may include children. Properties operating under statutes or regulations defining “elderly family” as 62+HOH cannot exclude families with children in their admission and occupancy policies. “HOH” refers to “head of household” as shorthand, but should be understood to encompass a head, co-head, or spouse member of the family, any of whom are age 62 or older.
62+ age-restriction and “62+”	Refers to restrictions imposed by statute or regulation that define “elderly person” as a person who is 62 years of age or older, whereas the term “62+ HOH” refers to the applicable definition of “elderly family.” When used in the guidance, these terms are merely meant to convey that the applicable age restriction is 62 years of age or older without conveying whether the property in question may exclude children in admission and occupancy policies.
“55+”	Refers specifically to properties or occupancy schemes that intend to limit eligibility to households that meet the requirements of the Fair Housing Act’s exemption for persons age 55 and older. See pp. 2 and 11-13 of the Guidance.

### 3E.1 Details Required in Relocation Plans

#### 1. Qualifications of Relocation Consultant

Given the importance of implementing tenant relocation properly and on schedule, and the risk to tenants and the construction schedule if there is a failure to meet relocation obligations, a qualified independent relocation consultant should be hired to plan, manage and implement relocation of tenants.

If the sponsor has a qualified relocation consultant on staff, the sponsor may submit their experience and qualifications to the Lender and HUD for consideration. To be approved, their experience, skills and credentials must be equivalent to a third-party relocation consultant. The relocation consultant shall have a proven track record of successfully relocating residents and must exercise independent professional judgment concerning the displacing effects of project activities on tenants both able bodied and those with special needs.

Depending on the size and scope of the relocation, the relocation consultant must designate a relocation liaison to be the point of contact at the property for tenants during relocation and rehabilitation. If experienced, the liaison may be the property manager. The resident liaison and/or the relocation consultant must attend the construction site meetings to facilitate communication and coordination.

#### 2. Relocation Plans, General

The relocation plan must address specific details, schedule, funding and management of the relocation of residents. At the time of the loan application submission, a plan developed by a qualified relocation consultant must be submitted for Lender and HUD's initial review and approval. After the Firm Commitment is issued and prior to the Closing, final minor adjustments to the plan, schedule or budget may be considered.

For a relocation plan to be reliable and acceptable, it must adequately address and include the following elements:

- A. **Communication:** The plan must describe how the owner and/or property management will establish and maintain timely and effective communication with the tenants and exactly who will be responsible for such communications both messages or announcements to all tenants or groups of tenants as well as one-on-one meetings or interviews with tenants. In addition the plan must show the form and manner of any notices, advisories or agreements proposed as a means of documenting the information communicated to and received by tenants and tenants' responses or agreements related to the date, time and duration of displacement and tenant's acceptance of owner provided services or accommodations or tenant's discretionary choice of alternative accommodations.

- B. **Resident Interviews:** The plan must have specific information about the resident's needs (medical, disability, pets), based on up-to-date one-on-one interviews with the residents performed by the relocation consultant. The plan must explain how these needs will be met.
- C. **Packing, Moving and Storage:** The plan must describe how and who is responsible for any packing, moving and storage. A professional moving company that can be relied on to meet the relocation schedule and having the appropriate workers compensation and damage and loss insurance is required.
- D. **Move-Out and Move-In Inspections:** The plan must describe who on the relocation consultant's team will perform the move-out and move-in inspections to make sure the unit is ready for the contractor to begin work, and then ready for the tenant to return once work is complete.
- E. **Relocation Schedule:** The plan must include a relocation schedule identifying which residents are moving out or into which specific units and when. A detailed relocation schedule with specific dates for each unit, sequenced and coordinated with the Contractor's Construction Schedule is required. This schedule is required whether residents are relocated on site (in "vacant units"), offsite in a hotel, or other offsite locations.
1. The relocation schedule must identify when (date & time) the units to be rehabilitated (by unit number), and when any other common or project areas, will be turned over to the Contractor – for their control and performance of the work. The schedule must also show when the units will be inspected and reoccupied after rehabilitation by the Contractor is complete.
  2. The relocation schedule and the construction schedule must be reviewed by the lender to assure that they are coordinated. Prior to closing, the lender must provide a written acceptance by the contractor of the owner's relocation schedule with a dated copy of the relocation schedule attached to the letter.
  3. The final approved relocation schedule, along with the final approved construction Schedule, must be attached to and made part of the relocation escrow agreement (see below).
- F. **Security and Safety:** The plan must provide adequate security and safety during construction. Typically, the contractor is responsible for and focused on the safety and security of the property, materials, equipment and employees and subcontractors during construction. However, for construction in occupied properties, the Owner is responsible for security of tenants. Accordingly, safety and security of tenants and their personal property must be addressed in the relocation plan. The relocation plan should describe a comprehensive approach to tenant safety and security (appropriate to the property location) in addition to measures normally provided. The relocation consultant should be knowledgeable of the actual condition and safety of the premises for any housing or lodging accommodations recommended to or arranged for displaced tenants. Such housing or lodging accommodations must be decent, safe and sanitary.

G. **Claims and Complaints Procedures:** The plan must describe how tenant claims or complaints, and any damage to personal items, will be addressed in a timely manner.

H. **Reimbursement Procedures:** The plan must include the procedures for timely reimbursement to tenants for per diem rates, all reasonable out of pocket expenses necessary to meet special needs of tenants resulting from displacement, including but not limited to packing, moving, storage, transportation or increased housing costs. Reimbursement for relocation expenses must coincide with the relocation and construction draw schedules.

I. **Elderly Housing & Disabled:** Temporary relocation of elderly or disabled residents and families with young children must avoid unnecessary stress and protect their wellbeing, health and safety.

- 1) The degree of the resident's expressed preference to stay in the units during construction, while considered, are not the only or principal indicators of the impact of the scope of rehabilitation work on tenants. Rather, the qualified independent relocation consultant must objectively evaluate the impacts of the scope of the work on the residents, and make determinations based principally on resident safety and wellbeing.
- 2) The HUD Minimum Property Standards (MPS) requires elevators in housing of three stories or more that serve the elderly. The resident relocation plan must take this into account and make sure the elevator operation is maintained for the residents throughout the rehabilitation (and if not, relocate the residents). The duration of the elevator outage based on the scope of the upgrade or repairs, the identification of residents impacted and their relocation, need to be addressed well in advance of construction by the development and relocation teams.

### **3. Resident Relocation Budget and Escrow**

An acceptable relocation plan must provide accurate costs of the relocation. These costs are then included in the loan and used to establish a relocation budget. The relocation plan and budget must align with the approved relocation and construction schedule and both must be attached to the Relocation Escrow Agreement (see Appendix E2).

Adequate budgets will ensure that the lender will have enough funds to perform the planned relocation should the owner fail to perform and prevent construction delays. Establishing accurate timing and amount of costs of relocation is critical because if the relocation escrow becomes unbalanced or proves insufficient to cover costs, the owner must fund any shortfall.

#### **4. Resident Relocation – Implementation & Reporting**

The relocation consultant is the lead for organizing and implementing the relocation plan. The consultant must plan, manage and implement the relocation of the tenants. The relocation plan and schedule are reviewed during the HUD preconstruction conference. The HUD Inspector must report in their HUD Trip Report the status of the approved relocation plan and schedule, the performance of the relocation consultant and sign the relocation escrow requests before the Lender submits them to HUD for approval.

The Supervisory Architect and the HUD Inspector must report any delays to the construction schedule in their Field Report/Trip Report respectively, including those resulting from lack of access to the units or spaces to perform prescribed work due to the owner's failure to relocate tenants in accordance with the approved relocation schedule.

The Lender shall monitor these reports. If the tenant relocation is not adequately performed or is off the relocation schedule, then the Lender must immediately notify HUD, promptly address these performance problems with the owner, and work to get the relocation back on schedule.

### 3E.2 **(guide-form of) TENANT RELOCATION ESCROW AGREEMENT**

**THIS TENANT RELOCATION ESCROW AGREEMENT** entered into as of the \_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ (hereinafter called the “Borrower”); and \_\_\_\_\_ (hereinafter called the “Lender”).

#### **WITNESSETH:**

**WHEREAS**, the Lender has made a mortgage loan to the Borrower in the original principal amount of \$ \_\_\_\_\_ (hereinafter called the “Loan”), which Loan is insured by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner (“HUD”) for the purpose of refinancing and renovation or financing the acquisition and/or rehabilitation or renovation of a multifamily housing rental apartment project known as “\_\_\_\_\_” and located at \_\_\_\_\_ (the “Project”) in the city and state of \_\_\_\_\_; and

**WHEREAS**, on \_\_\_\_\_, HUD issued a certain Commitment for Insurance or Commitment for Insurance of Advances (as amended, the “FHA Commitment”) to insure the Loan under Section \_\_\_\_\_ of the National Housing Act, as amended, pursuant to which FHA Commitment the Borrower is required to provide from either its own funds and/or from loan proceeds a deposit with the Lender in the amount of \$ \_\_\_\_\_ to meet the cost of providing relocation services and other appropriate activities for tenants of the Project (the “Relocation Deposit”) in accordance with the Relocation Plan attached as Exhibit “A” hereto and made a part hereof (the “Relocation Plan”); and

**WHEREAS**, the Borrower has executed and delivered to the Lender a certain HUD Multistate Note (the “Note”) in the principal amount of the Loan, a Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement (the “Mortgage”) securing the Note, a Regulatory Agreement, and certain other agreements, documents and certificates (which Note, Mortgage, Regulatory Agreement, agreements, documents and certificates are hereinafter collectively called the “FHA Loan Documents”) in connection with the Initial/Final Endorsement by HUD of the Note; and

**WHEREAS**, in order to induce the Lender to advance proceeds of the Loan and HUD to insure the Loan, the Borrower provided said Relocation Deposit and Relocation Plan.

**NOW, THEREFORE**, in consideration of the foregoing, the terms, covenants and conditions set forth herein, and other good and valuable considerations, the receipt and sufficiency of which is hereby mutually acknowledged, the parties agree as follows:

1. In order to establish the Relocation Deposit, the Borrower has furnished or caused to be furnished to the Lender cash in the amount of \$\_\_\_\_\_ (the "Escrow Fund"), the receipt of which is hereby acknowledged by the Lender. The Escrow Fund shall be held by the Lender for application or release as hereinafter set forth.

2. The Escrow Fund shall be held by the Lender for a period beginning on the date hereof until the date of completion of construction at the Project (as such date of completion may be extended by the Lender or HUD, the "Escrow Period"). Upon the expiration of the Escrow Period, any balance remaining in the Escrow Fund may be allocated with HUD's approval to meet other program financial requirements when funds available for such purposes have been exhausted. Thereafter any further balance remaining which was not funded from mortgage proceeds shall be returned to the Borrower and any additional remainder that was funded from mortgage proceeds shall be deposited into the Project's replacement reserve account. If the Relocation Deposit consisted of both the Borrower's funds and loan proceeds then the Borrower's funds shall be deemed as first used or disbursed.

3. Subject to the provisions of Paragraph 6 hereof, the Escrow Fund may be disbursed for meeting the cost of providing certain relocation costs and other appropriate programs to residents of the Project according to the Relocation Plan. In connection with any request by the Borrower for disbursement of the Escrow Fund, the Borrower shall provide such documentation and information as the Lender and HUD may require. Further, and to the extent the Lender deems it necessary, all disbursements shall be subject to receipt by the Lender of satisfactory documentation evidencing HUD's approval.

4. Any portion of the Escrow Fund consisting of cash shall be maintained in one or more accounts insured or fully guaranteed as to principal by the United States of America, shall at all times be under the control of the Lender, and shall be held by the Lender in a manner that conforms to standards established by HUD.

5. This Agreement is entered into by the parties hereto for the benefit of the Lender (or any subsequent holder of the Note) and HUD, either of which shall have the right to act as Depository and/or enforce the provisions hereof.

6. The Escrow Fund shall be subject to immediate application to the mortgage debt in the event of a default under the Note or Mortgage at any time prior to the expiration of the Escrow Period; provided, however, that the Escrow Fund shall be subject to the control and direction of HUD in the event that the Lender submits a claim to HUD for the payment of insurance benefits.

7. In the event of any conflict or inconsistency between this Agreement and the FHA loan documents, rules, regulations and administrative procedures, the FHA loan documents, rules, regulations and administrative procedures shall govern and be controlling.

8. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date hereinabove first written.

**[SIGNATURE PAGE]**

*(Type or clearly print the following information):*

**Owner/Borrower:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Location of the Project:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Section of the Act under which FHA Insurance is sought:** \_\_\_\_\_

**BY: Signature:**

Authorized Agent \_\_\_\_\_

Title: \_\_\_\_\_

**Date:** \_\_\_\_\_

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions

**EXHIBIT "A"**  
**RELOCATION PLAN**

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### **3F. Opportunity Zone Map Locations**

Lenders must provide a screen shot or other photo options that would capture a picture of the property address located in the designated opportunity zone. Community Development Financial Institute (CDFI) maintains a list of all of the designated opportunity zones. The CDFI has an interactive map of the designated opportunity zones and a user guide for navigating the geographical map to locate a specific property address.

For each property located in a qualified opportunity zone census tract, the Lender must submit a picture to capture the property's address and the eleven-digit census tract number. The tab that indicates a YES for the census tract is a qualified opportunity zone.

The Lender may be able to capture the census tract name and the property address on the same tab, otherwise it may require two separate tabs to capture the property address and the corresponding qualified census tract number.

For Opportunity Zone locations refer to the following link:

<https://opportunityzones.hud.gov/>

## **Appendix 3.G Broadly Affordable, Affordable, and Green and Energy Efficient Housing MIP Rate Categories**

### **1. General**

FHA's Mortgage Insurance Premium ("MIP") rate categories changed under a final rule published in the Federal Register dated March 31, 2016. The rule reduced MIP rates for projects meeting Broadly Affordable Housing, Affordable Housing, and Green and Energy Efficient Housing definitions. These rate categories aim to preserve and increase affordable, quality rental housing across the country by encouraging capital financing of affordable and energy-efficient apartments. The effective date was April 1, 2016 for firm commitments issued or reissued. The definition of these categories and the corresponding MIP rates are as follows:

### **2. Broadly Affordable Housing**

Annual MIP is 25 basis points for all multifamily FHA-insured loan types that meet the criteria in this section.

These projects must either:

- Have at least 90 percent of units covered by a Section 8 Project Based Rental Assistance (PBRA) contract or other federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Have at least 90 percent of units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with achievable and underwritten tax credit rents at least 10 percent below comparable market rents, and with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include: (a) origination and placement fees as permitted by this MAP Guide; *plus* (b) trade profit, trade premium or marketing gain earned on the sale of the Government National Mortgage Association (GNMA) security at a value above par, even if the security sale is delayed until after endorsement, *minus* (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing. However, Section 223(a)(7) applications are exempt from the lender fee limitation to the extent that trade premium is used to offset prepayment penalties on the existing insured loan.

Owners of properties that fall under the category of Broadly Affordable with voucher holding residents must continue to accept vouchers. There is no requirement to sign a rider in this instance.

For Section 220, 221(d)(4) or 223(f) loans, the appraisal should evidence the market rents and confirm the achievable Tax Credit results used in underwriting are at least 10% below comparable rents.

For a Section 223(a)(7) LIHTC refinance where there is no project-based Section 8 rental assistance, a Rent Comparability Study is required including a form HUD 92273-S8 completed by an appraiser retained as a third-party professional by the lender. If the project is both LIHTC and Section 8 rental assisted, then the requirements of the HAP contract or its renewal or amendment govern whether a Rent Comparability Study is required.

### **3. Affordable Housing**

Annual MIP for this category is 35 basis points for all multifamily FHA-insured loan types. To qualify, the property must provide a set-aside of affordable units as defined below, and agree to accept voucher holders:

- **Inclusionary Zoning, Density Bonus Set-asides, and Other Local Affordability Restrictions:** Property owners shall submit with the FHA mortgage insurance application evidence of a deed covenant or housing ordinance on “inclusionary zoning” at the subject property to evidence the requirement for affordable unit set-asides. A minimum of 10 percent of the units must be affordable to, at most, a family at 80 percent AMI, with rents sized to be affordable at 30 percent of the income at that level. The affordability set-aside must be on site, in effect for at least 30 years after final endorsement of the FHA-insured mortgage, be monitored by public authority, be recorded in a regulatory agreement addressing both the affordability requirements and on-going public authority monitoring and must be approved by the locality consistent with the specific zoning or local ordinances enacted to require or support affordable multifamily housing.

For an owner to meet the public authority monitoring requirement, the owner should negotiate the monitoring capability with the local Housing Authority and/or the local municipality that administers the affordability restriction. This agency must provide the owner with formal written documentation describing its agreement to monitor the property, which is then included in the recorded regulatory agreement. A description of this arrangement must be provided in the Underwriter Narrative.; or

- Project has between 10 percent and 90 percent of units covered by a Section 8 PBRA contract or other state or federal rental assistance program contract serving very low-income residents, with a remaining term of at least 15 years; or
- Project has between 10 percent and 90 percent of units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with rents sized at no greater than 30 percent of the income eligible for occupancy under the Low Income Housing Tax Credit program, with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

Any project that is neither subject to a LIHTC affordability restriction nor a Section 8 HAP Contract but is subject to another federally-based affordable use agreement must meet or exceed the LIHTC affordability requirements for not less than 10% up to 90% of the units.

The project owner must also agree to accept voucher holders under the Section 8 Housing Choice Voucher program or other federal program voucher holders as residents for vacancies in units not covered by project-based Section 8.

There is no affordable rent advantage evidence required, and lender fees are not constrained by this category's requirements.

#### **4. Green and Energy Efficient Housing**

Green and Energy Efficient Housing has an annual MIP rate category of 25 basis points and applies to projects committed to industry-recognized green building standards coupled with a commitment to demonstrate continuing performance with an ENERGY STAR® Score of not less than 75.

Detailed requirements for meeting the green building standard certification requirement and the continuing performance requirement for this MIP Rate are described in MAP Guide Chapter 6.

To ensure that the benefits of this MIP rate directly benefit the properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include: (a) origination and placement fees as permitted by this MAP Guide; *plus* (b)

trade profit, trade premium or marketing gain earned on the sale of the Government National Mortgage Association (GNMA) security at a value above par, even if the security sale is delayed until after endorsement, *minus* (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing. However, Section 223(a)(7) applications are exempt from the lender fee limitation to the extent that trade premium is used to offset prepayment penalties on the existing insured loan.

## **5. Calculating Upfront or Capitalized MIP**

The upfront capitalized and annual MIP rate is applied to the full loan amount. Lenders and borrowers will calculate the appropriate MIP based upon the affordability/green and energy efficient standards applicable to each specific project. The basis for the use of the selected MIP must be described in the Underwriting Narrative.

Refer to the [Federal Register Final Rule FR-5876-N-03, issued March 31, 2016](#), which describes the upfront or capitalized MIP basis points per program type.

## **6. Documentation Requirements**

Form HUD 92013-D is a required document for any application proposing MIP rates for Broadly Affordable, Affordable, and Green and Energy efficient housing. The purpose of the form is for the borrower to certify that it will comply with the qualifying requirements for the selected MIP category. The borrower's election of one of these MIP rate categories and methods for meeting the specific requirements should be described in the Underwriters Narrative.

In addition, at or before endorsement the borrower must execute the Consolidated Certifications. Included in the certification for the Affordable MIP rate category is a further requirement that borrower execute a rider to the FHA Regulatory Agreement in form acceptable to HUD evidencing the borrower's agreement to accept Section 8 vouchers for the life of the Regulatory Agreement.

Any applicant for the Green and Energy Efficient Housing MIP rate category must execute a different rider, form HUD 92466 R5, which details requirements for future achievement and delivery of an identified green building certification as well as the requirements for demonstrating continuing performance. (See MAP Guide Chapter 6)

## **7. Other Considerations**

Some properties may qualify for more than one MIP rate category, but borrowers must elect only one and must conform to the requirements of the category selected.

For Section 241(a) supplemental loan applications where the borrower selects an MIP rate category the requirements associated with the selected category apply to the entire property notwithstanding whether the intended use of the supplemental loan proceeds is limited to an addition, or some portion rather than the whole of the property.