

Date: _____ Project Name: _____
 FHA Number: _____

Lender's Preconstruction Conference Agenda

(Office of Healthcare Programs (OHP) - Section 232)

U.S. Department of Housing and Urban Development
 Office of Healthcare Programs

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

Lender's Preconstruction Conference Agenda
Section 232

Public reporting burden for this collection of information is estimated to average 4.5 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. Response to this request for information is required in order to receive the benefits to be derived. 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. No confidentiality is assured.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

- New Construction
- Substantial Rehabilitation
- 241(a)

Project Name: _____
Project Location: _____
FHA Number: _____
Meeting Date & Location: _____

Early Commencement of Construction is applicable: YES NO (check one)

Early Start is applicable: YES NO (check one)

Attendance Record

<u>Name and Title</u>	<u>Organization and Mailing Address</u>	<u>Email Address</u>	<u>Phone # / Fax #</u>

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

Name of HUD Contract Inspector: _____

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

When Early Commencement of Construction is not applicable:

Confirm Construction Time: _____ Months

Confirm Scheduled Completion Date per Executed Construction Contract: _____

1. **Welcome / Introductions / and Attendance Record (above)**
2. **Certified Payrolls and Davis Bacon** (Name of HUD Labor Relations Specialist - _____)

It will be up to HUD's Labor Relations Specialist to determine if they will make their standard presentation during this Conference, or at a time of their choosing (but prior to the start of construction).

Owner _____ Architect _____ Contractor _____

3. **Payments from Construction Account / Partial Payment to Contractor**

Note: There shall not be any requisitions of FHA Insured funds, if Initial Closing has not occurred. This would apply to both Early Commencement and Early Start projects.

Review "General Contractor's Monthly Requisition Procedures..." **Attachment 1**

See also, "SAMPLE Materials Stored Onsite Spreadsheet." **Attachment 2**

Each month the Lender shall transmit, via email and attached PDF, a copy of the approved Monthly Requisition, to the HUD Construction Manager. A hardcopy is not necessary.

Owner _____ Architect _____ Contractor _____

4. **Contractor's Supervision**

Who will be the Project Manager? _____
Who will be the Project Superintendent? _____

Owner _____ Architect _____ Contractor _____

5. **Initial Starting Date**

General Contractor shall provide _____ (Lender PCCC Name) _____, _____ (HUD OHP Construction Manager Name), _____ (HUD Labor Relations Specialist Name) _____, and _____ (HUD Contract Inspector Name) _____ letters indicating the date (actual date, not anticipated) of Initial Construction Start (the beginning of initial site clearing and preparation) and the date of Permanent Construction Start (permanent on-site building elements put in place, such as footing and utility lines). Letters can be transmitted in PDF format, via email to all recipients. As there is no HUD form for these letters, the General Contractor shall use their letterhead. For Substantial Rehabilitation projects, the construction start date shall be the actual date that work began on the project. This date shall be verified by the project architect. The HUD Inspector must record the date of Initial Construction Start and the date of Permanent Construction on form HUD-95379 (Trip Report).

Owner _____ Architect _____ Contractor _____

Field Code Changed

6. Inspection and Supervision by Project Architect

Provide services in accordance with the Owner/Architect Agreement (AIA B181).

Ensure that construction is carried out in accordance with the contract documents.

Review Contractor's Monthly Draw Requests for accuracy and appropriateness.

Architect's Supplemental Instructions - AIA G710, is acceptable to use for the following: interpretation or clarification of the contract documents, order minor changes in the work not involving cost, or accepting specified equivalents.

Generate a Field Report with each site visit (e.g. the AIA G711, Architect's Field Report) – minimum contents include:

- Date of inspection
- FHA Project Number and location
- Time, weather, and temperature range
- Estimated percent of completion
- Work in progress and conformance with the contractor's progress schedule
- Persons present at work
- Observations and items to verify
- Information or action required
- Firm name and signature

Maintain an Architect's Log, which includes such items as the above Field Reports, a Visitor's Sign-in Log, etc... Said log is to be kept up to date and on site. The HUD Inspector will review the Architect's Log during each site visit.

Throughout construction, provide the HUD Inspector with a copy of the Field Reports.

Owner ____ Architect ____ Contractor ____

7. Not Used

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

8. **Trip Reports (form HUD-95379) by HUD Inspector**

In brief, the Contract Inspector will check the job to insure that:

- The construction is progressing on schedule
- "HUD As-Built Set" of Plans and Specs are being updated by the Contractor on a regular basis
- Construction is according to contract documents
- The Architect of Record is inspecting regularly and maintaining the Architect's Log
- Construction site is well organized
- Construction draws are accurate and acceptable and materials are either on site or stored in a warehouse (if applicable)
- Workers are being paid properly. Davis Bacon Wage Interviews are conducted each time the inspector is out at the job site. Interviews are used by HUD's Office of Labor Relations to verify prevailing wage compliance and who was working when. The goal is to interview all trades at least once. Interviews will take a very short time, and no supervisors can be present. **Please advise all Subcontractors often that these will be taking place.**

Owner _____ Architect _____ Contractor _____

9. **Sub Contractor's Identity of Interest**

An Identity of Interest must be approved by the HUD Construction Manager (contract must show the cost plus a profit) prior to execution of the subcontract or commencement of the work. If prior approval is not received, the General Contractor's Overhead and Profit for that work will be disallowed by HUD at Cost Certification time.

Requests for approval shall be sent first to the Lender (who may enlist the services of their Third Party Architectural Reviewer), who will in turn forward the complete package to the HUD Construction Manager for final approval.

An Identity of Interest occurs when the Mortgagor or the General Contractor has an interest in a subcontractor, material supplier, or lessor of equipment.

This interest may be financial, ownership, and family relationship, to name a few.

The Identity of Interest must also submit a Cost Certification (Form HUD-92330-A) (if applicable, depending on the type of Construction Contract)

A company that only does business with the Mortgagor or General Contractor is not allowed ("paper conduit").

Owner _____ Architect _____ Contractor _____

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

10. **Change Orders**

For Early Commencement or Early Start projects, Change Orders will not be processed prior to Initial Endorsement and funds for the construction changes must be provided at Initial Closing.

Review the "Change Order Procedures: OHP- Section 232 New Construction, Substantial Rehabilitation and 241a," with attendees. **Attachment 3**

Do not forget the required, "**Architect's Letter of Justification and Certification for HUD Change Orders,**" **Attachment 4**, with each Change Order.

Are there any Firm Commitment Special Conditions that could affect change orders on this project?

- None ____, or
- Special Condition #__ - _____
- Special Condition #__ - _____

See Sample Change Order, form HUD-92437, as well. **Attachment 5**

The Lender shall create a color PDF version of the complete Change Order package, and send it via email to Mike.Peeler@hud.gov for review, execution, and distribution.

Owner ____ Architect ____ Contractor ____

11. **Construction Progress Schedule (per AIA A201 - General Conditions of the Contract for Construction)**

The Schedule will be submitted at Initial Closing, even if Early Commencement of Construction is applicable.

Used by HUD as an early warning/tracking tool to determine if the project is on schedule. A simple schedule showing the proposed cumulative percentage of completion per month during the construction period is acceptable. Form HUD-5372, is an acceptable example.

An updated Schedule is required when construction falls more than 10% behind schedule (a revised schedule is not usually submitted when the project is ahead of schedule).

Owner ____ Architect ____ Contractor ____

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

12. **Display of: Davis Bacon Wages, Equal Employment Opportunity Documents, Change Order Log, and Approved Change Orders, Architect’s Log/Inspection Reports, “HUD As-Built Set” of Plans and Specs, and Inspection Log**

If Early Commencement of Construction is applicable, an “As –Built” record shall be kept and incorporated into the HUD Set drawings. The “HUD As-Built Set” of the Plans and Specifications will only apply after Initial Closing.

All of the above must be available for view by all on the job. The Inspection Log is by the General Contractor to document who has been at the site doing inspections (local authority, inspecting architect, HUD Inspector, etc...) and when, and any necessary notes.

Owner _____ Architect _____ Contractor _____

13. **“HUD As-Built Set” of Plans and Specs & As-Built Survey**

N/A to Early Commencement of Construction, however, an “As –Built” record shall be kept and incorporated into the HUD Set drawings at or before initial closing. The “HUD As-Built Set” of the Plans and Specifications will only apply after Initial Closing.

“HUD As-Built Set” of Plans and Specifications: Provided to the General Contractor at the Preconstruction Conference. The set must be constantly maintained by the contractor to record all construction changes and/or modifications.

As-Built Survey: Required for Construction Completion *and* Final Closing. This is an “As-Built” ALTA/ACSM Land Title Survey, including all above ground and below ground improvements, and site contour lines. See, “Lean 232–Survey Instructions.” Attachment 6.

Owner _____ Architect _____ Contractor _____

14. **Shop Drawing Submittal and Approval**

The HUD Inspector will check to make sure the contractor is submitting all shop drawings (Section 3.12 in A201) in a timely manner to the architect for timely approval (Section 4.2.7 in A201). Most sections have specific Submittal instructions, as well as other sections of the A201. HUD is not a party to Shop Drawing approvals.

Owner _____ Architect _____ Contractor _____

15. **Corrective or Incomplete Items**

Issues may be identified by the project architect, the HUD Inspector, the Local Authority, or other individuals. Issues must be corrected in a timely manner. Inspection reports must document the issue and continue to do so until the situation is corrected.

Owner _____ Architect _____ Contractor _____

Field Code Changed

16. **Permission to Occupy**

Review "Permission to Occupy Instructions - HUD-92485" with attendees. **Attachment 7**

Reminder - At a minimum, the Permission to Occupy (PTO) must include:

- Local Authority Certificate of Occupancy (Temporary C of O is acceptable at this stage),
- Certificate of Property Insurance,
- Certificate of Fidelity Insurance,
- Certificate of Professional Liability Insurance, and,
- Any other PTO related Firm Commitment Special Conditions, including:
 - None _____, or
 - Special Condition #__ - _____
 - Special Condition #__ - _____

The Lender shall create a color PDF version of the complete Permission to Occupy package, and send it via email to Mike.Peeler@hud.gov for review, execution, and distribution.

Owner ____ Architect ____ Contractor ____

17. **Final Construction Completion**

As defined in the Construction Contract, Article 2 E. which reads, "The date of final completion shall be the date the HUD representative signs the final HUD Representative's Trip Report provided that the trip report is subsequently endorsed by the Chief Architect."

Architect and HUD Inspector will make the final inspection upon request of the Contractor. The Architect determines that all punch list items are complete (unless they are Items of Delayed Completion, and then construction proceeds are withheld until the work is completed), and provides a letter stating so.

The HUD Inspector fills out the final Trip Report.

The HUD Construction Manager will review and approve the report.

Remember, before the Final Inspection is scheduled:

- Work 100% Complete (with the exception of approved Items of Delayed Completion)
- "HUD As-Built Set" of the Plans and Specifications; reviewed by Architect and HUD Contract Inspector, and left at the site or forwarded to project Owner/Sponsor (documented by Architect's Transmittal Memorandum to Owner/Sponsor)
- Owner's O&M Manuals; reviewed by Architect and HUD Contract Inspector, and forwarded to project Owner/Sponsor (documented by Architect's Transmittal Memorandum to Owner/Sponsor)
- Final "As-Built Survey" and "Surveyor's Report;" reviewed by Architect and HUD Contract Inspector, and forwarded to HUD (documented by Architect's Transmittal Memorandum)
- All Major Movable Equipment on site, and in place
- All Change Orders submitted and approved by HUD
- Final 100% Construction Draw/Requisition submitted to HUD
- HUD Permission to Occupy executed and approved by HUD

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

Owner ____ Architect ____ Contractor ____

18. General Contractor's Cost Certification

- N/A; Lump Sum Contract
- Applicable; Cost Plus Contract

See HUD Handbook 4470.2, for details.

The General Contractor must submit a Cost Certification (Form HUD-92330-A). Account line items must correspond to line items on the Form HUD-2328 – Contractor's Cost Breakdown.

The assigned HUD Closing Coordinator shall be the point of contact for the Cost Certification process (both General Contractor – if applicable, and Mortgagor).

Owner ____ Architect ____ Contractor ____

19. One Year Warranty and Guarantee Inspections

A warranty shall be provided by the General Contractor on labor and materials for one year after Final Construction Completion has been reached.

A minimum of two inspections are made of all work to discover and require correction of latent defects (defective or nonconforming work not observed during construction) within one year of the date of the Final Inspection Report.

The HUD Inspector schedules guarantee inspections.

- A Nine Month Warranty Inspection must be conducted and shall provide for inspection of the entire project.
- The inspection team will include: HUD Inspector, Supervisory Architect, Owner, Contractor, and if possible, Onsite Maintenance representative.
- Other inspections may be necessary to assure inspection of seasonal items such as heating and landscaping.
- A final 12-Month Warranty Inspection must be conducted no later than 335 days after the Final Inspection Report to check previously reported defects and correction, and identify any additional defects.

(continued)

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

(continued)

The HUD Inspector reports each guarantee inspection on HUD Form 95379, HUD Representative's Trip Report.

- If work is acceptable, state, "All observable work acceptable at the time of this inspection."
- If unacceptable, list latent defects.
 - Describe each item.
 - Recommend method of correction.
 - Estimate current cost of correction.
- Check any Items of Delayed Completion and list completed and uncompleted items under a separate heading.
- Note any improper maintenance or casualty damage under a separate heading.

Owner ____ Architect ____ Contractor ____

20. **Sign and Date "PreConstruction Conference Certification" on last page of this Agenda**

Field Code Changed

Attachment 1

General Contractor's Monthly Requisition Procedures

(OHP - Section 232 New Construction, Substantial Rehabilitation and 241a)

- A. Contractor's Monthly Requisition must be made on Form HUD-92448. The Contractor's Prevailing Wage Certificate on the form's reverse side must be signed. The 92448 shall be a 2-sided form executed by the Contractor, and Supervisory Architect. The Contract Inspector must then review for acceptability and any modifications and execute the document. If acceptable, the document is forwarded to the Lender's mortgage credit analyst for further processing, and inclusion in the Mortgagor's Monthly Requisition, form HUD-92403.
1. Eligible items for inclusion on Form HUD-92448.
 - a. Acceptably completed onsite work, i.e. in full compliance with contract documents;
 - b. Materials acceptably stored onsite itemized by quantity and cost with supporting invoices;
 - c. Components acceptably stored offsite, where provisions are made at initial closing (including an acceptable Assurance of Completion for Offsite Improvements), and requirements of Paragraph B below are met.
 - d. The Architect determines amounts due by job site observation of acceptable work. (The Contract Inspector makes the determination if there is no Architect.)
 - e. The Contract Inspector:
 - (1) Checks the Architect's determination using Form HUD-2328, Schedule of Values, and trade item cost breakdowns (guides) to assure that amounts are reasonable for acceptable work and that funds remain for unacceptable and incomplete work;
 - (2) Spot checks the count of stored onsite items, determines that storage is acceptable, and assures that amounts are reasonable for approval;
 - (3) Checks the invoice and certificate for stored off-site items, and approves payment after assuring that funds remain for transportation to the site and erection.
 2. Ineligible items for inclusion on Form HUD-92448.
 - a. Noncompliant work and work supported or dependent upon noncompliant work. Work changes completed in anticipation of future change order approvals are noncompliant work.
 - b. Additive change orders. See Change Order Procedures for LEAN 232 New Construction and Substantial Rehabilitation.
 - c. Off-site work. See Paragraph C below for the contractor's requisition of payment, and release of funds to the mortgagor for acceptably completed offsite work.

Field Code Changed

3. Modification of Contractor's Requested Amount.

Where there is disagreement with the requisition, the Contract Inspector may modify the contractor's requested amount by:

- a. Entering trade item modification(s) on Form HUD-92448;
- b. Explaining the modification(s) in the HUD Representative's Trip Report, Form HUD-95379.
- c. Completion of Form HUD-92448, Items (1) through (13) are made by the Lender.

4. Supporting Documentation.

- a. In order to help the Contract Inspector reconcile differences with contractor claims, the contractor will submit receipts, bills of lading for onsite deliveries, billings for onsite work, evidence of onsite payrolls, etc.
- b. Surveys may be submitted with each contractor's requisition for improvements not previously shown on a survey, especially regarding:
 - (1) Where the structures site or setting of finished floor elevations are questioned;
 - (2) Location of materials stored onsite.
- c. A survey is required for the next to last advance.

B. Components Stored Off-site.

1. Eligible Building Components. Only "building components" qualify for insurance of advances when stored offsite.

- a. An "eligible building component" is a manufactured or pre-assembled building element which, by reason of bulk, size or weight, vulnerability to weather conditions or lack of space at the site, is impractical to store at the site.
- b. Eligible building components comprise, but are not limited to:
 - (1) Precast concrete floor, wall, and roof panels;
 - (2) Assembled bath and/or kitchen core units;
 - (3) Fully fabricated structural steel beams and columns.
- c. Items that are not eligible "building components" are (but not limited to): kitchen appliances, carpeting, wood roof trusses, etc.

2. Basic Requirements for insured advances.

- a. The Lender must have agreed to the necessary provisions at initial closing, including an acceptable Assurance of Completion for Offsite Improvements.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

- b. The Construction Contract must include the rider "Amendment to the Construction Contract for Payment for Components Stored Offsite."
 - c. Payments are limited to the invoice value of the components.
 - d. The contractor and its surety bear full responsibility for fraudulent claims for payment and fraudulent disposition of such payments. Safeguards are to protect against premature payments, against materials that do not meet contract requirements and against losses not covered by insurance.
 - e. The construction contract must be secured by a 100 percent performance and payment bond.
 - f. Components must be stored at a location approved by the Lender and HUD.
3. Lender's Responsibilities.
- a. File Uniform Commercial Code (UCC)-1, financing statements with the proper office in the proper jurisdiction.
 - b. Make whatever additional filings are necessary to maintain a first lien on the components until they are incorporated into the building(s).
 - c. Release the financing statement filings as appropriate.
 - d. Unconditionally certify by letter to HUD that the security instrument(s) is (are) a "first lien" on the components covered by the instrument(s). The Lender's certification must be supported by an opinion from the Lender's counsel.
 - e. In the event of default under the mortgage, either assign its security interest to HUD or acquire title through foreclosure to the components intended for use or incorporation into the building(s) and convey title to HUD.
4. General Contractors' Responsibilities.
- a. All direct and indirect costs associated with the storage and transportation of components stored offsite;
 - b. Obtaining a risk of loss insurance policy which covers the components. Evidence of this policy must be submitted to the Lender prior to approval of any advance for components stored offsite;
 - c. Assurance that there is a valid security agreement that is a first lien on the components.
5. Contractor's Requisition. All requests for payment for components stored offsite must be submitted on Form HUD-92448, Contractor's Requisition, accompanied by the following:
- a. A statement from the mortgage's Architect certifying that:
 - (1) He/she has visited the storage site and inspected the components for which payment has been requested;
 - (2) The components are in good condition and they comply with the contract requirements;
 - (3) The components are properly stored and protected;

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

- (4) The components are segregated, in an easily identified manner from other materials stored at the same site and are marked for identification;
 - b. A bill of sale accompanied by an itemized invoice transferring title of the components to the mortgagor;
 - c. A copy of the security agreement provided to the mortgagee by the mortgagor;
 - d. A copy of the financing statement or statements filed by the Lender in accordance with the Uniform Commercial Code;
 - e. A warrantee from the Lender that the security instruments represent a first lien on the building components;
 - f. An opinion from the Lender's attorney that he/she has reviewed the security agreement and associated documents relative to the building components and that the security agreement creates a valid security interest in the collateral and that when the financing statement or statements is (are) duly filed, the secured party will have a first lien.
6. Review of Contractor's Requisition.
- a. The Contract Inspector must request an inventory of the "stored components" and a breakdown of the line item of which the stored components are a part before approving payment for the components stored offsite. The breakdown must state:
 - (1) Cost of Components (invoice value).
 - (2) Cost of transportation from the offsite storage location to the construction site.
 - (3) Cost of Installation.
 - (4) Costs of any other items included in the line item.
 - b. The breakdown is to insure a remaining undisbursed balance sufficient to cover the costs of transportation and installation, and any other items included in the line item.
 - c. Do not approve payment for components stored offsite where a contractor's performance is marked by serious deviations from the contract documents, or if payment will cause excessive additional interest costs.
 - d. Do not approve any insured advances for components stored offsite where the contractor does not have a 100 percent performance and payment bond.
 - e. Do not approve insured advances for components stored offsite in an amount exceeding 50 percent of the contract amount.
 - f. The minimum advance is \$10,000.
 - g. Limit advances for components stored offsite to the cost of components (invoice value) less the usual 10 percent holdback.

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

C. Offsite Construction. Separate from work done under the Construction Contract for the project. Where offsite work is completed by the mortgagor, rather than by a municipality or utility company, a separate construction contract is required, even if completed by the project contractor. Offsite work must also be funded from sources outside the mortgage, except that an escrow for its completion may be funded from available excess mortgage proceeds.

1. Completion Monitoring is performed by the Contract Inspector and reported on the Trip Report, Form HUD-95379.
2. Contractor's Requisition is by letter to the mortgagor. Do not use Form HUD-92448 to reflect the value of acceptably completed offsite work, even if completed by the project contractor. Request for Approval of Advance of Escrowed Funds, Form HUD-92464, is used.
3. Construction Changes for offsite work must be requested by letter. Form HUD-92437, Request for Construction Changes, may be used as a guide, but the form itself must not be used for offsite change orders. Any additive change order for off-site construction will result in a corresponding increase to the required escrow.

Field Code Changed

Attachment 3

Change Order Procedures

(OHP – Section 232 New Construction, Substantial Rehabilitation and 241a)

General Instructions

- A. General Instructions. Construction contract changes (change orders) to the scope of contract work, contract price or contract time must be requested by the mortgagor through the Lender on Form HUD-92437, Request for Construction Changes. Multiple construction changes may be placed on a single form. However, both a construction change(s) and a time extension change may not be listed on the same form. Forms must be signed by the mortgagor's Architect, the mortgagor, the general contractor, and the Lender (including the Lender's Architectural Reviewer, Cost Analyst, Appraiser, and Mortgage Credit Specialist, as necessary). The Contract Inspector shall review the change order for technical acceptability and for duplication within the drawings and approve or disallow prior to submission to the lender for approval. Final change order approval is made by the OHP's Construction Manager.
1. The General Contractor shall maintain a Change Order Log, showing the status of potential Change Orders. An updated copy must be kept on site, in the construction office, and a copy provided to the Contract Inspector whenever changes are made to the Log.
 2. The project Architect shall draft an attachment (backup material) for each Change Order that clearly describes each change, and the reason for the change. Form HUD 92437 is used for on-site changes during construction in all multifamily projects involving Insurance of Advances of Mortgage Proceeds and Insurance Upon Completion when the change involves:
 - a. A change in construction time.
 - b. An increase in cost.
 - c. A decrease in cost.
 - d. A change in design concept.
 3. After the General Contractor or Supervisory Architect has drafted the Change Order, and included all necessary attachments, the Contract Inspector will review the change order in the field for technical acceptability and for duplication within the drawings. The Lender's Architectural Reviewer and Cost Analyst (per the instructions below), and Lender's Appraiser and Mortgage Credit Specialist (as required by the instructions below), will then review and process the Change Order. The Change order is then reviewed and signed by the Lender, who then sends the complete Change Order package to the OHP Construction Manager for final review and approval. Copies of the fully executed Change Order will then be distributed as listed below.
 4. Approve change orders only when they are necessary, are a betterment, or an equivalent. The following information should appear on the face:
 - a. Classification (necessity, etc.);
 - b. Qualification for payment from the contingency reserve in rehabilitation projects and from the Owner/Mortgagor for insured projects;
 - c. Whether change order results from error, omission, or negligence on the part of the Architect, contractor, or mortgagor.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

5. Do not approve any change orders submitted after the final Contract Inspector's Trip Report, except where:
 - a. The change order pertains to "Items of Delayed Completion," or
 - b. Written approval is given by the OHP Construction Manager.
6. Surety Approval must be secured in writing before approving any change or aggregate of changes that increase the contract price 10 percent or more. There is no consent requirement where the project's assurance of completion is by a cash escrow or letter of credit.
7. Change Orders must be submitted in a timely manner. HUD regulations prohibit processing of change orders after the Final Trip Report.

B. Policy.

1. Changes must be accurately reported and accounted for pursuant to U.S. Criminal Code, Section 1010, Title 18, U.S.C.
2. Procedures for changes outlined here are not to be used to alter the intent of contract documents or to lower the quality or value of a project.
3. HUD does not initiate any change but may require them as a condition of approval in connection with a change proposed by the Architect, mortgagor, or contractor.
4. All changes must be approved in writing by the Lender and HUD before they are made.
5. Any change that is made without formal approval, even though tentatively agreed to as technically acceptable, must be recorded by the Contract Inspector as a noncompliance. This stands until the Form HUD-92437, Request for Construction Changes - Project Mortgages, is approved, and also affects payment of advances.

C. Change Order Classification.

1. Necessary changes (Contract Inspector should document the reasons) are those that arise from:
 - a. Latent conditions that differ from conditions defined by the construction documents;
 - b. Changes in the applicable codes, ordinances, etc. after:
 - (1) Initial closing for insured advances;
 - (2) Firm Commitment for insurance upon completion;
 - c. The Architect's errors or omissions;
 - d. Damage to completed construction.
2. Betterment changes are those that are economically justified. They must either:
 - a. Increase net income;
 - b. Reduce long-term project maintenance and/or operating expenses;
 - c. Otherwise enhance the mortgage security.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

- 3. Equivalent changes are those proposed because:
 - a. Specified item is not readily available and the substitution provides equivalent or better utility, or
 - b. Proposed substitution reduces the contract price but provides equivalent or better utility and performance.

- D. Additive Change Orders. Do not give any explicit or implied assurance that an increase in the insured mortgage amount will be granted when approving construction changes.
 - 1. Require the mortgagor, except for "necessary" change orders on substantial rehabilitation projects, to escrow funding with the Lender for any additive change order where HUD first estimates that the aggregated change orders equal or exceed a \$5,000 increase in the construction contract price, and for all subsequent additive change orders.
 - a. Excess mortgage proceeds, if available, may be used to fund the escrow for "necessary" and "betterment" change orders. However, any excess mortgage proceeds used to fund the escrow for contractor estimated costs in excess of HUD estimated costs, or HUD estimated costs in excess of contractor estimated costs, may not be disbursed until final closing.
 - b. Permit Lender to accept a third party letter of credit instead of a cash deposit, subject to the Lender agreeing to provide the cash equivalent, where the letter of credit is not immediately met.
 - c. Recognize the cost of third party paid change orders at cost certification, where there are available mortgage savings.

 - 2. On substantial rehabilitation projects, approve payment from the established contingency reserve in an amount not to exceed the HUD cost estimate for "necessary" additive change orders. "Betterment" change orders are not eligible for payment from the contingency reserve.
 - a. Require an escrow for any amount that the contractor's cost estimate exceeds the HUD estimate.
 - b. Authorize use of excess mortgage proceeds, if available, to satisfy the escrow requirement. Excess mortgage proceeds, if available, may be used to fund the escrow for "necessary" and "betterment" change orders. However, any excess mortgage proceeds used to fund the escrow for contractor estimated costs in excess of HUD estimated costs, or HUD estimated costs in excess of contractor estimated costs, may not be disbursed until final closing.

 - 3. Approve the following forms for mortgagor's application of funds for completed additive change orders:
 - a. Form HUD-92464, Request for Approval of Advance of Escrow Funds, where an escrow is used. Note: This form must be submitted to HUD for approval.
 - b. Form HUD-92403, Application for Insurance of Advance of Mortgage Proceeds, where a rehabilitation project's contingency funds or nonprofit's Developer's fee or excess mortgage proceeds are used.

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

E. Deductive Change Orders. Where the HUD estimated decrease in contract price for any aggregation of change orders:

1. Remains less than 2-1/2 percent of the contract price reduce the Contractor's "Final" Requisition, Form HUD-92448, by the appropriate amount.
2. Equals or exceeds 2-1/2 percent of the contract price and for all subsequent deductive change orders regardless of the amount:
 - a. Reflect the decrease in the Contractor's Requisition, Form HUD-92448, Item (8).
 - b. Reduce the original mortgage amount at cost certification, where required.

F. Changes that adversely affect income are a basis for change order rejection, except where it is a necessary change order and the situation is unavoidable.

G. Extension of Contract Time.

1. Approve an extension only where:
 - a. The delay was beyond the contractor's control (e.g. strikes, differing site conditions, bad weather exceeding the average for the season, etc.) and is documented or associated with an approved change order,
 - b. The extension request was submitted within the limit provided by the contract and the general conditions for delays beyond the contractor's control, and submitted concurrently with any requested changes in the work, and
 - c. The request is accompanied by a surety's written consent. There is no consent requirement where the project's assurance of completion is by a cash escrow or letter of credit.
2. Require funding for the increased cost for overhead, interest, taxes, insurance, MIP, and contractor's general requirements by use of a cash escrow, or excess mortgage proceeds, or nonprofit's Developer's fee, if applicable, or from contingency reserve.
3. HUD enforces liquidated damages in accordance with the contract.
4. Required documentation. Within 21 days of the date a construction delay occurs, the contractor must document it with the Architect and include:
 - a. Date of occurrence and number of calendar days it covered.
 - b. Effect on construction progress.
 - c. Cause of the delay. If the cause is of a continuing nature, submit the extension request when the cause ceases, but still record the initial date of occurrence and its effects on construction.
 - d. Extension request must also include written consent of the surety and conform to AIA Document A201, Article 8.3.

H. Changes to Items of Delayed Completion. These are the only construction contract changes that the HUD Office can approve after project completion. All others require OHP consent.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

- I. Emergency changes.
 - 1. The only time a change can be made without prior written approval of the mortgagee and HUD is in emergencies that:
 - a. Endanger life or property or
 - b. Halt construction.
 - 2. However, even then, the Architect must notify the Lender and HUD and, as soon as possible, submit a Form HUD-92437.
- J. Insurance Upon Completion. Construction Contract Changes, Form HUD-92437, are processed in the same way as Insurance of Advance cases, except as modified:
 - 1. An escrow is not required for additive change orders. The mortgagor:
 - a. Must be able to provide the additional funds required and
 - b. Must not have any outstanding obligation in connection with construction other than the insured mortgage at the time the mortgage is presented to HUD for insurance upon completion.
 - 2. Surety approval is not required for the approval of additive change orders regardless of the percentage of contract increase.
- K. Changes to offsite construction must be requested by letter or other acceptable format. Form HUD-92437 may be used as a general guide, but the actual form must not be used.
- L. Other Changes. These changes necessitated by error, omission, or negligence of Architect, owner, or contractor must be so recorded by HUD architectural staff or Contract inspector, on Form HUD-92437.
 - 1. Record the reason for the determination.
 - 2. Indicate that the cost effect must not be included in the mortgage amount.

Contract Inspector Instructions

General Procedure. (For specific situations, see the appropriate subject heading.)

NOTE: For projects involving insurance upon completion, references here to "contract requirements" or "contract documents" include the conditions and provisions of the commitment if there is no construction contract.

- A. Contemplated changes are first discussed among the Architect, contractor, owner, and Contract Inspector.
- B. Contract inspector makes a preliminary determination of technical acceptability and for duplication within the drawings before the change is submitted for approval of the Lender and the HUD Office. (This neither commits HUD to the change, nor relieves the Architect or the contractor of having to submit the Form described below.)

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

- C. All onsite changes to construction documents and requests for time extensions must be submitted for approval on Form HUD-92437, Request for Construction Changes - Project Mortgages.
1. Required attachments for physical changes are:
 - a. Appropriate modifications to the contract drawings and specifications;
 - b. Architect's statement that the change:
 - (1) Conforms to the original intent of the contract drawings and specifications; or
 - (2) Is necessary to overcome an impediment to construction, or is an addition desired by the Owner..
 - c. Backup documentation for amount(s) requested consisting of itemized quantities and costs.
 2. The form must be signed by:
 - a. Mortgagor,
 - b. Contractor,
 - c. Architect (if an Owner/Architect Agreement is in effect), and
 - d. Lender
- D. All offsite changes must be:
1. Requested in a letter or other format acceptable to the field office, however, Form HUD-92437 shall not be utilized.
 2. Documented and processed the same as on-site changes.
- E. The HUD office must promptly review all requests submitted. (Delays could affect construction or contractor requisitions.)
1. Processing of a complete change order submission shall take no more than 5 workdays and is directed by the OHP Construction Manager.
 2. All construction change requests must be reviewed, signed, and dated by the OHP Construction Manager.
- F. Voiding Changes. If an approved change is not made, it must be nullified by a Form HUD-92437 restoring the drawings and specifications to the status prior to the change request or to a status acceptable to HUD.
- G. Unapproved Changes. When there are unapproved changes in the construction, the Contract inspector must modify the amount of the contractor's requisition to cover:
1. The non-compliance (any change that has not formally been approved on Form HUD-92437) and
 2. Construction removal that may be required if the unapproved change does not receive approval.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

Lender's Architectural Reviewer and Cost Analyst's Instructions

A. Architectural Reviewer. Review all requested changes for technical acceptability.

B. Cost Analyst.

1. Construction changes:

- a. The Lender's Cost Analyst will produce a cost estimate for each construction change request submitted by the mortgagor. Apply current data to accepted or amended change order quantities. Include amounts for general requirements and builder's overhead and profit using the percentage of each from Section H of Form HUD-92264-HCF at Firm review.
- b. Compare estimate with mortgagor's estimate. If reasonable, use mortgagor's figure, otherwise use HUD estimate.
- c. Complete cost entries on Form HUD-92437 and forward completed form to the Lender's Appraiser and Mortgage Credit Specialist, if applicable (see "Lender's Appraisal and Mortgage Credit Instructions," below)

2. Approved time extensions:

- a. Calculate additional general requirements cost due to extension of time.
 - (1) Divide cost of general requirements from contractor's approved Form HUD-2328 by the number of months estimated for construction from Section H of Form HUD-92264-HCF at Firm commitment. Sixty-five percent of this amount is the estimate per month of additional general requirements.
 - (2) Use one quarter of the monthly estimate per week.
 - (3) There is no cost effect for extensions of time for less than one week.
- b. Complete cost entries on Form HUD-92437 and forward completed form to the Lender's Mortgage Credit Specialist (see "Lender's Appraisal and Mortgage Credit Instructions," below) (

Lender's Appraisal and Mortgage Credit Instructions

A. Appraisal.

1. The Lender's Appraiser must review all requested changes that may affect marketability, value, income, or maintenance or operating cost; and to identify and explain any estimated increase or decrease in net project income on the reverse of Form HUD-92437.
2. If applicable, per A.1. above, the Lender's appraiser must forward a Trial Form HUD-92264-HCF and Trial Form HUD-92264-A reflecting the new data for the Lender's Mortgage Credit Specialist's re-determination of the maximum insurable mortgage.

B. Mortgage Credit.

1. Processing.

- a. If the mortgagor's or contractor's estimate for the change order exceeds HUD's estimate, the difference must be escrowed with the Lender. Excess mortgage proceeds, if available, may be used to satisfy this requirement. Conversely, that portion of HUD's estimate which exceeds the mortgagor's or contractor's estimate must be restricted and held until final endorsement to ensure funds to complete the project.
- b. Process the cost and appraisal findings and show the cumulative effect on cost of all approved change items.
- c. Additive Change Orders. Do not give any explicit or implied assurance that an increase in the insured mortgage amount will be granted when approving construction changes.
 - (1) Require the mortgagor, except for "necessary" change orders on substantial rehabilitation projects, to escrow funding with the Lender for any additive change order where HUD first estimates that the aggregated change orders equal or exceed a \$5,000 increase in the construction contract price, and for all subsequent additive change orders.
 - (a) Excess mortgage proceeds, if available, may be used to fund the escrow for "necessary" and "betterment" change orders. However, any excess mortgage proceeds used to fund the escrow for contractor estimated costs in excess of HUD estimated costs, or HUD estimated costs in excess of contractor estimated costs, may not be disbursed until final closing.
 - (b) Permit Lender to accept a third party letter of credit instead of a cash deposit, subject to the Lender agreeing to provide the cash equivalent, where the letter of credit is not immediately met.
 - (c) Recognize the cost of third party paid change orders at cost certification, where there are available mortgage savings.
 - (2) On substantial rehabilitation projects, approve payment from the established contingency reserve in an amount not to exceed the HUD cost estimate for "necessary" additive change orders. "Betterment" change orders are not eligible for payment from the contingency reserve.
 - (a) Require an escrow for any amount that the contractor's cost estimate exceeds the HUD estimate.
 - (b) Authorize use of excess mortgage proceeds, if available, to satisfy the escrow requirement, subject to the disbursement limitations in 1 a. above.
 - (3) Approve the following forms for mortgagor's application of funds for completed additive change orders:
 - (a) Form HUD-92464, Request for Approval of Advance of Escrow Funds, where an escrow is used. Note: This form must be submitted for approval.
 - (b) Form HUD-92403, Application for Insurance of Advance of Mortgage Proceeds, where a rehabilitation projects contingency funds excess mortgage proceeds are used.

Field Code Changed

d. Deductive Change Orders. Where HUD estimated decrease in contract price for any aggregation of change orders:

- (1) Remains less than 2 ½ percent of the contract price, reduce the Contractor's "Final" Requisition, Form HUD-92448, by the appropriate amount.
- (2) Equals or exceeds 2 ½ percent of the contract price and for all subsequent deductive change orders regardless of the amount:
 - (a) Reflect the decrease in the Contractor's Requisition, Form HUD-92448, Item (8)
 - (b) Reduce the original mortgage amount at cost certification, where required.

e. Recalculate the maximum insurable mortgage when any approved construction change or changes adversely affect net income, e.g., a change that causes an increase in operating costs.

- (1) Lender's Appraiser completes a Trial Form HUD-92264 with an updated income and expense analysis.
- (2) Re-determine the maximum insurable mortgage.
- (3) If the re-determined mortgage is lower than the original mortgage amount, as a condition of approval of the change order, indicate in item 3b of Form HUD- 92437 that subsequent Contractor's Requisitions, Form HUD-92448, must be reduced by the greater of:
 - (a) The difference in mortgage amounts;
 - (b) The net increase in costs resulting from acceptable construction changes.

f. Extensions of time.

- (1) Lender's Architectural Reviewer, and Cost Analyst are responsible for determining whether the delay was beyond the contractor's control and, if so, the length of the approved time extension.
- (2) Calculate the cost increase due to the extension:
 - (a) Compute daily rate for interest, taxes and insurance by using estimates in Section H of Form HUD-92264-HCF and multiply these rates by the approved time extension.
 - (b) An additional year of MIP will be required if the approved time extension, when added to the estimated construction term plus the 2 months included in Section H of Form HUD-92264-HCF plus previously approved time extensions, will require an additional MIP payment during the construction period.
 - (c) Add the additional general requirements, if any, noted by the Lender's Cost Analyst on the change order request.

NOTE: Only Item (c) above amends the construction contract price on Form HUD-92437.

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

- (3) Determine the source of funds for any increase due to the extension, i.e., cash, excess mortgage proceeds or nonprofit's Developer's fee, or contingency reserve funds.
 - (4) Requests for release of excess mortgage proceeds or contingency reserve funds set aside to fund time extensions are submitted on Form HUD-92403.
 - (5) Releases from a cash deposit are made using Form HUD-92464.
 - (6) These funds may be released only after the account for the soft cost item(s) being requested has been exhausted on Form HUD-92451, Financial Record of Mortgage Loan Transaction.
2. Requests for disbursement of contingency reserve funds and nonprofit's Developer's fee for completed change order items are made on Form HUD-92403. All requests:
 - a. Must be accompanied by a certification by the mortgagor's supervisory Architect and the Contract Inspector that all the work covered by the change order has been acceptably completed in accordance with contract documents.
 - b. Must include the mortgagor/borrower's certification relative to payment to the contractor contained on Form HUD-92464, Request for Approval of Advance of Escrow Funds.
 - c. Must include the criminal certification contained on Form HUD-92464 for certifications made in paragraphs a and b above.
 - d. Are subject to a 10 percent holdback.
 3. Change orders funded from excess mortgage proceeds. Excess mortgage proceeds may be used to fund either "necessary" or "betterment" change orders.
 - a. These funds may be used to fund HUD's estimate of increased costs as well as any portion of the contractor's estimate which exceeds the HUD estimate. The portion which exceeds HUD's estimate must be restricted until final endorsement.
 - b. Funds are released in the same manner as contingency reserve funds.
 4. Releasing Cash Deposit. The mortgagor submits through the Lender Form HUD-92464 when construction covered by a cash deposit is complete and acceptable to HUD.
 - a. The mortgagor's supervisory Architect and the Contract inspector must certify on Form HUD-92464 that all work and materials covered by the change order are satisfactory and consistent with contract drawings.
 - b. If construction costs were paid in full with other than the cash escrow or excess mortgage proceeds before submitting the disbursement request to HUD for approval, the mortgagor must submit a receipt of payment signed by the general contractor.

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

- c. If construction costs will be paid after HUD's approval for the release of the funds deposited for the construction change, before the next Form HUD-92403 is submitted, the mortgagor must submit a receipt of payment signed by the general contractor.
5. Change Order Summary Sheet showing cumulative cost of all executed change orders should contain, at least:
 - a. The date the change order was signed by the mortgagor;
 - b. The date HUD received the change order;
 - c. The date the Lender's Mortgage Credit Specialist processed the change order;
 - d. The mortgagor's or contractor's estimate of cost for the change order;
 - e. HUD's estimate of cost for the change order;
 - f. The amount of change orders to be funded from contingency reserve, nonprofit's Developer's fee, or excess mortgage proceeds;
 - g. The required cash escrow deposit, if any;
 - h. The HUD percentage of cost increase or decrease.

Distribution of the Fully Executed Change Order, form HUD-92437

Copies of the Change Order and all backup shall be forwarded to the following parties:

1. Lender
2. General Contractor
3. Owner
4. Supervisory Architect
5. Contract Inspector
6. OHP Construction Manager

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

Attachment 4

Architect's Letter of Justification and Certification for HUD Change Orders
(OHP - Section 232 New Construction, Substantial Rehabilitation and 241a)

HUD Project Name: _____
HUD Project Number: _____
Mortgagor: _____

I, the undersigned Architect, to the best of my knowledge, belief and professional judgment, hereby certify that the attached change order number(s) ___ prepared for the subject Project:

- ❖ conform to the original intent of the contract drawings and specifications, or are a
 - Necessity,
 - Betterment, and/or
 - Equivalent.Note: Each change shall be classified as such, and clearly explained. Attach additional pages as necessary.
- ❖ are permissible under the applicable zoning, building, housing, and other codes, ordinances and/or regulations, as modified by any and all waivers obtained from appropriate officials,
 - N/A
- ❖ incorporates foundation designs that reflect site soils limitations and design recommendations included in the foundation soils report and any other geotechnical reports,
 - N/A
- ❖ complies with the HUD Minimum Property Standards; all applicable accessibility laws for persons with disabilities, including the Fair Housing Accessibility Guidelines, and the Uniform Federal Accessibility Standards; and all other applicable HUD Standards, guidelines and criteria,
 - N/A
- ❖ complies with the applicable State Energy Efficiency Design Code,
 - N/A
- ❖ for Substantial Rehabilitation, structures in seismic zones 3 and 4 meet three fourths (3/4) of the seismic force level resistance contained in ASCE 31-02: Seismic Evaluation of Existing Buildings, American Society of Civil Engineers, as determined by a registered engineer familiar with lateral force design, and
 - N/A
- ❖ incorporates noise attenuation measures which are sufficient to mitigate interior noise levels to an "Acceptable" level and complies with the recommendations of the Noise Engineer.
 - N/A

Supervisory Architect's
Name: _____
Business Address: _____
License Number: _____

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

Signed

Date

Lender's Preconstruction Conference Agenda _____ Revision Date: August 11, 2014

Page _____
Previous versions obsolete Page 30 of 42 form HUD-9441-OHP (mm/dd/yyyy)

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

Attachment 5

Lender's Preconstruction Conference Agenda _____ Revision Date: August 11, 2014

Page _____
Previous versions obsolete Page 31 of 42 form HUD-9441-OHP (mm/dd/yyyy)

Field Code Changed

Date: _____ Project Name: _____
 FHA Number: _____

Request for Construction Changes on Project Mortgages

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

OMB Approval No. 2502-0011 (exp. 7/31/2010)

No changes in the drawings and specifications may be effected unless a completed request for construction changes has been filed and approved by HUD in accordance with the Construction Contract. **Read the instructions & Public Burden statement on the back of this form.**

Name and location of this project
Courtyard Care ALF

Name of Contractor
Newhome Construction Company

Name of Mortgagor
Helping Hand Services

Name of Mortgagee
United Mortgage Company

Request No. (HUD use only)
HUD Assigned

Project Number
127-43000

Description of Changes	Mortgagor Estimated Effect on Cost + or -	HUD Estimated Effect on Cost + or -	V = Acceptable O = Unacceptable	
			Arch.	Val.
a. City required an additional onsite fire hydrant. (Necessity)	2,087.00			
c.				
d. Increased swimming pool pump capacity to 10 GMP. (Betterment)	480.00			
e.				
f. Provide an AC unit for the rental office. (Betterment)	585.00			
g.				
h.				
i.				
j.				
k.				
l.				
m.				

Amount on deposit with mortgagee to cover increased cost of changes pursuant to conditions of Request No. \$ **3,152.00**

Total \$ **3,152.00**

Lender's
 Architectural
 Reviewer, Cost
 Analyst, Appraiser,
 and Mortgage
 Credit Examiner

I certify that I have no financial interest in this project beyond the fee for my professional services, and that I have no interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request conform to the intent of the contract documents and I recommend that the changes be approved.

Contractor (signature) _____ Mortgagor (signature) _____ Mortgagee (signature) _____

The following is required on requests involving cooperatives and non-profit mortgagors with respect to any increase or decrease in cost resulting from acceptable changes: (check appropriate box.)

The abovesigned contractor agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

The abovesigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the abovesigned Contractor, agree to the above described construction changes and agree that the construction contract executed by them (date) _____ is amended by increasing the contract price of \$ **5,787,300**, set forth in Article 3 thereof to \$ **5,790,452**, all other provisions of the Construction Contract remain unchanged.

The abovesigned Mortgagor and the above signed Contractor agree to the construction changes described above and agree that the construction contract executed by them (date) _____ is amended by decreasing the contract price of \$ _____ set forth in Article 3 thereof to \$ _____ all other provisions of the construction contract remain unchanged.

Federal Housing Commissioner Findings:			2. Net effect on Construction Costs				
1. Mortgagor's Estimate	a. Effect on cost of previously accepted changes	b. Effect on cost to date of all changes	c. Percent	a. Present changes	b. Previous changes	c. Total	d. Percent
\$	\$	\$	%	\$	\$	\$	%
				<input type="checkbox"/> Increase <input type="checkbox"/> Decrease	<input type="checkbox"/> Increase <input type="checkbox"/> Decrease	<input type="checkbox"/> Increase <input type="checkbox"/> Decrease	

3. Changes _____ are acceptable and the drawings and specifications amended, provided:

a. That a total sum of \$ _____ is on deposit with the mortgage to cover net increase in cost resulting from present and previous construction changes. This supersedes any previous requirements. The money will not be released without written consent of HUD prior to final completion and acceptance of the project construction. No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

b. That in order to reflect the net decrease in cost or reduction in HUD Use Only income or number of family units, resulting from acceptable present and previous construction changes, the amount of \$ _____ deducted from the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials", form HUD-92448. This amount may be modified by later changes.

c. Consent of surety to these changes is obtained in writing and a signed copy sent to this office prior to effecting the change.

d. There is compliance with the conditions stated on the back of this form.

4. Changes _____ are not acceptable. See "Reasons for Unacceptability" on the back of this form.

HUD analysis and findings reviewed and approved:
 Director, Housing Development Division (signature) _____ Date _____ Federal Housing Commissioner
 Signature of authorized agent

Signature _____ Mortgage Credit Initial & Date _____

Field Code Changed

Date: _____ Project Name: _____
 FHA Number: _____

Request for Construction Changes on Project Mortgages

U.S. Department of Housing and Urban Development
 Office of Housing
 Federal Housing Commissioner
 OMB Approval No. 2502-0011 (exp. 7/31/2010)

No changes in the drawings and specifications may be effected unless a completed request for construction changes has been filed and approved by HUD in accordance with the Construction Contract. **Read the instructions & Public Burden statement on the back of this form.**

Name and location of this project Courtyard Care ALF		Request No. (HUD use only) HUD Assigned	Project Number 127-43000
Name of Contractor Newhome Construction Company		Name of Mortgagee United Mortgage Company	
Name of Mortgagor Helping Hand Services		Name of Mortgage Company United Mortgage Company	

To the Federal Housing Commissioner: You are requested to consider the following proposed changes in the project. The changes are satisfactory to the parties hereto, as indicated by the signatures below.

Description of Changes	Mortgagor Estimated Effect on Cost + or -	HUD Estimated Effect on Cost + or -	V = Acceptable O = Unacceptable	
			Arch.	Val.
a. City required an additional onsite fire hydrant. (Necessity)	2,087.00			
c.				
d. Increased swimming pool pump capacity to 10 GMP. (Betterment)	480.00			
e.				
g. Provide an AC unit for the rental office. (Betterment)	585.00			
h.				
i.				
j.				
k.				
l.				
m.				

Amount on deposit with mortgagee to cover increased cost of changes pursuant to conditions of Request No. _____ Total \$ **3,152.00**

Lender's
 Architectural
 Reviewer, Cost
 Analyst, Appraiser,
 and Mortgage
 Credit Examiner

I certify that I have no financial interest in this project beyond the fee for my professional services, and that I have no interest with the mortgagor, contractor, or any subcontractor or supplier. The changes set forth in this request conform to the intent of the contract documents and I recommend that the changes be approved.

Contractor (signature) _____ Mortgagor (signature) _____ Mortgagee (signature) _____
 Signature _____ Signature _____ Signature _____

The following is required on requests involving cooperatives and non-profit mortgagors with respect to any increase or decrease in cost resulting from acceptable changes: (check appropriate box.)

The abovesigned contractor agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

The abovesigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the abovesigned Contractor, agree to the above described construction changes and agree that the construction contract executed by them (date) _____ is amended by increasing the contract price of \$ **5,787,300.** set forth in Article 3 thereof to \$ **5,790,452.** all other provisions of the Construction Contract remain unchanged.

The abovesigned Mortgagor and the above signed Contractor agree to the construction changes described above and agree that the construction contract executed by them (date) _____ is amended by decreasing the contract price of \$ _____ set forth in Article 3 thereof to \$ _____ all other provisions of the construction contract remain unchanged.

Federal Housing Commissioner Findings: 1. Mortgagor's Estimate			2. Net effect on Construction Costs			
a. Effect on cost of previously accepted changes	b. Effect on cost to date of all changes	c. Percent	a. Present changes	b. Previous changes	c. Total	d. Percent
\$	\$	%	\$	\$	\$	%
			<input type="checkbox"/> Increase <input type="checkbox"/> Decrease			

3. Changes _____ are acceptable and the drawings and specifications amended, provided:

a. That a total sum of \$ _____ is on deposit with the mortgage to cover net increase in cost resulting from present and previous construction changes. This supersedes any previous requirements. The money will not be released without written consent of HUD prior to final completion and acceptance of the project construction. No further advances of the mortgage proceeds under the Building Loan Agreement will be approved unless the total sum is on deposit with you.

b. That in order to reflect the net decrease in cost or reduction in income or number of family units, resulting from acceptable present and previous construction changes, the amount of \$ _____ HUD Use Only _____ deducted from the amount entered on the line entitled "Sum of Cost Breakdown Items Plus Inventories of Materials", form HUD-92448. This amount may be modified by later changes.

c. Consent of surety to these changes is obtained in writing and a signed copy sent to this office prior to effecting the change.

d. There is compliance with the conditions stated on the back of this form.

4. Changes _____ are not acceptable. See "Reasons for Unacceptability" on the back of this form. Mortgage Credit Initial & Date _____

HUD analysis and findings reviewed and approved: _____ Date _____ Federal Housing Commissioner
 Director, Housing Development Division (signature) Signature of authorized agent

_____ OIHCFC Construction Manager _____ OIHCFC Authorized Signatory

Field Code Changed

Date: _____

Project Name: _____
FHA Number: _____

Public Reporting Burden for this collection is estimated to average 2 hours per response, including the time for reviewing, searching existing data sources, gathering and maintaining the data needed, and compiling and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Reports Management Officer, Paperwork Reduction Project (2502-0011), U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-3600.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by provisions set forth in Section 5 of the United States Housing Act of 1937, as amended. It is provided by contractors, mortgagors and mortgagees to obtain the FHA Commissioner's approval of changes in contract drawings and specifications, and this information is used to ensure that viable projects are developed. This information is used by HUD to ensure that viable projects are being developed. Furnishing of this information is mandatory, and failure to provide it may result in your not receiving your benefits.

Privacy Act Notice. The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Instructions

See Note: below.

Send the original and six copies to HUD through the mortgagee.

Under "Description of Changes" describe each proposed change and enter the amount by which the construction cost will be increased or decreased as the net result of each proposed change. Attach documentation including (1) reason for each change, (2) general scope, (3) full detailed description of work to be omitted and/or added and the cost for each trade affected, and (4) reference any attachments showing proposed revisions.

Estimate the cost of each change on the basis of the current cost of items omitted, substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the HUD estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No architect's or engineer's fee is included.

This form is not used for off-site changes. Such changes must be submitted in writing, using this form as a guide.

To be acceptable to HUD a proposed change must be due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes, it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request for Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to prior status or to a status acceptable to HUD.

Send requests for a time extension on a separate form.

Conditions of Acceptance or Reasons for Unacceptability

When the HUD estimated cost of all accepted changes results in a net decrease in the total construction cost, the insurable mortgage will be similarly decreased; but if the net effect is an increase, the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

Note: Send only ONE original (with all attachments) to HUD. Additional copies are not necessary.

Each Change Order must include backup documentation per Attachment 4 of the Lender's PreConstruction Conference Agenda, including the "Architect's Letter of Justification and Certification for HUD Change Orders" (Attachment 3).

Field Code Changed

Date: _____

Project Name: _____
FHA Number: _____

Public Reporting Burden for this collection is estimated to average 2 hours per response, including the time for reviewing, searching existing data sources, gathering and maintaining the data needed, and compiling and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Reports Management Officer, Paperwork Reduction Project (2502-0011), U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-3600.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by provisions set forth in Section 5 of the United States Housing Act of 1937, as amended. It is provided by contractors, mortgagors and mortgagees to obtain the FHA Commissioner's approval of changes in contract drawings and specifications, and this information is used to ensure that viable projects are developed. This information is used by HUD to ensure that viable projects are being developed. Furnishing of this information is mandatory, and failure to provide it may result in your not receiving your benefits.

Privacy Act Notice. The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Instructions

See Note: below.

Send the original and six copies to HUD through the mortgagee. Under "Description of Changes" describe each proposed change and enter the amount by which the construction cost will be increased or decreased as the net result of each proposed change. Attach documentation including (1) reason for each change, (2) general scope, (3) full detailed description of work to be omitted and/or added and the cost for each trade affected, and (4) reference any attachments showing proposed revisions.

Estimate the cost of each change on the basis of the current cost of items omitted, substituted or added. Estimates include job overhead and builder's fee, or job overhead and general overhead, as applied in the HUD estimate of the project. No allowance for "Builder's and Sponsor's Profit and Risk" is included. No architect's or engineer's fee is included.

This form is not used for off-site changes. Such changes must be submitted in writing, using this form as a guide.

To be acceptable to HUD a proposed change must be due to necessity, or be an appropriate betterment, or qualify as an equivalent. In accepting any changes, it is assumed that they will be executed. If an accepted change is not executed, it must be nullified by substituting a Request for Construction Changes amending the drawings and specifications so as to restore the drawings and specifications to prior status or to a status acceptable to HUD.

Send requests for a time extension on a separate form.

Conditions of Acceptance or Reasons for Unacceptability
When the HUD estimated cost of all accepted changes results in a net decrease in the total construction cost, the insurable mortgage will be similarly decreased; but if the net effect is an increase, the additional costs will be defrayed by the mortgagor. The acceptance of any change or changes involving a net increase does not increase the mortgage amount.

Note: Send only ONE original (with all attachments) to HUD. Additional copies are not necessary.

Each Change Order must include backup documentation per Attachment 4 of the Lender's PreConstruction Conference Agenda, including the "Architect's Letter of Justification and Certification for HUD Change Orders" (Attachment 3).

Field Code Changed

Attachment 6

Lean 232 - Survey Instructions

I. Standards of Performance

Surveys must be made in compliance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (Effective February 23, 2011), as adopted by the American Land Title Association and the American Congress on Surveying and Mapping. The Standards can be found at the below web link:

<http://www.malsce.org/malsce/file/20110223ALTAACSMLandTitleSurveyStandard2011.pdf>

Of the additional responsibilities enumerated within Table A - Optional Survey Responsibilities and Specifications (pages 8 through 10 of the Minimum Standard), the survey will comply with the following items: **1, 2, 3, 4, 6a, 6b, 7a, 8, 9, 10a, 10b, 11b, 12, 13, 16, 17, 18, 19, and 20a.**

In addition, the survey must comply with the following requirements as applicable:

- A. If a change to the building's footprint is proposed, or if any portion of the site contains floodplain (including 500-year), wetland, or Coastal Management Zone, the survey must also comply with Table A, item 5. Contours may not exceed 1-foot vertical intervals, except that 2-foot and 5-foot vertical intervals may be used where the mean site gradient exceeds 5 percent and 10 percent, respectively. Where curbs and/or gutters exist, show top of curb and flow line elevations.
- B. If condo/air-rights are involved, the surveyor must provide a survey made in accordance with any applicable jurisdictional requirements or, in the absence of such requirements, professionally recognized standards.
- C. If a flood hazard is involved, any portion of the site is subject to flood hazard, the survey will:
 - 1. show the 100-year and 500-year return frequency flood hazard elevation and flood zone, and
 - 2. for existing projects, show the site elevation at the building entrances, lowest habitable finished floor, and basement for each primary building and the vehicular parking areas that service each primary building.Take return frequency flood hazard elevations from the applicable Federal Flood Insurance Rate Map. Where such is not available, take the elevations from available State or local equivalent data, or when not available, work in conjunction with owner's engineer.
- D. If a blanket easement is involved, show on the map/plat the location of any installation that is located within or traverses the property under provisions of a blanket easement.
- E. Indicate the following basic information:
 - Name of the jurisdiction in which the project is located,

Field Code Changed

Project Name: _____
Date: _____ FHA Number: _____

- Area of the site, in both acres and square feet,

Field Code Changed

- Whether adjacent streets are public or private,
- Legal description.

F. The survey must show the entire site.

G. The standard certification required as part of the Minimum Standard will include by name the U.S. Department of Housing and Urban Development (HUD), in the space entitled “(names of others as negotiated with the client)”.

II. Date of the Survey and Owner’s Survey Certification

Current surveys are required for all mortgage insurance programs. The date of the survey (or most recent update) must be within 120 days prior to the closing date, except when permitted to use a preexisting survey as outlined herein. Whether prepared for HUD originally or not, a preexisting survey may be submitted in lieu of a new survey when all of the following conditions are met:

- A. The title company will delete the title policy survey exception.
- B. There has not been a material change in the legal description of the property since the date of the existing survey (e.g. due to a partial release, the addition of property or both).
- C. No new easements or recorded agreements affecting the property have been granted since the date of the existing survey (other than blanket easements or other easements that clearly do not conflict with use of project facilities, as determined by HUD on a case by case basis).
- D. No additional improvements (including driveways and parking areas) have been constructed on the property since the date of the existing survey.
- E. Copies of the most recently signed and certified as-built survey are available (need not be originals).
- F. There are no new encroachments either way across the property lines.
- G. A signed Owner’s Survey Certification is submitted to HUD in the form attached hereto.
- H. The Standards of Performance listed under item I above are met. HUD will accept surveys dated prior to February 23, 2011 that conform to 2005 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.

III. Exceptions

Notwithstanding the above, and provided that the title company will delete the title policy survey exception,

- A. HUD may determine that a survey will not be required with respect to a project if HUD determines that the failure to obtain a current survey will not adversely affect HUD’s interest, and
- B. Where HUD determines it to be appropriate, HUD may accept a survey that is not prepared to the ALTA/ACSM Land Title Survey Standards identified above (e.g. the project involves scattered sites and the cost of obtaining current ALTA/ACSM surveys is significant in the context of the size of the transaction).

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

Owner's Survey Certification

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

Re: To be used when submitting a preexisting or expired survey

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

_____, a(n) _____ organized and existing under the laws of _____, (the "Owner"), the owner of the above-referenced project (the "Project") located in _____, County, _____, (the "Property"), hereby certifies to HUD and Lender as follows:

1. The Project will be financed with the proceeds of a mortgage loan (the "Loan") from the Lender to the Owner, which Loan will be insured by HUD under Section _____ of the National Housing Act, as amended. This Owner's Certification is given in order to induce (i) the Lender to make the Loan and (ii) HUD to provide mortgage insurance with respect to the Loan.
2. The as-built survey of the Property was prepared by _____, dated as of _____, 20____ (the "Existing Survey"). If previously provided to HUD in connection with financing, please indicate the FHA Project Number _____.
3. There has been no material change in the legal description of the Property since the date of the Existing Survey.
4. Except as set forth in attachment to this document, to be entitled Exhibit A:
 - a. No new easements or other recorded property use restrictions affecting the Property have been granted since the date of the Existing Survey.
 - b. No additional improvements (including driveways and parking areas) have been constructed on the Property since the date of the Existing Survey.
 - c. No improvements have been removed.
 - d. There are no new encroachments either way across the property lines.
 - e. No illegal dumping has occurred on the site since the creation of the survey.
5. If at any point prior to final closing a newer land survey is produced, updated, or revised, the undersigned agrees to supply HUD with a copy of such.
6. The floodplain, wetland, and Coastal Management Zone designations on the survey are still correct.

Date: _____, 20____

OWNER

a(n) _____
By: _____
Name: _____
Title: _____

WARNING

U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, passes, utters, or publishes any statement, knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

Field Code Changed

Attachment 7

Permission to Occupy Instructions – HUD-92485
(OHP - Section 232 New Construction, Substantial Rehabilitation, and 241a)

Form HUD-92485 – Permission to Occupy must be executed by HUD’s Office of Healthcare Programs (OHP) before the Mortgagor permits occupancy of any dwelling unit, care facility unit, or other project service facility. Form HUD-92485 shall be a two-sided copy, with original signatures.

- A. **Physical completion** – The work or portion thereof, for which Permission to Occupy is approved, must be sufficiently completed in accordance with the contract documents so the Mortgagor can occupy or utilize the identified portion of the work for its intended use.
 - 1. Support facilities (utilities, disability access, vehicular access and parking, fire & life safety equipment, etc.) must be in place.
 - 2. Acceptability of each unit and facility for which a Permission to Occupy is requested must be established:
 - a. Property must be inspected and Form HUD-92485 must be signed by the Mortgagor, Supervisory Architect, Contractor, and Contract Inspector (CI).
 - b. Minor items that do not preclude occupancy are permitted but must be listed as an attachment to Form HUD-92485.
 - c. The Contractor is fully responsible for any incomplete or improperly performed contract work whether or not listed.
- B. **Signatures, Approval, and Permission:**
 - 1. Form HUD-92485 is signed by the Mortgagor, Supervisory Architect, Contractor, and Contract Inspector (CI).

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

2. Approval – The OHP Construction Manager (CM) signs and dates under “Chief Underwriter,” and “Chief Architecture and Engineering Section,” both located on Page 2 of 2 of HUD-92485.
 3. Permission to Occupy – An OHP Designated Official signs and dates under “Federal Housing Administration (Authorized Agent),” located on Page 2 of 2 of HUD-92485.
- C. **Documents Submission** – The Lender must sign Form HUD-92485 agreeing with the request and stating that insurance risks have been covered for the project. The Mortgagor must include the following documents with the completed form HUD-92485:
1. A Certificate of Occupancy or equivalent permit from the governing municipal authority for all units and facilities on the Permission to Occupy, and any other required permits or authorizations.
 2. A valid and current Certificate of Property Insurance from the Mortgagor’s insurance company.
- D. **Partial Occupancy Approval:**
1. Favorably consider partial occupancy of units as they become available; where vandalism could be minimized, needed project income is provided, an earlier rent-up date could be achieved, utility costs for occupied units can be metered separately from the Contractor’s utilities, & etc.
 2. Approve a series of Permission to Occupy as units or facilities become available, e.g. individual buildings on multi-building projects, or individual floors or wings on larger buildings.
 3. Approve a single Permission to Occupy for all units where dictated by management considerations, e.g. very small projects.
 4. Discussion should be held during the Pre-Construction Conference regarding the handling of all Permission to Occupy submittals.

Field Code Changed

Date: _____ Project Name: _____
FHA Number: _____

PreConstruction Conference Certification

I certify that I have conducted a Preconstruction Conference, in its entirety, and discussed all the topics listed above.

Lender's **PreConstruction Conference Coordinator's** Name, Signature and Date

As Owner, Architect, and Contractor, I, by initialing each item above, and providing my signature below, understand the above Agenda items and will assure that all applicable checked items are accomplished.

I also understand the compliance requirements for the Minimum Property Standards (HUD Handbook - 4910.1), Fair Housing Accessibility Guidelines, and the Uniform Federal Accessibility Standards.

Owner Name, Signature and Date

Supervisory Architect Name, Signature and Date

Contractor Name, Signature and Date

Field Code Changed