



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: August 18, 2022

Mortgagee Letter 2022-13

To: All FHA Section 232 Approved Mortgagees

Subject: Green Mortgage Insurance Premium (MIP) Program Guidance for the Office of Residential Care Facilities (ORCF)

Purpose

This Mortgagee Letter (ML) provides program guidance and reporting requirements for ORCF's Green Mortgages as announced in ORCF's Green MIP Notice (FR-6302-N-01)

Effective Date

This ML is effective upon publication, and it applies to Firm Commitments issued or reissued on or after October 1, 2022. This ML remains in effect until amended, superseded, or rescinded. Applications with Firm Commitments issued or reissued on or before September 30, 2022, are not eligible for the Green MIP rate.

Affected Programs

Certain Office of Residential Care Facilities (ORCF) Section 232 Firm Commitments issued or reissued beginning October 1, 2022, as further delineated herein.

Background

HUD published a Green Mortgage Insurance Premium (MIP) rate reduction in the Federal Register (FR-6302-N-01) on May 19, 2022, to encourage owners to adopt higher standards for construction, rehabilitation, repairs, maintenance, and property operations that are more energy efficient than traditional approaches. The lower MIP rate will result in residential care facilities with greater energy and water efficiencies, reduced operating costs, improved indoor air quality and resident comfort and reduced overall impact on the environment. Through voluntary participation, the mortgagor will pay an annual and upfront MIP at the applicable rate published in the Federal Register (currently 0.25 basis points) in exchange for committing to reduce energy and water consumption.

1.1 Purpose and Summary Requirements

A. Conservation of energy and water reduces property operating costs and increases physical durability. Conservation is achieved by good design and engineering, superior products, careful

consideration of construction and retrofits, conscientious maintenance, and property management practices. To achieve meaningful conservation and efficiency measures, ORCF requires applicants of existing or new properties to decrease energy usage and reduce water consumption, achieve a green building standard and ENERGY STAR® Score of 75 or better and continually maintain the green building performance. This ML describes the minimum requirements needed for properties to access the Green MIP rate reduction.

1.1.1 New Construction and Substantial Rehabilitation Minimum Code Standards

A. All buildings proposed for new construction or substantial rehabilitation with FHA-insured mortgage proceeds (regardless of whether Green MIP is being pursued) must meet or exceed the International Energy Conservation Code (IECC version 2009) or, if greater than 3-stories above grade, the American Society of Heating, Refrigerating and Air Conditioning Engineers Standard 90.1 (ASHRAE 90.1 version 2007) or such later versions of these standards as HUD adopts. These HUD minimum standards do not over-ride or replace existing state or local requirements when such state or local requirements exceed the HUD minimum standards.

1.1.2 Incentives for Improved Building Performance

A. In addition to reduced MIP rates, applications for FHA-insured mortgages of existing buildings may use reduced underwritten operating expenses by documenting estimated reductions in energy and water consumption and costs (See Section 1.9).

1.2 Statute and Federal Register Notice

A. The Energy Independence and Security Act of 2007 (EISA) requires HUD (and USDA) to adopt energy conservation standards. Section 481 of EISA amended Section 109 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez) (42 U.S.C. 12709), establishing procedures for setting minimum energy standards for certain HUD programs, including HUD-FHA Office of Residential Care Facility mortgage insurance programs for new construction, and substantial rehabilitation. The current minimum HUD energy codes are announced in [80 FR 25901](#).

B. On May 19, 2022, HUD published revised mortgage insurance premiums in the Federal Register ([FR-6302-N-01](#)), “Changes in Certain Office of Healthcare Programs Insurance Premiums.” The MIP Notice outlined a MIP rate category for loans on properties that obtain a recognized green building certification, reduce energy and water consumption, and maintain performance thereafter as evidenced by annual submission of an ENERGY STAR® Score of not less than 75. The MIP Notice authorizes HUD to recognize additional green building certifications.

1.3 Green Building Certifications Recognized for Green MIP

A. To qualify for the reduced MIP rate, the project must obtain a green building certification from one of multiple organizations responsible for sponsoring and maintaining green building certifications. These organizations, (also referred to as “standard-keepers”) and their certification

programs vary widely in the types of projects that can be certified, the jurisdictions in which the certification is available, and the methods used to verify green building features and compliance. It is the responsibility of the Lender and Borrower, acting in concert with the Energy Professional (See Section 1.4.8) and, if applicable, the separate Project Architect (See Section 1.7.2), to select a certification appropriate for their proposed project, and to ensure that the property will reduce energy and water consumption, achieve an ENERGY STAR® Score of not less than 75, and meet continuing performance requirements including annual whole building data reporting.

1.3.1 New Construction and Substantial Rehabilitation Certifications

A. The following are ORCF approved green building certifications that are accepted for the purpose of earning Green MIP rates for new construction and substantial rehabilitation projects (See Section 1.7):

B. Enterprise Green Communities Criteria; LEED-Home; LEED-Lowrise; LEED-Midrise; LEED-Highrise; LEED-New Construction; LEED-Healthcare; Passive Building Certification from Passive Housing Association; EarthCraft MF Certification; Earth Advantage MF Certification; the National Green Building Standards (which does not include Skilled Nursing Facilities); and the Living Building Challenge from the International Living Future Institute.

1.3.2 Certifications for Existing Buildings

A. The following are green building certifications that qualify for the purpose of earning Green MIP rates for new FHA 232/223(f) acquisition or refinancing of existing properties (See Section 1.6): Enterprise Green Communities Criteria; EarthCraft Multifamily; National Green Building Standard; and EnerPHit Standard (Retrofits).

B. Existing green building certification may be used for 223(a)(7) projects if the existing mortgage is FHA insured with a Green MIP rate, provided its green building certification is an ORCF-approved green building certification obtained within 15 years or less, and any prospective repairs/retrofits do not rise to the level of a substantial rehabilitation or an addition (See also Section 1.5).

C. See Section 1.8 for guidance specific to Section 241(a) applications.

1.3.3 Certifications Not Recognized by HUD

A. HUD may accept other national or multistate green building certifications to qualify for Green MIP rates for applications proposing new construction, substantial rehabilitation, or improvements to existing buildings provided that the Project Architect (or Professional Engineer) certifies to HUD that the procedures and requirements of the proposed certification meet all of the following requirements:

1. **Minimum Performance Improvement for Non-Recognized Certifications.**
 - a. For new construction and substantial rehabilitation (of properties with no benchmarked recent history) the certification must require designed building performance that achieves not less than a 25% reduction in estimated energy use (not energy costs), and not less than a 10% reduction in water usage (not water costs) by comparison with the energy use estimated for the same structures if built to HUD minimum energy codes (See Section 1.1.1).
 - b. For existing buildings (with a benchmarked recent history, See Section 1.6.3) the certification must require a reduction in energy use (not energy cost) of not less than 15% and not less than 10% reduction in water consumption, by comparison with the benchmarked energy and water use.
 - c. For all buildings, the certification must include a resiliency component.
 2. **Independent Verification of Design & Construction.** The proposed green building certification requires independent verification of energy and water efficiencies and conservation measures with sustainable products and methods. The green building rater/verifier will define and identify specific milestones appropriate to the standard for the design phase and during the progress of construction. (Appropriate milestones will depend on the selection of the green building certification organization. The development team must implement the appropriate milestones in their design/construction schedule. Appropriate milestones may include but are not limited to a review of drawings and specifications prior to Firm Application for Firm Commitment; on-site inspections of the building envelope and rough mechanical installation prior to drywall or closing of wall cavities; and a final inspection or commissioning after construction completion). The design review will be done in concert with the Project Architect, Energy Professional and the green building rater/verifier. The Energy Professional, the green building rater/verifier, and the green building standard must be integrated early on in the design process and all deliverables are required in the Firm Application, including the initial Two-Stage application.
 3. **Designation of Independent Green Building Rater/Verifier.** The standard-keeper must designate or approve the independent green building rater/verifier. The rater/verifier may have no identity of interest with the Borrower, the Lender, the Project Architect, the General Contractor, or any subcontractor or engaged trades.
 4. **Documentation of Procedures, Findings, Award of Certification.** The standard-keeper for any national or multi-state green building certification must require from the rater/verifier and furnish to the Project Architect and/or Borrower timely written documentation of results or conclusions at each milestone of practice or achievement that is necessary for certification including the final award (or denial) of the certification after construction or retrofit completion.
- B. Architect's Certification.** The Project Architect's (or Professional Engineer's) certification must be submitted with the Firm Application. The certification must include, amongst other items, the identity of the standard-keeper, the name of the proposed national or multi-state green building certification, the selected level or grade of achievement (e.g., silver, gold, platinum, etc.).

1.4. General Requirements for Green MIP Rates

A. Applications proposing a Green MIP rate are subject to requirements over and above those for all other insured mortgages, including the following for applications under all Sections of the Act.

B. Benchmarking. The Borrower must provide reports for initial benchmarking when pursuing a Green MIP rate. The reports are generated by using EPA's Portfolio Manager and related ENERGY STAR® resources and products for the Senior Care Community building type. A Statement of Energy Design Intent (SEDI) is a report that provides an overview of the design metrics. The Statement of Energy Performance (SEP) is a one-page report summarizing the energy consumption for an existing property. A verifying Energy Professional must sign and stamp the reports to verify the validity of the data.

C. Firm Application Deliverables. Applications proposing a Green MIP reduction must include as Firm Application exhibits, amongst other items, the benchmarked SEP or SEDI report (whichever is applicable), the Borrower and Architect's Certifications and the name of the Green Building Standard and level (e.g., Silver, Gold, etc.). HUD will not consider changes to participate in the Green MIP program after the issuance of a Firm Commitment.

D. Completion Date and Post-Commitment Deliverables. For new construction, substantial rehabilitation or renovation transactions, energy usage needs to be measured at the beginning of break-even occupancy to capture the BTU loads, as a result, an as-improved SEP shall be due no more than 24 months after break-even occupancy. For purchase/refinance transactions, the as-improved SEP, capturing break-even occupancy BTU loads, must be submitted no later than the 24 months after final repairs/retrofits are complete.

1.4.1 Continuing Performance Required under Green MIP

A. All Borrowers with loans endorsed at Green MIP rates must annually demonstrate continuing performance by delivering to HUD, ENERGY STAR® Statement of Energy Performance (SEP) showing an ENERGY STAR® Score of not less than 75. It is the property owner's obligation to maintain, repair, and replace components as necessary to retain this minimum performance score for the life of the insured mortgage. (See Section 1.4.5)

1.4.2 ENERGY STAR® Appliances and High-Performance Components

A. The Project Capital Needs Assessment (PCNA) (where applicable) and Reserve for Replacement Schedule must specify all appliances and heating and air conditioning systems as ENERGY STAR® as and when replaced, and for lighting, electrical and mechanical equipment, and building envelope components with no available ENERGY STAR® label, the PCNA and Reserve for Replacement Schedule must specify high performance and/or sustainable replacements.

1.4.3 HUD Forms – Borrower’s Certifications

A. Borrower’s Consolidated Certifications Form HUD-90013-ORCF. The Borrower’s Consolidated Certification evidences the applicant’s commitment to achieve and/or deliver an indicated green building certification with the requisite energy and water reductions. In addition, the Borrower’s Consolidated Certification commitment (also contained in the Borrower’s Regulatory Agreement) is to maintain, repair, and replace components as necessary to retain the minimum performance score for the life of the insured Green MIP mortgage. The executed form must be submitted with the Firm Application, and among other purposes, identifies the specific green building certification the property has or will obtain. Requests to switch the identified green building certification after submitting a Firm Application will not be considered.

1.4.4 Green MIP Addendum to Regulatory Agreement

A. Forms HUD-92466-ORCF and HUD-92467-ORCF. These Regulatory Agreements contain an Addendum for the Green MIP program. The Regulatory Agreement Addendum addresses the Borrower’s obligation to complete all construction, retrofits, alterations as well as any and all reports, evidence, or assurances as may be necessary to perfect and obtain the selected green building certification. In addition, the Addendum specifies the Borrower’s on-going energy performance obligations, including maintaining, repairing, and replacing components as necessary to retain the minimum performance score, during the life of the insured Green MIP mortgage.

B. Violations.

Borrower’s failure to deliver and maintain the required continuing performance shall constitute a violation under the Regulatory Agreement and shall be subject to enforcement action as set forth in the Regulatory Agreement.

1.4.5 Data Collection Plan

A. The Borrower is obligated to demonstrate continuing performance through the maturity of the Green MIP mortgage using EPA’s Portfolio Manager, a web-based utility benchmarking application. It is essential that the Borrower prepare a plan for collecting valid energy consumption data for each month and correctly entering this data in Portfolio Manager. The most valid and convenient solution is to obtain 100% Whole Building Data from the utility provider(s) or to install energy consumption monitoring technology that collects monthly data from all meters on the property. Whole Building Data means recording of all energy consumption on site. The data collection plan should identify and describe the method(s) to be used and describe exactly how data will be collected and recorded, what persons or officers will be responsible and how the data will be entered in Portfolio Manager. The data collection plan must be prepared by the Energy Professional in consultation with the Borrower and the property manager and must conform to the instructions in numbers 1 and 2 as follows:

- 1. Instructions for Preparing SEP to Evidence Continuing Performance.** The SEP must be verified by a qualified Energy Professional (See 1.4.8) evidenced by the Energy

Professional's signature on the SEP. Verification means that the Energy Professional has reviewed the data entered in Portfolio Manager, compared these entries to the Borrower's documentation of energy consumption reported for each utility meter on the property, and compared the utilities and meters currently reported to prior SEP or project records, and confirmed the accuracy of data entered. In some cases, the Energy Professional may need to visit a site to resolve conflicting information and to assure that all existing utility meters and/or uses of energy are reported. Firms providing energy consumption monitoring services may serve as Energy Professionals for purposes of verifying a Borrower's continuing performance.

2. Sampling of Meters Not Permitted. For purposes of demonstrating continuing performance, extrapolation of energy use data from a sample of units at a property is not acceptable. Owners applying for Green MIP rates must propose and implement a plan to obtain 100% whole building utility data for all utilities, whether from the utility providers, or through the installation of energy consumption monitoring technology capable of measuring, recording, and reporting energy consumption for all meters, including metered tenant spaces.

1.4.6 Real-Time Consumption Monitoring, Smart Home Tools

A. In addition to providing utility consumption data needed for continuing compliance, hardware and software that delivers valid, real-time energy use data to owners allows users to make informed choices, change behavior, and reduce their utility costs. Borrowers are encouraged to augment their Data Collection Plan with such technology.

1.4.7 Design and Construction Team Qualifications

A. When planning project development, the Borrower should pay attention to high performance building experience and qualifications when assembling the project team. When preparing an application for a Green MIP mortgage, the Lender also should give attention to the experience and qualifications of key firms and personnel. The Lender should also note that some green building certifications specify additional qualifications for members of the design team.

1.4.8 Energy Professionals Qualifications

A. An Energy Professional must be an Architect or Professional Engineer with not less than three years work experience evaluating utility consumption in healthcare facilities and employing energy modeling and benchmarking software, including specifically EPA's Portfolio Manager and related ENERGY STAR® resources and products. Energy Professionals must have professional certifications with credentials appropriate for analyzing healthcare properties and must remain current with new energy monitoring, measurement methods, and technologies. A Professional Engineer (PE) may perform the Green MIP responsibilities defined in 1.7.2 and 1.7.4 where a Project Architect is not otherwise required. If, however, a Project Architect is not provided, then the PE performing the Green MIP responsibilities cannot be the same as the PCNA provider.

1. **Expected Tasks for Energy Professionals.** The Energy Professional's primary tasks include:
 - a. benchmarking existing buildings including obtaining and/or reviewing and consolidating raw consumption data (monthly bills, utility-provider supplied data);
 - b. managing use of EPA Portfolio Manager software and assuring correct data entry;
 - c. conducting site inspections and energy audits per ASHRAE Level II or III standards and conducting field tests, e.g., blower door tests for detecting air infiltration and air handling leaks;
 - d. selecting appropriate energy modeling software;
 - e. correctly modeling various design assumptions, e.g., a building built to current code and the same building with energy conservation features that exceed the current code;
 - f. advising the Project Architect of building components that will improve performance to obtain the required energy and water reductions;
 - g. preparing the Borrower's Data Collection Plan;
 - h. reviewing and entering data in Portfolio Manager and verifying resulting Statements of Energy Performance (SEP) and/or the Statement of Design Intent (SEDI) to support Borrower's annual requirement for continuing performance; and
 - i. estimating the local utility providers' average price per unit of use for each utility at a site. (See Section 1.9.3 for obstacles to estimating utility price per unit of use).

2. **Specialization of Energy Professional's Experience and Qualifications.** The qualifications and experience of the Energy Professional on a Green MIP application must be appropriate to the subject building types.

3. **Professional Certifications Required for Energy Professionals.** Architects or Professional Engineers (PE) must serve as Energy Professionals provided that they have demonstrated the requisite experience (See Section 1.4.8.A). Licensure as an architect or engineer is a necessary but not independently sufficient qualification to serve as the Energy Professional. The architect or engineer must also have the necessary experience demonstrated by certifications.

The certifications appropriate will depend on the professional's scope of work and must include, for example: a) American Energy Engineers Association's Certified Energy Manager (CEM) or Certified Energy Auditor (CEA) designations; b) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) High Performance Building Design Professional (HPBDP) designation; c) Building Performance Institute (BPI) Multifamily Building Analyst (MFBA) designation. When building energy modeling is employed the lead modeler or Energy Professional must hold a professional certification specific to simulation modeling: ASHRAE Building Energy Modeling Professional (BEMP) or Association of Energy Engineers Building Energy Simulation Analyst (BESA).

1.4.9 Energy Modeling and Modeling Software

A. The Energy Professional and the Project Architect are responsible for selection and proper use of appropriate, industry recognized energy modeling software. In general, selected modeling software must simulate the actual buildings, common spaces, accessory structures, and site

improvements proposed (See Section 1.4.8). Modeling or simulation of expected building performance is a common technique for estimating and comparing utility use results achievable with alternative designs or construction methods. Certifications that allow performance-based options require modeling to verify expected results. Many green building certifications allow the designer a choice of a “prescriptive” option for meeting certification requirements or a “performance” option. Prescriptive in this context means a fixed “recipe” of building parts and components each with an individual qualitative metric or specification, e.g., fiberglass batt insulation rated R-30. By contrast, a performance standard allows the design professional flexibility to create a unique “recipe” provided the whole building design is modeled to estimate overall performance. Prescriptive options do not require modeling.

Generally, software and products used by RESNET Home Energy Raters do not accommodate appropriate analysis for healthcare building types, the software is used to analyze energy use in houses, townhouses, and small buildings which differ substantially from those necessary for larger buildings with more common area space. Further, buildings of four or more stories must comply with ASHRAE Standard 90.1, and RESNET Home Energy Raters generally do not work with ASHRAE 90.1. Therefore, RESNET Home Energy Ratings are not acceptable for the for the more common building and property types found in residential care facility mortgage applications, where larger buildings including common spaces and all site improvements must be considered.

For buildings over three stories, the Energy Professional must use ASHRAE 90.1 Appendix G, or a combination of both prescriptive and performance-based methodologies provided that all energy use for the entire property is included in results. Plans and specifications for construction should be at least 80% complete and include all design elements that impact energy use. All factors other than design variations must be held constant from one modeled iteration to the next. Modeling for an existing property must incorporate as-built design as modified by proposed repairs and alterations, and for any buildings, units, or spaces unchanged, the model should incorporate benchmarked consumption. Building types up to three stories as described at Section 1.1.1, must comply, at a minimum, with the International Energy Conservation Code. Energy and water efficiency reduction measures must cover the entire project.

The U.S. Department of Energy (DOE) and the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) are primary sources of modeling standards and methods. Any Building Energy Modeling (BEM) software acceptable for use in modeling building performance in a mortgage application must be industry recognized and must comply with industry standards, notably ASHRAE 90.1 Appendix G, for any building where ASHRAE 90.1 is applicable. For modeling purposes, the guidance for modeling in these referenced standards must be from the most recent available version.

Software products, resources for modelers and stakeholders and many other aspects of building energy modeling are available at DOE’s website for emerging technologies-building energy modeling website: <https://www.energy.gov/eere/buildings/building-energy-modeling>. A complete and searchable inventory of energy modeling software is available at the Building Energy Software Tools website: <https://www.buildingenergysoftwaretools.com/>

Modelers working with Green MIP applications should use a software product listed on this website selecting one of these products specifically identified as appropriate for residential care facilities.

1.4.10 Change Orders Modifying Energy Measures

A. For properties where construction is proposed to achieve green building certification and energy and water efficiencies, change orders that modify construction (including repairs and alterations to existing buildings) by reducing the proposed level of performance or reducing the approved level of certification may only be approved if the Project Architect, in consultation with the Energy Professional, determines in writing that the change is a necessary change order. In no event may a change order result in construction or retrofits that will fail to achieve the approved green building certification and required energy and water reductions. Additionally, all change order requests must comply with ORCF's change order requirements contained in Program Obligations.

1.5 Green MIP Requirements for Section 223(a)(7) Applications

A. 223(a)(7) applicants may qualify for Green MIP rates by pursuing a green building certification named above (See Section 1.3.1 and Section 1.3.2), reducing energy consumption by not less than 15% and water consumption by not less than 10% (not energy or water costs), completing repairs and alterations sufficient to earn the selected green building certification, and achieve an ENERGY STAR® Score of 75 or better. The energy and water efficiency measures must cover the entire project.

B. If the existing mortgage is already FHA insured with a Green-MIP rate, and its green building certification is more than 15 years old at application date, then the project must certify to the next level of retrofits/repairs (if available). For such applications, proceeds must be used to prospectively (after closing) complete further efficiency upgrades, further reduce energy consumption by not less than 15%, and water consumption by not less than 10% (not energy or water costs) and achieve the next-level green building certification standards (if available). Completing repairs and/or alterations must be sufficient to earn the selected green building certification and achieve an ENERGY STAR® Score of 75 or better. The energy and water efficiency measures must cover the entire project.

1.5.1 Existing Green MIP Mortgages

A. If the existing mortgage is Green MIP, then all Statements of Energy Performance for all prior years must have been correctly prepared, timely submitted and have a minimum score of 75 or higher.

1.5.2 Proving Continuing Performance Under an Existing Green Building Certification

A. All Borrowers with Section 223(a)(7) loans endorsed at Green MIP rates must provide an ENERGY STAR® Score and the Existing Building Certification to establish continuing performance and to demonstrate that 100% Whole Building Data is available. The Existing

Building Certification should be based on a performance period ending less than six months before the date of loan application. The Existing Building Certification requires 100% Whole Building Data. No sampling of units is permitted. The application for the Existing Building recognition must be signed and sealed by an Architect or Professional Engineer as required by EPA.

1.5.3 Delivery of Existing Building Certification.

A. The Existing Building Certification must be delivered with the Firm Application and may not be deferred. The Firm Commitment may not be conditioned upon receipt or future delivery of the Existing Building Certification.

In addition, the Borrower must include as non-critical repairs the installation of energy consumption monitoring technology (as described at Section 1.4.5.A.2), if not already installed, to provide 100% whole building consumption data collection.

1.5.4 Recording Baseline Data

A. Section 223(a)(7) applications that are previously green building certified must submit the current and trailing three years benchmarked SEP and the current green building certification with the Firm Application. The as-improved approved SEP and the green building certification will be submitted by the Lender (See Section 1.10). The SEP will automatically record the actual ENERGY STAR® Score as well as the related Energy Use Intensity (BTUs per square foot). In the event that EPA revises or recalibrates the Senior Care Community ENERGY STAR® Score resulting in a property reporting an annual continuing performance less than the minimum 75, the Energy Use Intensity reported with the application will become the minimum performance requirement.

1.6 Green MIP Requirements for Section 223(f) Applications

A. Existing properties proposed for 223(f) financing may qualify for the Green MIP rate in the following ways:

1. If the existing mortgage is FHA insured with a green MIP rate, and its green building certification has been earned within 15 years of the application date, then the Borrower must demonstrate continuing performance as described in Sections 1.5.1 through Section 1.5.4.
2. If the existing mortgage is FHA insured with a Green-MIP rate, and its green building certification is more than 15 years old at application date, then the project must certify to the next level of retrofits/repairs (if available). For such applications, proceeds must be used to prospectively complete further efficiency upgrades, further reduce energy consumption by not less than 15%, and water consumption by not less than 10% (not energy or water costs), and achieve the next-level green building certification standards (if available). Completing repairs and/or alterations must be sufficient to earn the selected green building certification and achieve an ENERGY STAR® Score of 75 or better.

3. For all other 223(f) applications seeking a Green MIP, the Borrower must commit to pursue a green building certification (either a HUD recognized certification or, pursuant to Section 1.3.3, a non-recognized certification), reducing energy consumption by not less than 15% and water consumption by not less than 10% (not energy or water costs), completing repairs and/or alterations sufficient to earn the selected green building certification, and achieve an ENERGY STAR® Score of 75 or better. If within 15 years prior to application date such facility has already achieved an acceptable green building certification (either a HUD recognized certification or, pursuant to 1.3.3, a non-recognized certification), then the borrower is not required to obtain an additional certification, but must nevertheless, make the above further improvements in consumption, prospectively, and meet all other requirements in this Mortgagee Letter for newly obtaining a Section 223(f) Green MIP rate. The energy and water efficiency measures must cover the entire project.

1.6.1 Properties with Previously Earned Certifications

A. An existing 223(f) FHA-insured Green MIP rate property with an ORCF-approved green building certification earned within 15 years of the date of application, must provide evidence of continuing performance in the same manner as prescribed for Section 223(a)(7) loans (See Sections 1.5.1 through 1.5.4). Benchmarked SEP Reports for the trailing three years for these properties must be submitted with the Firm Application.

1.6.2 Newly Built Properties

A. This Green MIP initiative does not alter existing regulatory provisions barring Section 223(f) financing of residential care facilities recently constructed or substantially rehabilitated within the last three years. (See 24 CFR 232.902)

1.6.3 Existing Properties with No Prior HUD Recognized Green Building Certification

A. Existing properties not currently insured with a Green MIP rate lacking a prior HUD recognized green building certification may qualify for the Green MIP rate by committing to pursue one of the certifications available for existing buildings (Section 1.3.2) or an unrecognized certification appropriate for renovations of existing buildings and selected consistent with Section 1.3.3. The owner must propose repairs and alterations consistent with and sufficient to achieve the selected certification and the required energy and water reductions. In addition, Borrowers must meet the following requirements:

1. **Existing Properties-Selection and Achievement of Green Building Certification.** The Project Architect (or Professional Engineer) must assure the Lender and HUD that the green building certification selected is appropriate for the building(s) composing the property and for the level of construction activity proposed and must certify that the Borrower's proposed repairs and alterations when completed will reasonably achieve the requirements of the designated green building certification. The Borrower is responsible for achieving the selected certification and maintaining performance for the life of the mortgage.

2. Energy Due Diligence-Benchmarking. All owners of existing properties proposing repairs and alterations in order to obtain a green building certification must benchmark their property to establish the annual energy utility consumption against which the expected result of proposed improvements is measured. (Note that Section 1.4.5 specifies an annual benchmarking procedure to demonstrate continuing performance by Green MIP properties during the mortgage term and that procedure does not permit sampling. By contrast, this paragraph requires a one-time benchmarking procedure required for candidate properties which procedure does contemplate sampling.) While sampling is permitted to benchmark energy use prior to certification, Lenders/Borrowers able to obtain and use 100% Whole Building Data for establishing the benchmark must do so because this is a conclusive demonstration of the ability to meet the future, continuing performance requirement. Whole building, whole property data means 100% of all meters on the property or at the building and/or all fuels delivered to the property or the building.

The Borrower must retain a qualified, third-party, Energy Professional who must benchmark energy consumption for twelve whole, consecutive months, or consecutive utility billing periods consistent with a 12-month period, with the last month ending not more than six months prior to Firm Commitment application. Physical occupancy for each month must not be below the break-even occupancy.

If 100% Whole Building Data is not available, a sampling regimen consistent with the requirements for ASHRAE Level II Energy Audits may be used, provided that resident usage must be determined based on a sample of not less than 50% of units. If Whole Building Data is available for some but not all buildings in a property, then the sampling requirements may be applied to the buildings lacking Whole Building Data. Similarly, if some (but not all) utility providers serving the property provide Whole Building Data, then sampling may be used to estimate usage for the utility where 100% Whole Building Data is not available. For any sample, the applicant must demonstrate how the sample is representative and clearly identify sampled units and buildings. Actual usage must be documented with copies of source material, i.e., utility bills or statements from the utility provider. If sampling is used, the documentation must identify the unit and the time period for which usage is reported. If a utility provides whole building data, the utility's documentation must show the name and address of the property and/or building and a count of tenant meters and owner meters by building or by site utility use as applicable.

The benchmarked results and documentation must be reported in the Energy Professional's ASHRAE Energy Audit, which should summarize aggregate, annual consumption for each energy source and organize supporting documentation so that a Lender can quickly verify the accuracy of the information. When a sample is used, the method of extrapolating the sample results to the whole must be shown. When the data collection and extrapolation of any sampled data is complete, the Energy Professional must enter monthly usage in the Borrower's EPA Portfolio Manager account. A Statement of Energy Performance (SEP) representing the benchmarked results must be included in the ASHRAE Energy Audit. The ASHRAE Energy Audit is a supplement to the SEP and must be included with the application Deliverables noted in Section 1.4. C.

3. Energy Due Diligence-Energy Audits. The Borrower's Energy Professional must conduct an energy audit for the property in accordance with the standard of work for an ASHRAE Level II Energy Audit. Key features of Level II audits include: a) benchmarking existing use; b) identifying specific components, assemblies, appliances, equipment or systems that use, move or transmit energy; c) allocating benchmarked usage to these same items; d) recommending specific repairs, replacements and alterations to reduce energy consumption; e) estimating per item and total cost of such items together with the per item and total reduction in energy and water use and cost resulting from the recommendation. In addition, a Level II Energy Audit should calculate the number of years required for the estimated annual energy savings to equal or exceed the cost of the recommendation for each item (the payback period). Level III audits provide an investment grade report that adds the following: a) whole building computer simulation (modeling) calibrated with field data; b) modeling of conservation measures and corresponding changes in energy and water consumption; and c) bid-level construction cost estimating. Accordingly, for Section 223(f) applications where a General Contractor is retained to estimate total costs and complete construction, an ASHRAE Level II Energy Audit is required, but if no General Contractor is retained, a Level III audit is required to provide bid-level construction cost estimating for energy conservation and energy efficiency measures.

4. Energy Due Diligence-Project Capital Needs Assessment. The Project Capital Needs Assessment (PCNA) for a Green MIP application on an existing building must indicate that an ASHRAE Energy Audit has been prepared and must identify the Energy Professional's name, date of the audit and company name.

The ASHRAE Level-II or III-audit shall result in a report to describe Energy Efficiency Measures (EEMs) such as modifications to system controls and building automation, operational changes, and capital upgrades that will result in not less than a 15% reduction in energy use (not energy costs). The findings must include general expenses, overall performance metrics and capital upgrades for proposed implementation. In addition to energy use reduction, the Energy Professional must recommend capital improvements for water use reduction measures based on benchmark water consumption for twelve whole months and provide upgrades to reduce water consumption (not water costs) by not less than 10%.

5. Demonstrating Ability to Achieve and Maintain Minimum ENERGY STAR® Score. In addition to obtaining green building certification, a Green MIP property must achieve and maintain an ENERGY STAR® Score of 75 or better. To demonstrate a high probability that this score will be achieved, the Energy Professional must calculate the estimated, annual, whole building, whole property energy use expected upon completion of all proposed repairs and alterations. If the selected green building certification allows a performance-based method for compliance, and the performance option is used for purposes of certification, then modeling or simulated results should be reported (See Section 1.4.9). The Energy Professional must then enter these estimated results in EPA's Portfolio Manager to obtain a Statement of Energy Design Intent (SEDI) displaying an ENERGY STAR® Score that must equal or exceed the required minimum score of 75. The Lender must submit the SEDI or SEP with the Application Deliverables, as outlined in Section 1.4.C., and with

the Project Deliverables, as outlined in Section 1.10. An as-improved Statement of Energy Performance (SEP) will be required for benchmarking of ongoing annual reports. The as-improved SEP records the actual ENERGY STAR® Score. It also records the actual Energy Use Intensity (i.e., BTUs per square foot) against which continuing performance will be measured.

6. Project Architect Required. Borrowers applying for Green MIP under Section 223(f) or 223(a)(7) with a proposed (not already earned) green building certification must retain a Project Architect (or Professional Engineer) whose Green MIP responsibilities include the same responsibilities as described for construction at Section 1.7.2. In addition, the Project Architect (or Professional Engineer) must certify the acceptability of any national or multi-state green building certification selected by the Borrower but not recognized by HUD (See Section 1.3.3). An Architect may not serve as both Project Architect representing the Borrower, and green building certification rater/verifier representing the standard-keeper of the green building certification.

7. Green MIP - HUD Repair Escrow Administration. For Green MIP applications, HUD may delegate repair escrow administration to Lenders. However, any change orders that will affect the Energy Professional's design, will need to be reviewed and approved by the Energy Professional and HUD.

8. Delivery of Green Building Certification - Extension of Repair Escrow. HUD may approve, if necessary to achieve the designated green building certification, an extended completion period of up to 15 months. The green building certification must be earned and delivered prior to the release of the Borrower's assurance of completion and any hold-back of surplus loan proceeds.

1.7 Green MIP Requirements for Section 232-New Construction, Sub-Rehab

A. All new construction and/or substantial rehabilitation applicants can qualify for the Green MIP rate by pursuing a HUD recognized green building certification (See Section 1.3.1) or an alternative national or multi-state certification consistent with Section 1.3.3. The selection of the green building certification must be submitted with the Firm Application consistent with the Borrowers and Project Architect's (or Professional Engineer) Certification. An as-improved SEP is submitted when all of the building performance standards have been achieved. (See Section 1.4.D)

B. The certification by the Project Architect must require designed building performance that achieves not less than a 25% reduction in estimated energy use, and not less than a 10% reduction in water usage (not energy or water costs) by comparison with the energy use estimated for the same structures if built to HUD minimum energy codes. The project must achieve an ENERGY STAR® Score of 75 or better.

1.7.1 ENERGY STAR® Appliances and Systems Required

A. All new construction or substantial rehabilitation applications for Green MIP rates must specify installation of ENERGY STAR® appliances and central air conditioning systems (if applicable). Other electrical and mechanical equipment (motors, fans, pumps, etc.) must be high performing, energy efficient products. For water-consuming appliances and components, EPA WaterSense labeled products must be specified.

1.7.2 Project Architect's Green MIP Responsibilities

A. The Project Architect must meet all applicable requirements in ORCF's Section 232 Handbook and qualifications as defined in Section 1.4.8.

1. In addition to the general responsibilities of the Project Architect, in Green MIP projects the Architect has these additional responsibilities:
 - a. assure that the selected green building certification is applicable to the contemplated design and scope of construction work;
 - b. coordinate with the green building certification standard-keeper or its designated rater/verifier to assure that the plans and specifications meet all certification requirements, including any requisite verifying proofs, exhibits or procedures;
 - c. when a performance-based compliance method is used, select, or approve the selection of appropriate building performance modeling software and complete or supervise completion of performance models comparing designed performance to any designated baseline code or benchmarked prior performance using in each modeled design the same assumptions concerning climate, degree days, set temperatures, owner/resident behavior, etc.;
 - d. prepares or coordinate with an Energy Professional to prepare an estimate of expected utility consumption based on the assumed completion of the project as designed and operating at stabilized occupancy by the intended resident profile;
 - e. enters or work with an Energy Professional to enter estimated utility consumption in Portfolio Manager and obtain a Statement of Energy Design Intent (SEDI) evidencing that the project as designed will achieve and maintain an ENERGY STAR® Score not less than 75 and/ or provides a Statement of Energy Performance (SEP) for summarizing the energy consumption for a property and current ENERGY STAR® Score;
 - f. confirms that building components will improve performance to obtain the required energy and water reductions;
 - g. coordinate with the General Contractor (and subcontractors where appropriate) to prepare a detailed construction schedule that includes all milestones for completion and inspections required by the green building certification procedures;
 - h. coordinate with the rater/verifier, General Contractor (and subcontractors where appropriate) and the HUD Inspector to assure that all certification inspections, and any resulting corrective actions are timely completed consistent with the detailed construction schedule; and

- i. coordinate with the rater/verifier, General Contractor (and subcontractors where appropriate) and the HUD Inspector, to assure that any and all tests, commissioning or similar routines required to perfect the green building certification are completed.

1.7.3 Recording Benchmarked and As-Improved SEP Data

A. Statement of Design Intent (SEDI) must be submitted with the application for all new construction, sub rehab and projects with additions to properties with no benchmarked history. An as-improved SEP must be submitted when all of the building performance standards have been achieved, as outlined in Section 1.4.D. The as-improved SEP will record the actual ENERGY STAR® Score as well as the related Energy Use Intensity (BTUs per square foot). In the event that EPA revises or recalibrates the Senior Care Community ENERGY STAR® Score resulting in a property reporting an annual continuing performance less than the minimum 75, the Energy Use Intensity reported on the as-improved SEP will become the minimum performance requirement.

B. The ENERGY STAR® Score of 75 is a minimum energy score for residential care facilities. However, The Energy Star Score may adjust upward when the 25% energy efficient building components are installed. The as-improved SEP ENERGY STAR® Score and Energy Use Intensity (EUI) will be the minimum performance for ongoing annual reporting.

1.7.4 Green MIP requirements during construction for Section 232-New Construction, Sub-Rehab

A. The Project Architect is responsible for the following:

1. The Project Architect will ensure that the Energy Professional and green building standard-keeper/rater coordinates with the General Contractor to include milestones for the green building inspections.

2. The Project Architect will ensure that change orders will not impact the energy and water efficiencies, and the green building certification. Change orders must be approved in writing by the Energy Professional, Project Architect (as applicable), HUD's designated construction inspector and ORCF's Construction Manager.

1.8 Green MIP Requirements for Section 241(a)

A. Section 241(a) Supplemental Loan proceeds may be used for eligible construction costs including equipment, repairs and alterations to existing buildings or site improvements, additions to existing buildings or site improvements, as well as construction of new buildings and site improvements. Regardless, a supplemental loan is secured by the entire premises subject to the lien of the first mortgage, and all requirements of both liens apply to the entire premises. Therefore, if Green MIP is proposed for a supplemental loan, the entire property must obtain a green building certification. Two green building certifications may be necessary to achieve certification if both renovations of existing and construction of new buildings are proposed in a supplemental loan (few, if any, green building certifications contemplate both activities in a single certification). In the event two certifications are proposed, one for existing

buildings and the other for new buildings, the property may be characterized as two phases to the extent needed for certification, provided that no exception exists to the requirement that the Borrower be a single asset entity. The Section 241(a) applicant must meet the reduction of energy and water criteria and follow applicable guidance in this ML. After completion of construction and delivery of the certifications, continuing performance will be demonstrated with a single Statement of Energy Performance (SEP) prepared for the entire property. One or two certifications, as applicable, must be delivered when all of the building performance standards have been achieved, as outlined in Section 1.4.D.

1.9 Underwriting Utility Cost as Part of Operating Expenses

A. Existing Buildings. For most existing buildings, utility costs are underwritten as part of expected operating expenses based on three years of operating history. However, for applications where savings result from utility conservation measures included in the proposed renovations or repairs, these savings may reduce the estimated operating expenses for the relevant utility. When an application for a stabilized, operating property seeks a Green MIP rate, then up to 75% of projected savings may offset historic expense. (Properties with less than three years of at least break-even operating history are not eligible to be underwritten at an expected reduction in utility expenses as compared to proven annual utility costs.)

B. Substantial Rehabilitation and Section 241(a). While substantial rehabilitation and Section 241(a) improvements involve existing buildings, the estimation of utility cost as a portion of forecasted operating expense is not based on three prior years of expense history, unless the existing building is at break-even occupancy for three years prior to application and:

- Will either remain at break-even occupancy during construction, or
- Will return to break-even occupancy after temporary relocation

In substantial rehabilitation or Section 241(a) proposals not meeting the break-even occupancy provisions above, 75% of utility costs included in the forecasted operating expense must be derived from the modeled or simulated utility consumption calculated for the proposed project.

1.9.1 CAUTION: Changed Energy Use Not Proportionate to Resulting Change in Cost

A. Changes in utility consumption often DO NOT necessarily result in proportional changes in costs due to the variability of pricing methods and fixed and variable costs used by utility providers. For example, many providers charge a minimum monthly amount regardless of usage, and other usage-based or flat-fee capital cost surcharges, and usage-based price schedules may include bundled service discounts, volume discounts or surcharges, multiple pricing tiers and peak demand period pricing.

It is the responsibility of the Energy Professional to investigate and determine the appropriate average price per unit of use for each utility used at a property.

- B. It is the Lender’s responsibility to assure that appropriate expertise and attention are given to estimating utility prices when estimating the utility cost results from repairs and alterations or forecasting utility costs for a new development.

1.10 Ongoing Servicing Project Deliverables – Achievement of Performance Standards.

A. Required Post-Closing Deliverables Submitted Concurrently by the Servicing Lender

1. **A verified and signed SEP with an energy score of 75 or better.** The anniversary date for future report submissions shall be the date the as-improved SEP is signed by the Energy Professional. The Energy Star Score and Energy Use Intensity Score (75 or over) submitted becomes the benchmarked score for ongoing annual reports.
2. **Data Collection Report.** The data collection plan shall identify and describe the method(s) to be used and describe how data will be collected and recorded, what persons or officers will be responsible and how the data will be entered in Portfolio Manager.
3. **Green Building Certification.** The green building certification issued by the certifying organization as identified in the Firm Application. The certification must indicate a pass or fail.
4. **ORCF’s Portal.** Submit all the above deliverables through ORCF’s Portal ([232 Healthcare Portal Link](#)) or through such other means as HUD may later prescribe.

Benchmarking Metrics are generated in ENERGY STAR® Portfolio Manager® (Portfolio Manager) after entering 12 whole consecutive months of utility consumption data for the property. Required metrics for submission include ENERGY STAR® Score, Site Energy Use Intensity, EPA 1-100 Water Score, Water Use Intensity, and the Portfolio Manager property identification.

1.11 How to Report Yearly Statement of Energy Performance (SEP)

In order to maintain continual compliance for a Green MIP rate, properties must achieve and maintain an ENERGY STAR® score of 75 or higher as evidenced by a report from ENERGY STAR Portfolio Manager® (Portfolio Manager). Portfolio Manager produces a Statement of Energy Performance (SEP) report summarizing a property’s calendar year energy consumption. The SEP captures the consumption of a 12 consecutive month period (e.g., January 1st to December 31st). The SEP is due annually by March 31st. A qualified Energy Professional such as a licensed engineer, must sign the SEP to verify the data. Submissions must include the FHA ID number for the property and the Green Building Certification. The Yearly Statement of Energy Performance (SEP) report will be submitted through ORCF’s Portal ([232 Healthcare Portal Link](#)) or through such other means as HUD may later prescribe.

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0605. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to the Office of Residential Care Facilities by email at LeanThinking@hud.gov. For additional information on the Section 232 Program addressed in this Mortgagee Letter, please visit: https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care.

Signature

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