

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
November 2, 2012  
Action Items



## LEGAL

### Action

#### I. LEGAL

##### A. Brickell View Terrace Apartments, Ltd. v. Florida Housing Finance Corporation - FHFC Case No. 2012-036UC; Application No. 2011-067C

<b>Development Name: (“Development”):</b>	<b>Brickell View Terrace</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Pinnacle Housing Group, LLC</b>
<b>Number of Units: 100</b>	<b>Location: Miami-Dade County</b>
<b>Type: High Rise</b>	<b>Set Aside: 10% @ 28% AMI 90% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$2,561,000</b>

#### 1. Background

- a) Petitioner, Brickell View Terrace Apartments, Ltd. applied for \$2,561,000.00 in annual tax credits in the 2011 Universal Application Cycle pursuant to Application No. 2011-067C to help finance the development of its project, a 100-unit apartment complex in Miami-Dade County, Florida.
- b) Petitioner’s application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code (“F.A.C.”), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that “but for” a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner’s application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its “Petition Requesting Formal Administrative Proceeding and the Grant of Relief Requested” (“Petition”) challenging Florida Housing’s scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner’s application would have been in the funding range in the final rankings.
- e) After further review, Petitioner demonstrated that the competing application, Green Turnkey Plaza, Ltd., Application number 2011-208C, (“Applicant”) did not demonstrate site control. At cure, Applicant amended its lease between it and Miami-Dade County in order to demonstrate site control. This amendment modified the lease by eliminating the language stating that the parties’ obligations are contingent upon the release of the Declaration of Trust encumbering the property by the U.S. Department of Housing and Urban Development (“HUD”).

## LEGAL

### *Action*

f) A Declaration of Trust (“DOT”) encumbers a portion of its development site under lease from Miami-Dade County to Applicant. The DOT prohibits Miami-Dade County from leasing the property without HUD consent or a release by HUD of the DOT. By the Cure deadline, Applicant had not demonstrated that either of these contingencies had occurred, and these contingencies remained in effect regardless of the amendment to the lease between Applicant and Miami-Dade County.

g) Consent Agreement:

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its Petition. A copy of the Consent Agreement is attached hereto as [Exhibit A](#).

### 2. **Present Situation**

The Board must enter a Final Order in this matter.

### 3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: Florida Housing shall allocate Petitioner’s requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.

## LEGAL

### Action

**B. City Crossings, Ltd. v. Florida Housing Finance Corporation - FHFC Case No. 2012-049UC; Application No. 2011-090C**

<b>Development Name: (“Development”):</b>	<b>City Crossings</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Landmark Development Corp</b>
<b>Number of Units: 103</b>	<b>Location: Miami-Dade County</b>
<b>Type: High Rise</b>	<b>Set Aside: 10% @ 28% AMI 90% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$2,561,000</b>

**1. Background**

- a) Petitioner, City Crossings, Ltd. applied for \$2,561,000.00 in annual tax credits in the 2011 Universal Application Cycle pursuant to Application No. 2011-090C to help finance the development of its project, a 103-unit apartment complex in Miami-Dade County, Florida.
- b) Petitioner’s application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code (“F.A.C.”), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that “but for” a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner’s application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its “Petition for Formal Administrative Hearing” (“Petition”) challenging Florida Housing’s scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner’s application would have been in the funding range in the final rankings.
- e) After further review, Petitioner demonstrated that the competing application, Joe Moretti Preservation Phase One, LLC, Application number 2011-047C, (“Applicant”) did not demonstrate site control. At cure, Applicant amended its lease between it and Miami-Dade County and provided additional documentation in order to demonstrate site control.
- f) A Declaration of Trust (“DOT”) encumbers a portion of its development site under lease from Miami-Dade County to Applicant. The DOT prohibits Miami-Dade County from leasing the property without HUD consent or a release by HUD of the DOT. By the Cure deadline, Applicant had not demonstrated that either of these contingencies had occurred, and these contingencies remained in effect regardless of the amendment to the lease between Applicant and Miami-Dade County.

## LEGAL

### *Action*

g) Consent Agreement:

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its Petition. A copy of the Consent Agreement is attached hereto as [Exhibit B](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.

**LEGAL**

*Action*

**C. Madison Heights Ltd. v. Florida Housing Finance Corporation - FHFC Case No. 2012-048UC; Application No. 2011-172C**

<b>Development Name: (“Development”):</b>	<b>Madison Heights</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Madison Heights Ltd.</b>
<b>Number of Units: 80</b>	<b>Location: Hillsborough County</b>
<b>Type: High Rise</b>	<b>Set Aside: 20% @ 33% AMI 80% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$1,695,000</b>

**1. Background**

- a) Madison Heights Ltd. (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. The Petitioner timely filed a petition challenging Florida Housing’s scoring of the Universal Cycle Application, No. 2011-124C, filed by a competing Applicant, The Reed at Encore (the “Reed”), with respect to the scoring determinations set out below.
- c) In its final scoring of the Reed’s application, Florida Housing determined that the Reed was entitled to 3.0 points for prior Housing Credit Development Experience, and 3.5 tie-breaker points for its proximity to a medical facility.
- d) After further review of the scoring process, Florida Housing has determined that the Reed’s application was scored in error regarding both aspects described above. However, when the Application Instructions are applied to the Reed’s application, the error would not result in a change to the 3.5 tie-breaker points awarded to the Reed for proximity to a medical facility. As regards the Housing Credit Development Experience, while the projects documenting developer experience were unchanged through the scoring process, the Reed changed the developer entity on Cure. During preparation for hearing, Florida Housing determined that while the projects met the threshold developer experience (completed after January 1, 1991), one of the three was completed prior to January 1, 2007, thus the Reed was not entitled to the 3.0 additional points for recent Housing Credit Development Experience.
- e) Based on the above, Petitioner and Florida Housing executed a proposed Consent Agreement which provides for a stipulated disposition of this matter. The terms of the Consent Agreement provide for subtraction from the Reed’s final score the 3.0 Housing Credit Development Experience points, which would result in Madison Heights’ application being within the funding range. A copy of the executed proposed Consent Agreement is attached hereto as [Exhibit “C.”](#)

## **LEGAL**

### *Action*

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the proposed Consent Agreement as its Final Order in this matter.

## LEGAL

### Action

**D. SP Central Court 2012, LP v. Florida Housing Finance Corporation - FHFC Case No. 2012-038UC; Application No. 2011-172C**

<b>Development Name: (“Development”):</b>	<b>Central Court</b>
<b>Developer/Principal: (“Developer”):</b>	<b>SP Central Court 2012, LP</b>
<b>Number of Units: 68</b>	<b>Location: Hillsborough County</b>
<b>Type: Garden Style (Acquisition/Preservation)</b>	<b>Set Aside: 20% @ 33% AMI 80% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$640,000</b>

**1. Background**

- a) SP Central Court 2012, LP (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. The Petitioner timely filed a petition challenging Florida Housing’s scoring of the Universal Cycle Application, No. 2011-133C, filed by a competing Applicant, CTA River Apartments (“CTA”), with respect to the scoring determinations set out below.
- c) In its final scoring of CTA’s application, Florida Housing determined that CTA was entitled to a total of 32.5 tie-breaker points for its proximity to various services. Petitioner challenged Florida Housing’s scoring award of 32.5 proximity tie-breaker points to CTA, claiming that CTA’s tie-breaker measurement point (“TBMP”) was not “located within 100 feet of a residential building existing or to be constructed as part of the proposed development,” as required by the 2011 Universal Application Instructions.
- d) During preparation for hearing, Florida Housing determined that CTA’s application was scored in error as to the TBMP, and applying the Application Instructions to CTA’s application would result in the loss of all 32.5 tie-breaker points awarded to CTA for proximity to services.
- e) Based on the above, Petitioner and Florida Housing executed a proposed Consent Agreement which provides for a stipulated disposition of this matter. The terms of the Consent Agreement provide for subtraction from CTA’s final score the 32.5 proximity tie-breaker points, which would result in SP Central Court’s application being within the funding range. A copy of the executed proposed Consent Agreement is attached hereto as [Exhibit “D.”](#)

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board adopt the proposed Consent Agreement as its Final Order in this matter.



## LEGAL

### *Action*

- E. **Jack Orr Preservation One, LLC. v. Florida Housing Finance Corporation - FHFC Case Nos.: 2012-045UC; 2012-046UC**

<b>Development Name: (“Development”):</b>	<b>Jack Orr Plaza Preservation Phase One</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Jack Orr Plaza Phase One Developer, LLC</b>
<b>Number of Units: 200</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-Rise</b>	<b>Set Aside: 20% @ 28% AMI 80% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$2,057,355</b>

1. **Background**

Jack Orr Preservation One, LLC (“Petitioner” or “Jack Orr”) applied for funding, under Application Nos. 2011-114C, during the 2011 Universal Application Cycle seeking Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Jack Orr was not funded and other Applications, Nos. 2011-128C (“Metro South Senior”) and 2011-208C (“Washington Square”) were funded instead. There was insufficient housing credit allocation to fund Jack Orr after Metro South Senior and Washington Square were funded. Jack Orr timely filed two Petitions for Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, separately challenging Florida Housing’s final ranking of its 2011 Universal Cycle Application and the scoring of the Metro South Senior and Washington Square Applications.

2. **Present Situation**

A hearing was conducted on August 22, 2012, before Florida Housing’s appointed Hearing Officer, Chris H. Bentley. At the request of the parties, the two cases were consolidated into a single proceeding. Jack Orr requested, and was granted permission, to amend its Petitions at hearing; adding additional challenges to Florida Housing’s scoring of the two competing Applications. The parties filed Proposed Recommended Orders. On September 5, 2012, the Hearing Officer issued a Recommended Order, finding that Florida Housing incorrectly scored Metro South Senior regarding availability of sewer infrastructure, and incorrectly scored Washington Square regarding the acceptance of a local government contribution form. Accordingly the Hearing Officer recommends that Florida Housing adopt a Final Order funding the Jack Orr application. A copy of the Recommended Order is attached as [Exhibit E](#).

3. **Recommendation**

Staff recommends that the Board: Adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with same.

## LEGAL

### Action

F. **Collins Park Apartments, LLC v. Florida Housing Finance Corporation - FHFC Case No.: 2012-043UC**

<b>Development Name: (“Development”):</b>	<b>Collins Park Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Collins Park Apartments Developer, LLC</b>
<b>Number of Units: 117</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-Rise</b>	<b>Set Aside: 10% @ 28% AMI 90% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$2,522,485</b>

1. **Background**

Collins Park Apartments, LLC (“Petitioner” or “Collins Park”) applied for funding, under Application No. 2011-052C, during the 2011 Universal Application Cycle, seeking Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Petitioner was not funded and other Applications, Nos. 2011-128C (“Metro South Senior”) and 2011-208C (“Washington Square”) were funded instead. There was insufficient housing credit allocation to fund Collins Park after Metro South Senior and Washington Square were funded. Collins Park timely filed a Petition for Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s final ranking of its 2011 Universal Cycle Application and the scoring of the Metro South Senior and Washington Square Applications.

2. **Present Situation**

A hearing was conducted on August 22, 2012, before Florida Housing’s appointed Hearing Officer, Chris H. Bentley. Collins Park requested, and was granted permission, to amend its Petition at hearing; adding additional challenges to Florida Housing’s scoring of the two competing Applications. The parties filed Proposed Recommended Orders. On September 5, 2012, the Hearing Officer issued a Recommended Order, finding that Florida Housing incorrectly scored Metro South Senior regarding availability of sewer infrastructure, and incorrectly scored Washington Square regarding the acceptance of a local government contribution form. Accordingly the Hearing Officer recommends that Florida Housing adopt a Final Order funding the Collins Park application. A copy of the Recommended Order is attached as [Exhibit F](#).

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with same.

## LEGAL

### Action

**G. Heritage Village Commons, Ltd., v. Florida Housing Finance Corporation - FHFC Case No.: 2012-037UC**

<b>Development Name: (“Development”):</b>	<b>Heritage Village Commons</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Heritage Village Developer, Inc.</b>
<b>Number of Units: 120</b>	<b>Location: Seminole County</b>
<b>Type: Three-Story with elevators</b>	<b>Set Aside: 10% @ 33% AMI 90% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$1,510,000</b>

**1. Background**

Heritage Village Commons, Ltd., (“Petitioner”) applied for funding, under Application No. 2011-055C, during the 2011 Universal Application Cycle, seeking Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Petitioner was not funded and other Applications, Nos. 2011-208C (“Washington Square Apartments”), 2011-128C (“Metro South Senior Apartments”), and 2011-181C (“West Brickell View Apartments”) were funded instead. There was insufficient housing credit allocation available to fund Petitioner after Washington Square Apartments, Metro South Senior Apartments, and West Brickell View Apartments were funded. Petitioner timely filed a Petition for Informal Administrative Proceeding under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s final ranking of its 2011 Universal Cycle Application alleging that Florida Housing incorrectly ranked the Washington Square Apartments, Metro South Senior Apartments, and West Brickell View Apartments, applications when it funded applications to fulfill its Transit Oriented Development (“TOD”) goal.

**2. Present Situation**

A hearing was conducted on September 5, 2012, before Florida Housing’s appointed Hearing Officer, Diane Tremor. The parties filed Proposed Recommended Orders. On October 17, 2012, the Hearing Officer issued a Recommended Order, finding that Florida Housing correctly ranked the Washington Square Apartments, Metro South Senior Apartments, and West Brickell View Apartments. Accordingly the Hearing Officer recommends that Florida Housing adopt a Final Order denying the relief requested by Petitioner. A copy of the Recommended Order is attached as [Exhibit G](#).

**3. Recommendation**

Staff recommends that the Board: Adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with same.

## LEGAL

### Action

**H. Lulav Square Apartments Limited Partnership, v. Florida Housing Finance Corporation - FHFC Case No.: 2012-039UC**

<b>Development Name: (“Development”):</b>	<b>Lulav Square</b>
<b>Developer/Principal: (“Developer”):</b>	<b>RLI Beneficial Development 11, LLC</b>
<b>Number of Units: 140</b>	<b>Location: Miami-Dade County</b>
<b>Type: Three-Story with elevators</b>	<b>Set Aside: 20% @ 28% AMI 80% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$1,806,287</b>

**1. Background**

Lulav Square Apartments Limited Partnership (“Petitioner”) applied for funding, under Application No. 2011-126C, during the 2011 Universal Application Cycle, seeking Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Petitioner was not funded and other Applications, No. 2011-048C, (“Stirrup Plaza Preservation Phase One”); 2011-049C, (“South Miami Plaza Preservation”); 2011-050C, (“Dante Fascell Preservation”); 2011-053C (“Haley Sofge Preservation Phase One”); 2011-111C (“Claude Pepper Preservation Phase One”); 2011-114C (“Jack Orr Plaza Preservation Phase One”); and 2011-213C (“Gwen Cherry”) (collectively, the “Challenged Applications”) were ranked higher instead. There was insufficient housing credit allocation to fund Petitioner after Applications, No. 2011-048C, (“Stirrup Plaza Preservation Phase One”); 2011-049C, (“South Miami Plaza Preservation”); and 2011-050C, (“Dante Fascell Preservation”) were funded. Petitioner timely filed a Petition for Informal Administrative Proceeding under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s scoring of the Challenged Applications, alleging that Florida Housing incorrectly scored the Challenged Applications as qualified to meet the Development Category of Preservation, as the letter from HUD qualifying the Development as eligible to meet the Development Category of Preservation failed to meet the criteria of Part III.A.3.a.(3)(c) of the 2011 Universal Application Instructions.

**2. Present Situation**

A hearing was conducted on September 5, 2012, before Florida Housing’s appointed Hearing Officer, Diane Tremor. The parties filed Proposed Recommended Orders. On October 17, 2012, the Hearing Officer issued a Recommended Order, finding that Florida Housing incorrectly scored the Challenged Applications as meeting the requirements of the Development Category of Preservation. Accordingly the Hearing Officer recommends that Florida Housing adopt a Final Order awarding Petitioner its requested tax credit funding from the next available allocation. A copy of the Recommended Order is attached as [Exhibit H](#).

**3. Recommendation**

Staff recommends that the Board: Adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with same.

# STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

## *Action Supplement*

### II. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

#### A. State Apartment Incentive Loan (SAIL) Funding Under RFP 2012-04 for Developments that Commit to Provide Set-Aside Units for Extremely Low Income (ELI) Households

##### 1. Background

- a) Earlier this year, the Legislature passed a bill that the Governor signed into law authorizing SAIL funding to preserve existing Guarantee Program developments that meet certain criteria. The legislation also provided a funding priority for Guarantee Program developments approved by the Board to provide additional units for ELI persons in calendar year 2011 and a maximum amount of \$2.5 million in new SAIL ELI funding per development. Florida Housing has approximately \$20,000,000 of uncommitted SAIL monies for the SAIL program. The monies resulted from SAIL interest and principal payments on SAIL loans, and earnings from the investment of SAIL funds.
- b) At its September 7, 2012 meeting, the Board approved the issuance of a Request for Proposals (RFP) to award funding to existing Florida Housing Guarantee Fund portfolio developments for additional ELI Households according to the requirements of 420.5087 (10) F.S.
- c) On September 27, 2012, Florida Housing staff issued RFP 2012-04 to award SAIL ELI funding to Applicants who commit to provide set-aside units for ELI Households. The deadline for receipt of Responses was 2:00 p.m., Eastern Time, Friday, October 12, 2012. A copy of the RFP is attached as [Exhibit A](#).
- d) The Review Committee members, designated by the Executive Director, were (Chair) Kevin Pichard, Assistant Director of Guarantee Program; Tamara Alford, Guarantee Program Asset Manager and Karla Brown, Multifamily Loans Manager. Each member of the Review Committee individually reviewed the responses prior to convening for the Review Committee meetings on October 17, 2012, October 22, 2012 and October 31, 2012.

##### 2. Present Situation

- a) 22 Responses were received from the following:
  - (1) Tuscan Isle f/k/a Heron Cove
  - (2) Noah's Landing
  - (3) Preserve at Oslo f/k/a Woods of Vero Beach
  - (4) Vista Palms f/k/a Andros Isles
  - (5) Bristol Bay
  - (6) Mariner's Cove
  - (7) Portofino
  - (8) Peacock Run
  - (9) Clipper Bay
  - (10) Carolina Club

## STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

### *Action Supplement*

- (11) Hampton Point
  - (12) Sundance Pointe
  - (13) Sabal Chase
  - (14) Wyndham Place
  - (15) Windchase Apartments
  - (16) Westminster Apartments
  - (17) Whispering Woods Apartments
  - (18) Wilmington Apartments
  - (19) Waverly Apartments
  - (20) Woodridge Apartments
  - (21) Westwood Apartments
  - (22) Walden Park Apartments
- b) Florida Housing's Past Due Report dated October 2, 2012, reflects the following Past Due items for Creative Choice Homes:
- (1) Mystic Woods I - Borrower owes \$10,000 Annual Principal and \$6,495.21 Annual Interest on its HOME loan, both due 6/30/12. Servicing was transferred from MMA to FHDC. Developer has not executed new servicing agreement. 7/13/12 email sent from legal with new agreement. 9/4/12 email reminder sent. 9/17/12 email reminder sent. 9/24/12 Borrower questioned need to sign agreement. 9/24/12 email sent explaining FHFC's position. Borrower agreed to sign document but it has not yet been received.
  - (2) The Gardens - Borrower owes 1 partial monthly replacement reserve payment of \$41,432.00 due 6/30/12 on its HOME loan. Borrower also owes 3 monthly replacement reserve payments of \$73,358.00 each due 7/31/12-9/30/12.
  - (3) Tuscan Isle (aka Heron Cove) - MMRB/Guarantee/Risk-Share - Borrower failed to make the monthly payment due 8/15/12 i/a/o \$137,726.09 plus \$68.86 per diem which began accruing 8/30/12 and the payment due 9/15/12 i/a/o \$137,726.09 plus \$68.86 per diem which began accruing on 9/30/12.

## STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

### *Action Supplement*

- c) Florida Housing's Past Due Report also reflects the following Past Due items for Vestcor Development Corporation:
  - (1) Leigh Meadows – Borrower owes First Housing Development Corp. HC compliance fees i/a/o \$4,208.06 due 10/1/12 and SAIL ELI annual compliance fee of \$819.00 due 10/1/12.
- d) Subsequently, the Borrower for Tuscan Isle (aka Heron Cove) failed to make the monthly payment due 10/15/12 i/a/o \$137,726.09 and the Borrower for Leigh Meadows remitted the required fees in accordance with the payment terms.
- e) The Review Committee determined that Tuscan Isle f/k/a Heron Cove, Preserve at Oslo f/k/a Woods of Vero Beach, Vista Palms f/k/a Andros Isle and Peacock Run failed Threshold due to financial arrearages to Florida Housing as of the due date for Response submissions pursuant to the requirements of Section Six, Item A in the RFP.
- f) The Review Committee removed Windchase Apts. and Westwood Apts. from the applicant pool as far as priority and ranking is considered because of their respective low scores received by the review committee.
- g) The Committee classified the remaining Proposals according to the priority and ranking preferences, as follows:
  - (1) Priority 1: Sundance Pointe, Noah's Landing, Whispering Woods Apts., Wyndham Place, Waverly Apts., Mariner's Cove, Hampton Pointe, Portofino, Woodridge Apts., Walden Park Apts., Wilmington Apts., Westminster Apts. and Sabal Chase.
  - (2) Priority 2: None
  - (3) Priority 3: Carolina Club, Bristol Bay and Clipper Bay

### **3. Recommendation**

- a) Due to the de minimis nature, expedited payment and receipt of fees in accordance with payment terms and pursuant to Section Three C of the RFP, staff recommends the Board waive as a minor deficiency Noah's Landings' financial arrearages for purposes of Section Six A of the RFP.
- b) The Review Committee recommends that the Board approve the first eight (8) Proposals per the ranking reflected on [Exhibit B](#), subject to verification of the statutory requirement that shareholders, members or partners of the Development owner entity have funded deficits in an amount not less than 20% of the Applicant's SAIL Loan no later than closing of any financing under this RFP, and authorize staff to proceed to issue the invitations to enter credit underwriting, with award amounts as provided in Section Four B.3. of the RFP, subject to funding availability.

## UNIVERSAL CYCLE

### *Action*

### III. UNIVERSAL CYCLE

#### A. 2012 Qualified Allocation Plan

##### 1. Background/Present Situation

- a) On October 14, 2011 the Board approved the 2012 Qualified Allocation Plan (QAP) ([Exhibit A](#)). Section 8 states in part the following:

Unless the Board approves otherwise, any Allocation Authority received on or after October 1, 2012, or such later date as the Board approves final ranking, including any received due to a tentatively funded Applicant withdrawing or otherwise failing to proceed, will be used, subject to the provisions of Section 5.c. hereof, (i) to fully fund any Application that has been partially funded by the method described in Section 7 above and then (ii) applied to the 2013 Housing Credits Funding Cycle; provided that any such Allocation Authority received which, if after application of the above would cause FHFC to be above the de minimis requirements for use of allocation necessary to participate in the National Pool, shall instead be applied as provided in Section 7 above.

- b) For the 2011 Universal Application Cycle, there are some Applicants from the final ranking approved in June 2012 that remain tentatively funded that have not yet had the opportunity to withdraw, otherwise fail to proceed or to commit to moving forward with their award. It is imperative for the state of Florida to permit the maximum number of competitive housing credit developments to proceed timely in 2012 in order to capitalize on the minimum nine percent credit rate temporarily established by Congress through December 30, 2013. Not utilizing all available credit authority timely in 2012 could lead to a less efficient leveraging process in 2013 when returned credits are re-issued during the next cycle as currently provided in Section 8 of the 2012 QAP.
- c) By extending the deadline currently provided in Section 8 beyond October 1, 2012 and to continue to allow to fund any returned Allocation Authority in accordance to Section 7 of the QAP, Florida Housing will be able to take full advantage of the opportunity to capitalize on the temporarily approved minimum nine percent credit rate.
- d) FHFC staff is requesting approval to extend the date from October 1, 2012, to December 15, 2012, and allowing the continuation of funding as provided in Section 7 until the newly requested extended deadline.

##### 2. Recommendation

Approve and authorize staff to extend the deadline established in Section 8 from October 1, 2012, to December 15, 2012, and allow the continued funding of any returned Allocation Authority as provided in Section 7 of the QAP through November 15, 2012.



## HOUSING CREDITS

### *Action Supplement*

#### I. HOUSING CREDITS

##### A. Request Approval to Minimally Exceed Subcontractor Cost Limit for Hampton Village Apartments/#2011-517C

<b>Development Name:</b>	<b>Hampton Village Apartments</b>
<b>Developer/Principal:</b>	<b>Landmark Development Corporation/ Carrfour Supportive Housing, Inc.</b>
<b>Number of Units:</b>	<b>100</b>
<b>Location :</b>	<b>Miami-Dade County</b>
<b>Type/Demographic:</b>	<b>Rental/Family (HC)</b>
<b>Set-Aside:</b>	<b>100% @ 60% AMI (HC)</b>
<b>Requested Funding Amount:</b>	<b>Housing Credits \$638,678.00</b>

##### 1. Background/Present Situation

- a) Hampton Village Apartments (#2011-517C) is a new construction application requesting an allocation of non-competitive Housing Credits in the amount of \$638,678.00. This request is in association with a tax-exempt bond allocation from Miami-Dade County. The Development is also utilizing NSP1 and NSP2 financing.
- b) AmeriNational has completed credit underwriting for the local government-issued bonds, and this report was approved by the Miami-Dade Housing Finance Authority on Monday, October 29, 2012.
- c) NSP1 and NSP2 funding must be expended in their entireties by March 10, 2013 and January 31, 2013, respectively. Fifty percent of NSP3 must be expended by March 6, 2013 and 100% by March 5, 2014. Therefore, the Applicant intends on closing the financing of the Development in early November 2012.
- d) The Development has requested Board approval, required by Rule 67-48.0072(17)(f), to allow one entity to receive more than 20% of construction cost.
- e) AmeriNational engaged GLE Associates, Inc. ("GLE" or "Construction Consultant") to perform a Plan & Cost Review ("PCR") of the Development. GLE issued a draft PCR dated October 19, 2012 that indicates the building shell subcontractor is to receive 23% of the total construction costs.
- f) GLE opines that a percentage of 23% should pose no significant risk to the completion of the Development as long as this subcontractor provides insurance and bonding protection to the Applicant that are of equal value to the value threshold required of the general contractor.
- a) Development as long as this subcontractor provides insurance and bonding protection to the Applicant that are of equal value to the value threshold required of the general contractor.

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b) AmeriNational has provided a positive recommendation to this request, attached as [Exhibit A](#).

c) **Recommendation**

Approve the request to allow the 20% subcontractor limit to be exceeded as referenced above.