

**Lender's Certificate**

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

OMB Approval No. 2502-0598  
(Exp. //)

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**Project Name:**

**HUD Project No.:**

**Lender:**

**Borrower:**

**Processed Under:**  Multifamily Accelerated Processing (MAP)

Traditional Application Processing (TAP)

**To the U.S. Department of Housing and Urban Development (HUD):**

The entity executing this **Lender's Certificate** ("**Certificate**"), dated as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is \_\_\_\_\_, ("**Lender**," also referred to as "Mortgagee" in Program Obligations) the lender under that certain Security Instrument dated \_\_\_\_\_, 20\_\_\_\_, executed by \_\_\_\_\_, ("**Borrower**" also referred to as "Mortgagor" in Program Obligations), securing a Note evidencing a Loan by Lender to Borrower in the principal sum of \$\_\_\_\_\_, which Lender has agreed to make on condition that it be insured by HUD pursuant to the Contract of Insurance comprised of Section \_\_\_\_\_ of the National Housing Act, as amended, and its implementing regulations.

The definition of any capitalized term or word used herein can be found in this Certificate, and if not found in this Certificate, then found in the Note, the Regulatory Agreement between Borrower and HUD, and/or the Security Instrument, except that the term "**Program Obligations**" means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Certificate rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on "HUDCLIPS," at [www.hud.gov](http://www.hud.gov).

The undersigned on behalf of Lender certifies to HUD that to the best of his or her knowledge and belief, the following statements and information are true, correct and complete.

## A. GENERAL

Lender agrees that the Security Instrument, the Note, this Certificate, and any documents submitted with this Certificate are considered to be consistent with and shall be interpreted consistently with HUD's regulations as they pertain to the Contract of Insurance.

1. Lender agrees to be bound by Program Obligations.
2. Lender agrees to furnish a complete copy of this Certificate to any successors and assigns of Lender, and agrees that, in any contract for sale or assignment of the Security Instrument to a successor Lender (for purposes of servicing the Loan only), the successor Lender shall be bound by the provisions of this Certificate that relate to the servicing of the Loan. As long as the Note is insured by HUD, any successor Lender and/or servicer must be approved by HUD in accordance with Program Obligations.
3. There has been no material adverse change to the (a) underwriting assumptions stated on the attachments to the Firm Commitment, including any amendments; (b) financial condition or creditworthiness of the Borrower, or principals thereof; (c) Borrower's ability to perform its obligations or responsibilities under the Loan Documents; or (d) Project; and no event has occurred or circumstances exist that may result in such material adverse change to any of the above
4. In addition to and not in derogation of all other undertakings made or mentioned herein, Lender agrees to fully perform all duties imposed in or described by this Certificate; and that it is Lender's present intent to fully perform such duties.
5. Lender acknowledges that in making its decision to provide the requested mortgage insurance HUD relies upon the certifications and agreements made herein.
6. Lender has committed to provide Borrower with permanent financing in the amount stated above at an interest rate of \_\_\_\_\_% per annum for a term of \_\_\_\_\_ payments, with amortization to commence [*insert commencement timeline*] subject to terms described below.

## B. CONSTRUCTION LOANS

1. Lender submits separately a payment to HUD for \$ \_\_\_\_\_, which is [*insert MIP rate*] \_\_\_\_\_ of the Loan amount, covering the first mortgage insurance premium ("**MIP**"), together with the other items called for in the Firm Commitment dated \_\_\_\_\_, 20\_\_\_\_, and in any extensions or amendments thereof.
2. All conditions of the Firm Commitment required to be satisfied as of initial endorsement of the Note ("**Initial Endorsement**") have been fulfilled to date. All work completed prior to Initial Endorsement has been completed in accordance with, and met, all HUD imposed conditions, and has been approved by HUD in writing.

- 3. For all cases involving insured construction advances, Lender submits separately the Building Loan Agreement dated \_\_\_\_\_, 20\_\_\_\_ between Lender and Borrower, which shall govern advances of the Loan proceeds.
- 4. Lender submits separately a certified survey of the Mortgaged Property, if required by HUD, and a title policy for the Project as specified in Program Obligations together with evidence that the Mortgaged Property is properly zoned.
- 5. Lender shall submit to HUD applications for insurance of advances of Loan proceeds, if and as required, under Program Obligations at least thirty (30) days after the date of disbursement of such advance by Lender. Applications for advances shall be accompanied by all documentation required by HUD.
- 6. Lender shall not release Loan funds in the amount approved for disbursement unless or until the current endorsement to the title policy, insuring Lender and HUD, evidences that: (a) the Security Instrument is prior to all liens and encumbrances that may have attached or defects that may have arisen subsequent to the recording of the Security Instrument, except such liens or other matters approved in writing by HUD consistent with Program Obligations, including tax liens not delinquent and (b) the Security Instrument is prior to all mechanics' and materialman's liens filed of record subsequent to the recording of the Security Instrument, regardless of whether such liens attached prior to the recording date.

**C. ESCROWS, DEPOSITS, UCC AND DATA**

- 1. Lender has collected from Borrower, or Borrower has made subject to the control and order of Lender in a depository satisfactory to Lender in accordance with Program Obligations, the following deposits, escrows and sums as required by the Firm Commitment:

*(Check and complete applicable paragraphs.)*

- (i) The sum of \$\_\_\_\_\_, required over the Loan proceeds for costs to complete the Project, in the form of cash. Lender agrees that these funds must be used before any Loan proceeds are advanced [*insert if alternative disbursement arrangement has been approved*“, unless, in accordance with Program Obligations, HUD provides its prior written consent to the disbursement of funds on the following basis: \_\_\_\_\_”].
- (ii) The sum of \$\_\_\_\_\_, required over the Loan proceeds for costs to complete the Project, shall be provided in the form of a [grant *OR* loan] from \_\_\_\_\_, a non-governmental source. Lender has also collected an escrow from [grant *OR* loan] in the amount of \$\_\_\_\_\_ in the form [cash *OR* letter of credit]. Lender agrees that these funds must be used before any Loan proceeds are advanced [*insert if alternative disbursement arrangement has been approved*“unless, in accordance with Program Obligations, HUD provides its prior written consent to the disbursement of funds on the following basis: \_\_\_\_\_”].

- (iii) The sum of \$ \_\_\_\_\_, required over the Loan proceeds for costs to complete the Project, shall be provided in the form of a [grant OR loan] from \_\_\_\_\_, a governmental source. Lender has also collected an escrow from [grant OR loan] in the amount of \$ \_\_\_\_\_ in the form [cash OR letter of credit]. The agreement providing for the advancement of [grant OR loan] proceeds executed among Lender, HUD, and the Governmental Authority is dated \_\_\_\_\_, 20\_\_ and is executed by \_\_\_\_\_.
- (iv) The sum of \$ \_\_\_\_\_ in the form of [cash OR letter of credit] for the escrow deposit guaranteeing payment for off-site facilities. The Escrow Agreement for Off-Site Facilities is dated \_\_\_\_\_, 20\_\_, and is executed by \_\_\_\_\_.
- (v) The sum of \$ \_\_\_\_\_ in the form of [cash OR letter of credit] for the interest rate differential escrow, which is equivalent to the difference between the interest rate in effect after cut-off for cost certification and the permanent interest rate upon which the debt service on the Loan is calculated. [*Include if applicable: The Escrow Agreement for Interest Rate Differential is dated \_\_\_\_\_, 20\_\_, and is executed by \_\_\_\_\_.*]
- (vi) The sum of \$ \_\_\_\_\_ in the form of [cash OR letter of credit] as the Working Capital deposit, which Lender agrees to maintain under its control. Funds in this Working Capital deposit must be released or allocated for the purposes indicated in the Escrow Agreement for Working Capital (dated \_\_\_\_\_, 20\_\_, and executed by \_\_\_\_\_), and for no other purpose without the prior written approval of HUD.
- (vii) The sum of \$ \_\_\_\_\_ in the form of [cash OR letter of credit OR excess mortgage proceeds OR excess land equity] for the Initial Operating Deficit Deposit. Funds from the Initial Operating Deficit Deposit must be released with HUD approval and in accordance with the Escrow Agreement for Initial Operating Deficit, dated \_\_\_\_\_, 20\_\_, and executed by \_\_\_\_\_.
- (viii) The sum of \$ \_\_\_\_\_ in the form of [cash OR letter of credit] as the Sponsor's guarantee to meet an initial operating deficit. Funds in the Sponsor's guarantee escrow must be released or allocated for the purposes indicated in the Escrow Agreement for Additional Contribution by Sponsors, dated \_\_\_\_\_, 20\_\_, and executed by \_\_\_\_\_.
- (ix) List other escrows (e.g., demolition): [*Insert escrow amount and description of any related escrow agreement*] \_\_\_\_\_

2. Lender submits separately: [*Check applicable paragraphs.*]

- (a) Off-site bond in the amount of \$ \_\_\_\_\_.

- (b) Evidence to the effect that required off-site utilities and streets shall be provided by the public authorities having jurisdiction or by public utility companies serving the Project.
3. Lender submits separately a duplicate copy of the following assurances for the completion of the project: [*Check applicable paragraph.*]
- (a) Performance and Payment Bonds from a HUD-approved surety in the penal sum of \$\_\_\_\_\_ for each bond.
- (b) Lender has collected from Borrower, or Borrower has made subject to the control and order of Lender, in a depository satisfactory to Lender in accordance with Program Obligations, the sum of \$\_\_\_\_\_ in the form of [cash *OR* letter of credit] for deposit in accordance with the Completion Assurance Agreement (Form HUD-92450M). Funds from the Assurance of Completion deposit shall be disbursed, with HUD's written approval, in accordance with said Agreement.
4. Beginning on the Amortization Commencement Date of the insured Loan or at such later date as may be agreed to by HUD in writing, Lender shall require a monthly deposit with Lender (or in a depository satisfactory to Lender in accordance with Program Obligations) in the amount [of \_\_\_\_\_] OR [as specified in the Reserve for Replacement Schedule - Exhibit D to the Firm Commitment (attached hereto as Exhibit)] constituting a Reserve for Replacement. The Reserve for Replacement account shall at all times remain under the control of Lender or Lender's Designee, and be insured or guaranteed by a federal agency in accordance with Program Obligations. Withdrawals from such reserve may be made only with the prior written approval of HUD (unless otherwise authorized pursuant to Program Obligations). Notice of any failure to receive the required deposits shall be forwarded to HUD within 60 days of the date such deposits are due. Lender agrees that the amount of the monthly deposit may be increased or decreased from time to time at the written direction of HUD in accordance with Program Obligations.
5. Lender shall obtain a new Capital Needs Assessment ("**CNA**") report for HUD to evaluate every ten (10) years, beginning [*insert date ten (10) years after the anticipated date of final endorsement of the Note* "\_\_\_\_\_, 20\_\_\_\_"]. The cost of each such CNA report may be paid from the Reserve for Replacement.
6. In cases where a Residual Receipts account is required (as referenced in the Regulatory Agreement), Lender shall deposit or place in a depository satisfactory to Lender, in accordance with Program Obligations, all funds received from Borrower for deposit therein. The Residual Receipts account shall be subject to the control of Lender, and withdrawals may be made only with the prior written approval of HUD (unless otherwise authorized by Program Obligations). These funds shall be held in an interest-bearing account which shall be insured or guaranteed by a federal agency and in accordance with Program Obligations. Lender agrees to notify HUD in writing of any non-compliance with Program Obligations with respect to such Residual Receipts account immediately when known to Lender.
7. Lender submits separately the appropriate financing statement(s) covering all of the Mortgaged Property that, under applicable law, may be subject to a security interest under the Uniform

Commercial Code (“**UCC**”), whether acquired now or in the future, and all products and cash proceeds and non-cash proceeds thereof (“**UCC Collateral**”).

8. Lender submits separately a UCC search report conducted by \_\_\_\_\_ [must be the title insurance company, a reputable UCC search firm, counsel to Borrower or another licensed attorney] dated, \_\_\_\_\_ [must be dated no earlier than 30 days before this Certificate] of the appropriate UCC filing office(s) indicating that no UCC filings have been made against Borrower, the Project or the Project Assets, unless approved in writing by HUD.
9. The Security Instrument and the Uniform Commercial Code Financing Statement filings, along with any other documents or means required by State law, establish a perfected first lien security interest under the Uniform Commercial Code in the UCC Collateral in favor of Lender. Lender shall maintain a perfected first lien position in the UCC Collateral for the life of the Loan.
10. Lender shall: (a) obtain the prior written approval and/or consent of HUD in those instances required in the Security Instrument; (b) furnish HUD with all pleadings, reports and data in those instances required in the Security Instrument, including but not limited to the physical inspection report of the Mortgaged Property, except for physical inspections performed by HUD or on behalf of HUD, and financial reporting data; and (c) furnish HUD with a copy of any application by Lender for the appointment of a receiver pursuant to the Security Instrument and all related pleadings.

#### **D. FEES, CHARGES AND FINANCING TERMS**

1. The term “**Financing Charge**” as used herein means any charge, direct or indirect, for supplying the Loan to Borrower or servicing the Loan for HUD, Ginnie Mae, a third-party investor or Lender’s own account.
2. The financing charges enumerated on a separate schedule prepared by Lender are attached hereto as Exhibit \_\_\_\_\_. The charges have been (i) collected in cash or will be so collected not later than the date of Initial Endorsement; (ii) will be disbursed from Loan proceeds; or (iii) will be collected or disbursed as otherwise set forth in Program Obligations.
3. No financing charges other than charges disclosed herein have been made, and none shall be made. Until Final Endorsement for insurance by HUD, all funds collected pursuant to items (d), (e), or (f) below and not paid over to the permanent Lender, plus any funds returned by the permanent Lender, shall be held for the account of Borrower and shall be subject to HUD’s control and direction in the event of a claim under the Contract of Insurance.

*[Lender check and complete the following applicable subsections]*

- (a) Lender has not imposed and shall not impose a financing charge of any kind directly or indirectly, other than the initial service charge.
- (b) Lender has imposed an initial service charge in the amount of \$\_\_\_\_\_.

- (c) Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ as a discount or financing charge for the construction loan.
- (d) Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ to pay construction loan extension fees. In an attached addendum (Exhibit \_\_\_\_\_), Lender has identified the time frames in which the extension fees must be paid and the parties liable for payment of such extension fees.
- (e) Lender intends to retain the permanent loan and has collected a permanent placement fee of \$\_\_\_\_\_. In addition to the initial service charge and permanent placement fee, Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ as a discount or financing charge for the permanent loan.
- (e) Lender has a firm commitment from \_\_\_\_\_ to purchase the Loan when fully disbursed and fully insured at a financing charge or discount of \_\_\_\_ percent, and Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ for payment of said charge or discount.
- (f) This Project shall be financed with [tax-exempt *OR* taxable] bonds. Therefore, Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ and has distributed or shall distribute from Loan proceeds the amount of \$\_\_\_\_\_ to cover the costs of issuance. A statement is attached as Exhibit \_\_\_\_ itemizing these costs with an explanation of the necessity of each cost and the source of the funds.
- (g) The Loan is a unitary loan under which Lender intends to retain the Loan for both the construction and permanent loan terms. Lender has collected a unitary loan placement fee of \$\_\_\_\_\_. In addition to the initial service charge and the unitary loan placement fee, Lender has collected in the form of [cash *OR* letter of credit] the amount of \$\_\_\_\_\_ as a discount or financing charge for the unitary loan.
- (h) Additional financing charges or discount of \$\_\_\_\_\_ are to be collected under Exhibit \_\_\_\_ attached hereto for the purpose shown in (c), (d), (e), (f), or (g). [*Strike inapplicable letters.*] The arrangement for the collection of additional financing charges or discount shall follow Program Obligations and use forms prescribed by HUD.
- (i) The Loan to be made to Borrower shall be financed through funds being provided by a third-party investor through the issuance to the investor of construction and permanent participation certificates pursuant to a participation agreement between Lender and the investor, with respect to which agreement Lender has agreed to repay the investor at a stated interest rate according to a fixed payment schedule.
- (j) The Loan to be made to Borrower shall be financed through funds being provided by a third-party investor through the issuance to the investor of construction and permanent fully modified, pass-through, mortgage-backed securities, guaranteed as to principal and interest by Ginnie Mae.

- (k) The Note rate includes a servicing fee payable to Lender monthly during the life of the Loan (“**Servicing Fees**”). In addition, the Lender may impose reasonable and customary administrative fees and charges (including but not limited to, reimbursements for out-of-pocket expenses) for handling and investing the cash held in the Reserve for Replacement, the Residual Receipts account, if applicable, and any other interest-bearing escrows related to the Project and for processing, reviewing and approving other matters (“**Administrative Fees**”), as more fully set forth in Program Obligations. Borrower is entitled to earn interest on the Reserve for Replacement and Residual Receipts accounts, as more fully set forth in Program Obligations. Lender shall not invest escrow account monies in interest-bearing accounts unless interest earned is added to and included in the relevant escrow account, and unless the net income is paid or credited to the account of Borrower. Net income is defined as the earnings remaining after the following expenses are deducted: (i) any Servicing Fees, and (ii) any Administrative Fees.
4. Except for (i) Loan advances made in accordance with Program Obligations, (ii) notes executed pursuant to Section D(3)(h) above, or (iii) Lender advances made pursuant to the Security Instrument, Lender does not have outstanding and shall not make loans or advances to Borrower, any of the sponsors, the general contractor, or the architect for any purpose connected directly or indirectly with the Project without prior written approval of HUD; and Lender has not made or offered, and shall not make or offer, any guarantees, pledges, reservations of sums to become due or other inducements to any entity or person to make loans or advances that Lender would be prohibited from making under the terms of this paragraph.
5. Lender has not made and shall not make payment of any kickback or fee or other consideration, directly or indirectly, to any person who has received payment or other consideration from any other person in connection with this Loan transaction, including the purchase or sale of the Mortgaged Property, except for HUD-approved compensation paid or to be paid, if any, for the actual performance of services.
6. If a letter of credit has been accepted instead of cash, (a) such letter of credit shall be unconditional and irrevocable and be issued in accordance with Program Obligations by (1) another banking institution; or (2) Lender, with HUD’s written permission prior to initial endorsement; and (b) Lender has not made and shall not make any inducements as described in Section D(4) above to procure issuance of such letters of credit. If demand under the letter of credit is not immediately met, Lender shall forthwith provide cash equivalent to the undrawn balance thereunder without recourse to Borrower and without regard to Lender’s ability to recover such amount from any other entity or person who securitized the letter of credit.
7. (a) For Loans funded with the proceeds of state or local bonds, Ginnie Mae mortgage-backed securities, other bond obligations as defined by HUD, any of which contain a prepayment lock-out and/or prepayment premium provision, in the event of a default during the term of the prepayment lock-out and/or prepayment premium (i.e., prior to the date on which prepayments may be made with a prepayment premium of one percent or less), Lender shall follow those procedures set forth in Program Obligations; (b) after commencement of amortization, Lender shall notify HUD of the delinquency when a payment is not received by the tenth (10<sup>th</sup>) day of the month in which it is due.



8. Lender has committed to provide the Loan subject to:

- (a) Prepayment Provision: Prepayment of the Note is subject to the following: *[list prepayment provisions/penalty OR N/A if there are no prepayment penalties in the Note]*.
- (b) Extension Provision: *[list date for delivery of mortgage loan and terms and fees associated with extension provisions OR list "N/A" if there is no delivery date or extension fee.]*

### **E. OTHER LENDER OBLIGATIONS**

1. If Borrower defaults in its obligations to (i) complete construction of the Improvements, or (ii) to complete substantial rehabilitation to the Improvements on the Mortgaged Property, Lender has the right, transferable to HUD, to (i) complete the Improvements as provided in the Building Loan Agreement, or (ii) to complete any substantial rehabilitation to the Improvements. In the event completion of the Improvements or completion of substantial rehabilitation to the Improvements is undertaken by either Lender or by HUD, the undisbursed balance of the Loan may be advanced for this purpose and to discharge any valid liens or claims against the Mortgaged Property. Such advances shall be considered as made for the account of Borrower and shall be covered by the terms of the Security Instrument and the Contract of Insurance.
2. So long as the Contractor or Borrower, or, upon default, the Contractor's surety or any other person authorized to act on behalf of or in substitution for any of them shall be willing and able to complete construction or substantial rehabilitation of the Improvements, Lender, upon HUD's request, shall advance up to the undisbursed balance of the Loan and shall authorize release of any grant or loan proceeds or other funds available under Section C.1 above for that purpose. The term "**Contractor**" as used above, means any person, corporation or other entity contracting directly with Borrower for the construction of all or any portion of the Improvements.
3. The following are the only identities of interest, as defined in Program Obligations, between Lender and Borrower, any Principal of Borrower, Contractor, any subcontractor, or the seller of the land: \_\_\_\_\_.
4. Lender shall disclose to HUD any future identities of interest, as defined in Program Obligations, during the construction period or prior to final endorsement.
5. No Identity of Interest, as defined in Program Obligations, exists between Lender and the counsel to Borrower and that no portion of the amounts included in the Loan for Borrower's attorneys has been paid to Lender or its employees.
6. All funds, escrows, and deposits specified in this Certificate and any and all other funds held by or at the order of Lender in connection with the Loan transaction covered by this Certificate shall be funds held pursuant to Program Obligations and any applicable escrow agreements.
7. For any case involving materials stored off-site, Lender shall:

- (a) File Financing Statements (UCC-1), in the proper jurisdiction with the proper office;
  - (b) Make whatever additional filings are necessary to maintain a first lien on the materials until they are incorporated into the Improvements;
  - (c) Release the Financing Statement filings as appropriate;
  - (d) Unconditionally certify by letter to HUD with each disbursement request that the Security Instrument(s) is (are) a “first lien” on such building materials covered by the Instrument(s). This certification shall be supported by an opinion from Lender’s legal counsel;
  - (e) In the event of default under the Security Instrument, either assign Lender’s security interest to HUD or acquire title through foreclosure to the materials intended for use or incorporation into the building(s) and convey title to HUD; and
  - (f) Require a performance bond and payment bond each in an amount equal to 100 percent of the construction contract be used to satisfy the assurance of completion requirements.
8. All HUD form closing documents submitted to HUD in connection with this transaction (with the exception of the Opinion by Counsel to Borrower and the accompanying Certification by Borrower) conform to those documents Lender obtained from HUD and such documents have not been changed or modified in any manner except as specifically identified and approved by HUD as evidenced by the attached Exhibit \_\_\_\_\_. It is understood that changes and modifications do not include filling in blanks, attaching exhibits or riders, striking through inapplicable provisions, deleting bracketed provisions as contemplated by the terms of the documents, or making changes authorized by Program Obligations.
9. If closing with electronic documents, Lender agrees to provide HUD with electronic copies of the executed closing documents post-closing that conform in all respects to the electronic versions delivered to and accepted by HUD at the closing of the Loan and will include a certification of such conformance that includes the same warning language found in this Certificate with its electronic submission to HUD.
10. Based upon Lender’s reasonable due diligence and as set forth in Exhibit \_\_\_\_ (a) as of the date hereof, the Borrower has obtained, or caused to be obtained all necessary certificates, permits, licenses, qualifications, authorizations, consents, and approvals from all necessary Governmental Authorities to own and operate the Mortgaged Property, and to carry out all of the transactions required by the Loan Documents, and to comply with all applicable federal statutes and regulations of HUD in effect on the date of the Firm Commitment, except for those, if any, which customarily would be obtained at a later date, at an appropriate stage of construction or completion thereof; and (b) appropriate actions have been taken by and necessary filings have been made with those Governmental Authorities, all as disclosed by Borrower.

11. Lender has made reasonable inquiry and has discovered no liens or encumbrances against the Mortgaged Property that are not reflected as exceptions to coverage in the title policy.
12. Lender has consented to all secondary financing liens or encumbrances against the Property (including Section 241 loans), if any.
13. Lender (i) shall notify HUD in writing immediately upon learning of any Violation of the Regulatory Agreement by Borrower, (ii) shall treat Violations under the terms of the Regulatory Agreement as a default under the Security Instrument when HUD instructs Lender to do so; and (iii) shall, following a Declaration of Default by HUD under the Regulatory Agreement and upon the direction of HUD, declare the entire Indebtedness to be due and payable.
14. Lender shall promptly review any Borrower's request to transfer the Project and shall not unreasonably withhold Lender's approval of the transfer. If HUD approves the transfer, Lender shall execute a release and assumption agreement or a security instrument modification agreement incorporating any new Regulatory Agreement in the existing Security Instrument. It is understood that Lender's consent to the transfer shall in no way prejudice Lender's rights under the Contract of Insurance with HUD.
15. Lender shall (a) require Borrower to keep the Mortgaged Property insured at all times against such hazards as Lender and HUD may from time to time require and as set forth in the Security Instrument, and (b) notify HUD of any known payments made by an insurer. All insurance policies on the Project comply with the terms of the Security Instrument, and where applicable, those insurance policies have attached thereto a standard mortgagee clause making the loss payable to HUD and Lender, as its interest may appear, and where applicable, HUD and Lender are shown as an additional insured. If Lender determined that any of the Improvements are located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area having special flood hazards, or when flood insurance is otherwise determined necessary by HUD consistent with Program Obligations and required by the Firm Commitment, Lender shall collect from the insurance company providing flood insurance, an insurance certificate evidencing flood insurance, dated as of\_\_\_\_\_.
16. The Loan does not violate the usury laws or laws regulating the use or forbearance of money of the Property Jurisdiction.
17. If the Security Instrument is assigned to HUD under the Contract of Insurance, HUD shall not be bound by the requirements of this Certificate.
18. If there is a sale or transfer of all or a partial interest in the Note (other than a sale or transfer of a participation or other beneficial interest, e.g., a transfer of any interest of a Ginnie Mae MBS Security, or the creation of a security interest) or a change of the loan servicer, Lender shall be responsible for ensuring that Borrower is given Notice of the sale, transfer and/or change.

[Add this Section if the Project will be partially financed by cash-collateralized, tax-exempt bonds. This Section may be modified for similarly structured transactions that use tax-exempt loans in lieu of tax-exempt bonds, as approved by the HUD Closing Attorney.]

#### **F. 4% Low Income Housing Tax Credit & Tax-Exempt Bonds**

1. The financing for this Project includes the issuance of tax-exempt, cash-collateralized bonds (the “**Bonds**”) by [insert state agency issuing bonds] \_\_\_\_\_ . As set forth in the draft bond loan agreement and draft bond trust indenture [modify bond loan document titles as needed] (the “**Bond Documents**”), the bond structure requires the Lender to deliver funds to the bond trustee for deposit into the bond “**Collateral Fund**”. The Bond Documents also govern the funding and use of funds contained in the “**Project Fund**” and the “**Bond Fund**”.
2. Lender agree for purposes of this Section F only that:
  - a. “**HUD-Insured Loan Funds**” means funds delivered to the Borrower (or Borrower’s designee, such as the contractor but never the bond trustee) by the Lender pursuant to HUD form HUD-92403 Application for Insurance of Advance of Mortgage Proceeds.
  - b. Funds do not become HUD-Insured Loan Funds unless, and until, such funds are disbursed directly to the Borrower (or Borrower’s designee, which may not be the bond trustee or any related party); and
  - c. “**Lender Funds**” means: funds in the Lender’s control, whether from Lender’s own account or from Lender’s warehouse bank line of credit or other funding source.
3. All funds delivered by Lender to the bond trustee for deposit into the Collateral Fund shall be Lender Funds, and shall not be subject to payment under a mortgage insurance claim;
4. HUD-Insured Loan Funds shall not be sent to the bond trustee or deposited in the Collateral Fund, Project Fund, Bond Fund, or any other funds or accounts established through the Bond Documents to facilitate issuance of the Bonds; and
5. Lender Funds are not insured by HUD and are used at the Lender’s own risk; Lender Funds do not become HUD-Insured Loan Funds until direct disbursement to the Borrower (or Borrower’s designee).

{The following statement must appear on the same page as the executed signature block for the Lender.}

The signatory below certifies that all of the information provided in this Certificate and in any accompanying documentation is true, accurate, and complete, has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by HUD as a true statement of the facts contained therein. The signatory acknowledges that the submission of any false, fictitious, or fraudulent statement, representation, or certification in this Certificate or on any accompanying documents may result in criminal, civil, and/or administrative sanctions, including fines, penalties, and/or imprisonment under applicable federal law.

Lender:

By \_\_\_\_\_  
  
\_\_\_\_\_