

**Borrower's Certification-
Full or Partial Completion
of Non-Critical Repairs**
Section 232

**U.S. Department of Housing
and Urban Development**
Office of Residential
Care Facilities

OMB Approval No. 9999-9999
(exp. mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

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

To: Secretary of Housing and Urban Development ("HUD")	Project Name:
And to: ("Lender" or Servicer)	FHA Project Number:

[Enter Borrower Name], a [Enter Borrower type, e.g., LLC] organized and existing under the laws of (Enter State) (the "Borrower"), the Borrower of the above-referenced project located at _____, _____, _____ (the "Project"), hereby certifies to HUD and Lender or Servicer as follows:

1. The Project is being or has been financed with proceeds of a mortgage loan(the "Loan") in the principal amount of \$_____ from the Lender to the Borrower, which Loan will be or is insured by HUD pursuant to the certain Commitment to Insure Upon Completion dated _____(as the same may be amended from time to time, the "firm Commitment").
2. At Loan closing, an escrow totaling \$_____ was established. This escrow amount included \$_____ which represents 100% of the estimated cost of all Non-Critical Repairs and/or Borrower-elected Repairs, and an additional escrow amount of \$_____, which represents ___% of the cost estimate to be held in cash or Letter of Credit.
- 2.3. Pursuant to the terms of the Firm Commitment, the Borrower is obligated to complete Project repairs as described in the list of Non-Critical Repairs and/or Borrower-elected Repairs, within 12-months of Loan closing.
4. The attached Form HUD-92464-ORCF, Request for Approval of Advance of Escrow Funds, Advance Number _____, includes any corresponding photographs and invoices, documenting the completed Non-Critical Repairs and/or Borrower-elected Repairs for this advance.

(Attached hereto are corresponding photographs and invoices, documenting the completed Non-Critical Repairs and/or Borrower-elected Repairs.)

5. The Borrower hereby certifies that the completed Non-Critical Repairs and/or Borrower-elected Repairs are acceptable and have been completed in a good and workmanlike manner.

6. During the course of repairs, HUD and its representatives shall at all times have access to the Project and the right to inspect the progress of the repairs. The Borrower is aware that periodic spot inspections may be made by HUD and its representatives, to verify completion of repairs.

7. The Lender shall have the right, but not the obligation to use funds in the repair escrow account to complete any repairs not completed and accepted by the Secretary within the prescribed timeframe.

Borrower hereby certifies that the statements and representations contained in this instrument and all supporting documentation thereto are true, accurate, and complete and that each signatory has read and understands the terms of this instrument. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Date: _____

BORROWER

[Enter Borrower Name]

a(n) [Enter Borrower Type, e.g., LLC]

By: _____

Name: _____

Title: _____

Procedures for the Certification of Completed Non-Critical Repairs
and the Release of Related Escrow Funds
(LEAN 232/223(f) Version)

1. Upon completion of all or a portion of the Non-Critical Repairs and/or Borrower-elected Repairs, the project Borrower shall generate for each escrow request two (2) original copies of Form HUD-92464-ORCF, Request for Approval of Advance of Escrow Funds (primarily the top half of Page 2 of 2), referencing the completed portions of those Non-Critical Repairs and/or Borrower-elected Repairs from the Firm Commitment. All repairs must be numbered consecutively, and listed in the first column of the table found on page 2 of the form. If additional pages are necessary, please use the same form. The estimated cost of each repair line item shall be identified as follows:

Item or Construction Change Request Number – corresponds to what is on the non-critical repair escrow

A = the original amount escrowed for that particular line item

B = the amount of the current withdrawal request (supported by evidence of completion)

C = the amount to date that has been disbursed for that particular line item.

D= the amount HUD approves this withdrawal request

- a. All related invoices
 - b. Photographs of each completed repair that individually exceeds \$5,000
 - c. Description of Work Completed Attachment A
 - d. “Borrower’s Certification – Completion of Non-Critical Repairs,”
 - e. A copy of the Firm Commitment detail of the Non Critical Repairs indicating for which items this release is applicable, which items have been requested previously and which items remain to be completed
 - f. The Borrower sends the complete package to the Lender
2. The Lender reviews and completes the top half of page 1 of each Form HUD-92464-ORCF. Note: the Architect, and Inspector’s Offsite and Construction Change Certifications, will not be completed at this time. The Lender signs both copies and sends the following to the Office Residential Care Facilities (ORCF) Account Executive.
 - a. Two (2) original copies of Form HUD-92464-ORCF, Request for Approval of Advance of Escrow Funds
 - b. Description of Work Completed Attachment A
 - c. “Borrower’s Certification – Completion of Non-Critical Repairs”
 - d. A copy of the Firm Commitment detail of the Non Critical Repairs indicating for which items this release is applicable, which items have been requested previously and which items remain to be completed.
 - e. A copy of the Escrow Deposit Agreement
 3. The ORCF Account Executive reviews Form HUD-92464-ORCF, the Description of Work Completed Attachment A, the Firm Commitment detail and the “Borrower’s Certification –

Completion of Non-Critical Repairs,” and if acceptable, the Account Executive fills in Column D and then executes the document approval under the Authorizing Agent for the Department of Housing and Urban Development on page 1 of each original copy.

4. The ORCF Account Executive then sends one original copy of the fully executed Form HUD-92464-ORCF (only the two page form, not all the attachments) to the Lender, authorizing them to release escrow funds to the Borrower.
5. The ORCF Account Executive maintains the other original copy, along with the documents submitted, in the official HUD file for that project.

Closeout of the escrow account: Funds remaining in the escrow account, including the holdback portion, may be released to the Reserve for Replacement Account when the Borrower and Lender have confirmed in writing and provided documentation that:

- (1) All repairs have been satisfactorily completed.
- (2) If requested, evidence of clear title provided to the HUD Office.
- (3) Latent defects assurances have been provided to and confirmed by the Lender using one of the following:
 - (a) An escrow in cash or letter of credit, at the option of the Lender, equal to 2 ½ percent (or greater percentage as warranted) of the repair cost maintained for 15 months from completion of repairs, to cover situations where the defect is discovered in the twelfth month and additional time is necessary to correct it.
 - (b) A Surety Bond covered by FHA Form 3259 from a surety on the accredited list of the U.S. Treasury for at least 10 percent of the repair cost. (The bond runs for a period of two years from the date of completion of repairs.)
- (4) A Supplemental Cost Certification has been provided to HUD. This document is only required when:
 - (a) After completion of all required repairs/improvements, there are funds remaining in the 100% portion of the escrow, and
 - (b) Such funds are not being deposited into the project’s replacement reserve account.
- (5) If the total dollar amount of repairs is less than \$100,000, we encourage lenders to request a waiver of the latent defect assurance requirement. Please submit the waiver request to the Account Executive.