

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING  
FINANCE CORPORATION

FAIR OAKS, LLC, AND  
LANDMARK DEVELOPMENT CORP.,

Petitioners,

vs.

FHFC Case No.: 2018-033BP

APPLICATION NO: 2018-077C

REQUEST FOR APPLICATIONS: 2017-112

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

**FORMAL WRITTEN PROTEST OF AWARD  
AND PETITION FOR ADMINISTRATIVE HEARING**

Pursuant to Sections 120.569 and 120.57(3), Florida Statutes ("Fla. Stat."), and Chapter 28-110 and Rule 28-106.201, Florida Administrative Code ("Fla. Admin. Code"), Petitioners, Fair Oaks, LLC, and Landmark Development Corp. (collectively, "Petitioners"), file this Formal Written Protest of Award and Petition for Administrative Hearing and state:

**Affected Agency**

1. The agency affected is the Florida Housing Finance Corporation ("Florida Housing"), 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The telephone number is 850-488-4197.

**Petitioners**

2. Petitioners' address is 3050 Biscayne Blvd., Suite 300, Miami, Florida 33137. Petitioners' telephone number is 305-538-9552. For purposes of this proceeding, Petitioners' address is that of its undersigned counsel.

3. Petitioner Fair Oaks, LLC ("Fair Oaks") is the Applicant entity of a proposed affordable housing development to be located in Miami-Dade County, Application #2018-077C.

Landmark Development Corp (“Landmark”), is a “Developer” entity as defined by Florida Housing in Rule 67-48.002(28), Fla. Admin. Code.

4. Petitioners are challenging the eligibility for funding under Request for Applications 2017-112, Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA” or “RFA 2017-112”) of applicants (i) East Florida City, LLC, and Las Brisas Estates, LLC, for their failure to meet eligibility and Transit Service Point requirements and (ii) East Florida City, LLC for its failure to comply with item 14 of the Applicant Certification and Acknowledgement Form and for its failure to meet eligibility and Readiness to Proceed requirements, for an award of Housing Credits through an administrative hearing before the Department of Administrative Hearing (“DOAH”).

#### **Petitioners’ Counsel**

5. Counsel for Petitioners and Petitioners' address for this proceeding is:

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Craig D. Varn  
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#### **Background**

6. Florida Housing administers various affordable housing programs including the Housing Credit (HC) Program pursuant to Section 42 of the Internal Revenue Code (the “IRC” or “the Code”) and Section 420.5099, Fla. Stat., under which Florida Housing is designated as the Housing Credit agency for the State of Florida within the meaning of Section 42(h)(7)(A) of the IRC, and Chapters 67-48 and 67-60, Fla. Admin. Code.

7. Florida Housing administers a competitive solicitation process to implement the provisions of the housing credit program under which developers apply for funding. Chapter 67-60, Fla. Admin. Code.

8. Rule 67-60.006, Fla. Admin. Code, provides that “[t]he failure of an Applicant to supply required information in connection with any competitive solicitation pursuant to this rule chapter shall be grounds for a determination of nonresponsiveness with respect to its Application.”

9. Furthermore, by applying, each applicant certifies that:

Proposed Developments funded under this RFA will be subject to the requirements of the RFA, inclusive of all Exhibits, the Application requirements outlined in Rule Chapter 67-60, F.A.C., the requirements outlined in Rule Chapter 67-48, F.A.C. and the Compliance requirements of Rule Chapter 67-53, F.A.C.

(RFA at p. 6).

10. Because the demand for HC funding exceeds that which is available under the HC Program, qualified affordable housing developments must compete for this funding. To assess the relative merits of proposed developments, pursuant to Chapters 67-48 and 67-60, Fla. Admin. Code, Florida Housing has established by rule a competitive solicitation process known as the Request for Applications.

11. Florida Housing issued RFA 2017-112 on or about October 6, 2017. RFA 2017-112 was further modified on or about November 1, 2017 and again on or about November 29, 2017. The application deadline for the RFA as modified was December 18, 2017 (“Application Deadline”).

12. The RFA sets forth the information required to be provided by an applicant, which includes a general description of the type of projects that will be considered eligible for funding and delineates the submission requirements. (RFA at pp. 2-61). The RFA sets forth on

Pages 61 and 62, a list of mandatory Eligibility Items that must be included in a response. The RFA expressly provides that “[o]nly Applications that meet all of the Eligibility Items will be eligible for funding and considered for funding selection.” (RFA at p. 61).

13. Among other things, to satisfy eligibility requirements, the RFA requires that “[a]ll Applications must achieve a minimum number of Transit Service Points and achieve a minimum number of total proximity points to be eligible for funding.” (RFA at p. 20). The required minimum of Transit Service Points is 2 points for applicants not eligible for the Proximity Point Boost. (RFA at p. 20). Because obtaining the required minimum Transit Service Points is considered an “Eligibility Item”, failure to comply deems the application ineligible for funding. (RFA at p. 62).

14. Specifically, Florida Housing’s solicitation process for RFA 2017-112, as set forth in Rules 67-60.001-.009, Fla. Admin. Code, involves the following:

- a) Florida Housing publishes its competitive solicitation (RFA) in the Florida Administrative Register;
- b) applicants prepare and submit their response to the competitive solicitation;
- c) Florida Housing appoints a scoring committee (“Review Committee”) to evaluate the applications;
- d) the scoring committee makes recommendations to Florida Housing’s Board, which are then voted on by the Board; and
- e) applicants not selected for funding may protest the results of the competitive solicitation process.

15. On or about April 18, 2018, the Review Committee, which consisted of Florida Housing staff, met and considered the applications responding to the RFA. At the meeting the Review Committee listed and input the scores for each application and ultimately made

recommendations to the Florida Housing Board of Directors (“Board”) for their consideration. The Review Committee determined that Fair Oaks was eligible, but not selected for funding.

16. On or about May 4, 2018, Florida Housing’s Board of Directors adopted the Review Committee’s recommendations and tentatively authorized the selection for funding of those applications identified in RFA 2017-112 Board Approved Preliminary Awards report, which reflected the preliminary funded applicants.

#### **Notice of Agency Action**

17. Petitioners received notice of Florida Housing’s Final Agency Action entitled “RFA 2017-112 Board Approved Preliminary Awards” dated May 4, 2018 (“Corporation’s Notice”), on or about May 4, 2018.

#### **Notice of Protest**

18. On May 8, 2018, Petitioners timely filed their Notice of Protest in which it challenged the selection of the applications in the Corporation’s Notice. A copy of the Corporation’s Notice is attached as Exhibit A.

#### **Substantial Interests**

19. Petitioners timely submitted an application in response to the RFA, Application #2018-077C (“Application”). In their Application, Petitioners sought an allocation of \$2,400,000 in annual federal tax credits<sup>1</sup> to help finance the development of their project, a 120-

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<sup>1</sup> The United States Congress has created a program, governed by Section 42 of the IRC, by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy IRC requirements. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year stream of tax credits, typically to a syndicator, with the sale proceeds generating much of the funding necessary for development

unit Mid-Rise, 5 to 6-stories, apartment complex. As reflected in RFA 2017-112, All Applications Report, Petitioners were assigned lottery number 24. Petitioners were scored as having satisfied all mandatory and eligibility requirements for funding and scored 15 out of 15 Total Points.

20. East Florida City, LLC (“Cordova Estates”) timely submitted an application in response to the RFA, Application #2018-099C. In its application, Cordova Estates sought an allocation of \$2,561,000 in annual federal tax credits to help finance the development of its project, a 160-unit Townhouse complex. As reflected in RFA 2017-112 All Applications Report, Cordova Estates was assigned lottery number 11. Cordova Estates was scored as having satisfied all mandatory and eligibility requirements for funding receiving a score of 15 out of 15 Total Points.

21. Las Brisas Estates, LLC (“Las Brisas”) timely submitted an application in response to the RFA, Application #2018-098C. In its application, Las Brisas sought an allocation of \$2,561,000 in annual federal tax credits to help finance the development of its project, a 110-unit High Rise apartment complex. As reflected in RFA 2017-112 All Applications Report, Las Brisas was assigned lottery number 20. Las Brisas was scored as having satisfied all mandatory and eligibility requirements for funding receiving a score of 15 out of 15 Total Points.

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and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants. Pursuant to section 420.5099, Fla. Stat., Florida Housing is the designated “housing credit agency” for the State of Florida and administers Florida’s tax credit program under its Housing Credit Program (“HC Program”). Through the HC Program, Florida Housing allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.

22. Cordova Estates and Las Brisas failed to meet or satisfy RFA Transit Service Points and eligibility requirements, and are not entitled to the eligibility determination, scoring, and preliminary ranking of their applications. As a result of the preliminary ranking process, Cordova Estates and Las Brisas were incorrectly included in the “eligible” rankings and should have been scored as ineligible for Housing Credits. As discussed below, Florida Housing improperly determined that Cordova Estates and Las Brisas satisfied RFA mandatory Transit Service Points and eligibility requirements and improperly selected Cordova Estates for funding.

23. Through this proceeding Petitioners challenge and are seeking a determination that Florida Housing erred (i) in the preliminary scoring and eligibility determinations of the Cordova Estates and Las Brisas applications, and (ii) in the decision to award Housing Credits to Cordova Estates. But for Florida Housing’s errors in its scoring and eligibility decision as to the Cordova Estates and Las Brisas applications, Petitioners would have been ranked in the funded range and would have been entitled to an allocation of Housing Credits through RFA 2017-112. The defects in each application will be addressed below.

**Transit Service Points - Public Bus Rapid Transit Stop**

24. In order to satisfy RFA eligibility requirements, an applicant who is not eligible for a Proximity Point Boost is required to achieve a Minimum Transit Service Score of 2 points. (RFA at p. 20). The Cordova Estates and Las Brisas applications are not eligible for a Proximity Point Boost, as neither of these applications reflected eligibility for PIIA Proximity Point Boost or RD 515 Proximity Point Boost on page 5 of the respective applications. Transit Service Points under the RFA vary depending on the type of transit service provided. In order to calculate the value of the points, an applicant is required to include Latitude and Longitude Coordinates attesting to the Development Location Point, the type of transit service claimed, and the distance (proximity) between the transit service and the Development Location Point. (RFA

at p. 23). The maximum point value for the various transit services includes 2 points for a Public Bus Stop and 6 points for a Public Bus Rapid Transit Stop. (RFA at pp. 21-22). The RFA defines a Public Bus Rapid Transit Stop as:

A fixed location at which passengers may access public transportation via bus. The Public Bus Rapid Transit Stop must service at least one bus that travels at some point during the route in either a lane or corridor that is exclusively used by buses, and the Public Bus Rapid Transit Stop must service at least one route that has scheduled stops at the Public Bus Rapid Transit Stop at least every 20 minutes during the times of 7am to 9am and also during the times of 4pm to 6pm Monday through Friday, excluding holidays, on a year-round basis.

Additionally, it must have been in existence and available for use by the general public as of the Application Deadline.

(RFA at pp. 83-84).

25. Cordova Estates' application refers to a Public Bus Rapid Transit Stop as its qualifying Transit Service. The application suggests that the claimed stop is .66 miles from the Development Location Point. Had that information been correct, Cordova Estates would have been entitled to 5.0 Transit Service Points. (RFA at p. 93). However, the proposed stop does not qualify as a Public Bus Rapid Transit Stop.

26. The bus stop location identified in Cordova Estates' application corresponds to bus stop #10322, which is located on the east side of the South Miami-Dade Busway, 215 feet north of the intersection of SW 344<sup>th</sup> Street and South Miami-Dade Busway in the city of Florida City. Mark Steven Johnson, a Professional Surveyor and Mapper, confirmed that the latitude and longitude coordinates for the "Public Bus Rapid Transit Stop" selected by Cordova Estates correspond to bus stop #10322. A copy of Mr. Johnson's Affidavit is attached hereto as Exhibit B. This bus stop was not serviced by any routes as of December 18, 2017. See letter dated May 8, 2018 from Mr. Gerald Bryan, Chief, Service Planning and Scheduling, Miami-Dade County Department of Transportation and Public Works, referencing bus stop #10322 and



electronic mail dated May 10, 2018 from Mrs. Cheryl Motsco, Miami-Dade County Department of Transportation and Public Works, attached hereto as Exhibit C and Exhibit D, respectively. This bus stop was not serviced by any routes as of December 18, 2017. Therefore, Cordova Estates is disqualified from receiving any Transit Service Points for its claimed Public Bus Rapid Transit Stop.

27. In light of the foregoing defects in its application, Cordova Estates failed to select a qualifying Transit Service, failed to achieve even the Minimum Transit Service Score of 2.0 points for applications not eligible for a Proximity Point Boost and its application should be scored as ineligible for an award. (RFA at p. 20).

28. Las Brisas' application also refers to a Public Bus Rapid Transit Stop as its qualifying Transit Service. The application suggests that the claimed stop is .29 miles from the Development Location Point. Had that information been correct, Las Brisas would have been entitled to 5.5 Transit Points. (RFA at p. 93). However, the proposed stop does not qualify as a Public Bus Rapid Transit Stop.

29. The bus stop location identified in Las Brisas application corresponds to bus stop #3813, which is located on the east side of the South Miami-Dade Busway, 130 feet southwest of the intersection of South Miami-Dade Busway and SW 112<sup>th</sup> Avenue in Unincorporated Miami-Dade County. Mr. Johnson confirmed that the latitude and longitude coordinates for the "Public Bus Rapid Transit Stop" selected by Las Brisas correspond to bus stop #3813. A copy of Mr. Johnson's Affidavit is attached hereto as Exhibit E. As of the Application Deadline, bus stop #3813 was serviced by routes 34, 31 and 200. Route 34 does not stop at the claimed bus stop between the hours of 4:00 p.m. to 6:00 p.m. Monday through Friday. Route 200 stops hourly at the claimed bus stop between the hours of 8:55 a.m. and 4:55 PM, but has no service after 4:55 p.m., Monday through Friday. Route 31 does not stop at the claimed bus stop at least

every 20 minutes during the hours of 4:00 p.m. to 6:00 p.m. Monday through Friday. See letter dated May 8, 2018 from Mr. Bryan referencing bus stop #3813 and electronic mail dated May 10, 2018 from Ms. Motsco, attached hereto as Exhibit F and Exhibit D, respectively. Contrary to RFA requirements, no route had scheduled stops at the claimed Public Bus Rapid Transit Stop at least every 20 minutes during the hours of 4:00 p.m. to 6:00 p.m., Monday through Friday. Therefore, Las Brisas is disqualified from receiving any Transit Service points for its claimed Public Bus Rapid Transit Stop.

30. In light of the foregoing defects in its application, Las Brisas failed to select a qualifying Transit Service, failed to achieve even the Minimum Transit Service Score of 2.0 points for applications not eligible for a Proximity Point Boost and its application should be scored as ineligible. (RFA at p. 20).

**Readiness to Proceed - Site Plan Verification Form and Applicant Certification Form**

31. The RFA requires applicants to provide certain items to document the applicant's readiness to proceed. Applicants are required to include in Attachment 9 a properly executed form titled "Florida Housing Finance Corporation Local Government Verification of Status of Site Plan Approval for Multifamily Developments" ("Site Plan Verification Form"). Further, Applicants are required to include in Attachment 10 a properly executed form titled "Florida Housing Finance Corporation Local Government Verification that Development is Consistent with Zoning and Land Use Regulations" ("Zoning Verification Form"). The Site Plan Verification Form requires the selection of one (1) of three (3) options, which describes the status of the site plan review or approval for the subject development. The Cordova Estates application included in Attachment 9 a Site Plan Verification Form executed by Mr. Henry Iler, City Planner of Florida City, selecting option 2 for the site plan status. Option 2 includes the following sentence: "Although there is no preliminary or conceptual site plan approval process

and the final site plan approval has not yet been issued, the site plan, in the applicable zoning designation, has been reviewed.” The Zoning Verification Form confirms that the “zoning designation for the above referenced Development location is RD-2” and that the “proposed number of units and intended use are consistent with current land use regulations and the referenced zoning designation.... To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein.” The Cordova Estates application included in Attachment 10 a Zoning Verification Form, also executed by Mr. Iler.

32. On pages 4 and 7 of its application, Cordova Estates stated the Development Type was Townhouses and comprised of 160 units, respectively. However, the site plan submitted by Cordova Estates to Florida City which formed the basis for the issuance of the Site Plan Verification Form reflected a development with 190 units in 3-story garden apartment buildings. Therefore, the application fails to include a Site Plan Verification Form for Cordova Estates’ proposed 160 townhouse units.

33. RFA 2017-112 requires all applicants to include in Attachment 1 an Applicant Certification and Acknowledgement Form (“Applicant Certification”). Item 14 of the Applicant Certification states “[I]n eliciting information from third parties required by and/or included in this Application, the Applicant has provided such parties information that accurately describes the Development as proposed in this Application.” (Emphasis Added). Cordova Estates included an executed Applicant Certification in Attachment 1 to its application. The submission by Cordova Estates of a site plan for 190 units in 3-story garden apartment buildings, as opposed to the 160 townhouses in its actual application is contrary to and in violation of the Applicant Certification in Cordova Estates’ application.

### Issues of Material Fact and Law

34. Disputed issues of material fact and law include those matters pled in this petition, and include, but are not limited to the following:

- a) Whether the provisions of the RFA have been followed with respect to the preliminary allocation of tax credits under the RFA or correct eligibility determinations have been made based on the provisions of the RFA;
- b) Whether the proposed allocations of the tax credits are consistent with the RFA, the requirements of a competitive procurement process and Florida Housing's rules and governing statutes;
- c) Whether the RFA's criteria for determining eligibility, ranking and evaluation of proposals were properly followed;
- d) Whether the preliminary rankings properly determine the eligibility of potential applicants for funding in accordance with the standards and provisions of the RFA;
- e) Whether the rankings and proposed awards are consistent with the RFA and the disclosed basis or grounds upon which tax credits are to be allocated;
- f) Whether the rankings and proposed awards are based on a correct determination of the eligibility of the applicants or correct scoring and ranking criteria in the RFA;
- g) Whether the rankings and proposed awards are consistent with fair and open competition for the allocation of tax credits;
- h) Whether the rankings and proposed awards are based on clearly erroneous or capricious eligibility determinations, scoring or ranking;
- i) Whether the proposed awards improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents;
- j) Whether the Cordova Estates and Las Brisas applications should be deemed ineligible under the RFA because of their failure to satisfy RFA requirements with respect to minimum Transit Service Points;
- k) Whether Cordova Estates and Las Brisas should be entitled to be awarded Transit Service Points for their claimed Rapid Transit Bus Stop;
- l) Whether the Cordova Estates application should be deemed ineligible under the RFA because of its failure to satisfy RFA requirements with

respect to item 14 of the Applicant Certification and with respect to Readiness to Proceed;

m) Whether the criteria and procedures for the scoring, ranking and eligibility determination of Cordova Estates and Las Brisas applications are arbitrary, capricious, contrary to competition, contrary to the RFA requirements, or are contrary to prior Florida Housing interpretations of the applicable statutes and administrative rules;

n) Whether the RFA's criteria for determining eligibility, ranking and evaluation of the Cordova Estates and Las Brisas applications were properly followed;

o) Whether Cordova Estates' and Las Brisas' eligibility determination and ranking are consistent with fair and open competition for the allocation of tax credits;

p) Whether Cordova Estates' and Las Brisas' eligibility determination and ranking are based on clearly erroneous or capricious eligibility determination, scoring or ranking;

q) Whether Cordova Estates' and Las Brisas' eligibility determination and ranking improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents; and,

r) Such other issues as may be revealed during the protest process.

35. Petitioners reserve the right to seek leave to amend this petition to include additional disputed issues of material fact and law that may become known through discovery.

#### **Statement of Ultimate Facts and Law**

36. As a matter of ultimate fact and law Cordova Estates and Las Brisas failed to complete their applications in accordance with the competitive solicitation; their applications were not responsive to and failed to comply with RFA 2017-112; and, therefore, their applications should not have been considered for funding or scored as being eligible applications.

37. As a matter of ultimate fact and law Florida Housing improperly determined that Cordova Estates and Las Brisas applications were completed in accordance with the competitive

solicitation; were responsive to RFA 2017-112 and, were eligible for funding or scored as being an eligible application under RFA 2017-112.

38. As a matter of ultimate fact and law Florida Housing improperly scored the Cordova Estates and Las Brisas applications as having satisfied all mandatory element requirements as of the Application Deadline.

39. As a matter of ultimate fact and law, Florida Housing improperly determined that Cordova Estates was eligible for funding and Las Brisas satisfied RFA eligibility requirements.

40. As a matter of ultimate fact and law, Florida Housing improperly determined that Cordova Estates and Las Brisas were scored as eligible applications.

41. As a matter of ultimate fact and law, but for the scoring errors and eligibility determinations in Cordova Estates' and Las Brisas' applications, Petitioners would have been entitled to an allocation of its requested tax credit funding.

#### **Statutes and Rules**

Statutes and rules governing this proceeding are Sections 120.569 and 120.57(3), and Chapter 420, Fla. Stat., and Chapters 28-106, 67-48 and 67-40, Fla. Admin. Code.

**WHEREFORE**, Petitioners request that:

A. Florida Housing refer this Petition to the Division of Administrative Hearings for a formal administrative hearing and the assignment of an Administrative Law Judge pursuant to Section 120.57(3), Fla. Stat.;

B. The Administrative Law Judge enter a Recommended Order determining that:

1) Cordova Estates and Las Brisas failed to complete their applications in accordance with the competitive solicitation; that their applications were non-responsive to and failed to comply with RFA 2017-112; and that their applications should not have been scored as having satisfied mandatory eligibility or Transit Service Point requirements as prescribed by RFA 2017-112;

2) Cordova Estates failed to complete its application in accordance with the competitive solicitation; that its application was non-responsive to and failed to comply with RFA 2017-112 for its failure to comply with item 14 of the Applicant Certification; and that its application should not have been scored as having satisfied mandatory eligibility or Readiness to Proceed requirements as prescribed by RFA 2017-112;

3) Florida Housing improperly determined that the applications submitted by Cordova Estates and Las Brisas were completed in accordance with the competitive solicitation;

4) Florida Housing improperly determined that the applications submitted by Cordova Estates and Las Brisas were responsive to RFA 2017-112;

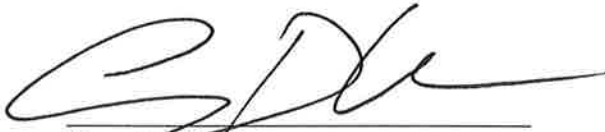
5) Florida Housing improperly determined that Cordova Estates and Las Brisas application were eligible for funding under RFA 2017-112;

C. The Administrative Law Judge enter a Recommended Order recommending Florida Housing award Petitioners their requested tax credit funding;

D. Florida Housing enter a Final Order awarding Petitioners their requested tax credit funding; and,

E. Petitioners be granted such other relief as may be deemed appropriate.

Respectfully submitted this 17th day of May, 2018.



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RFA 2017-112  
Board Approved Preliminary Awards

Total HC Available for RFA	5,809,694.00
Total HC Allocated	6,514,704.00
HC Binding Amount	(711,010.00)

Application Number	Name of Development	Name of Authorized Principal Representative	Name of Developers	HC Funding Amount	Eligible For Funding?	Qualifies for the Geographic Area of Opportunity / HUD-designated SADDA Funding Goal?	Qualifies as a Non-Profit Applicant?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
<b>One Non-Profit Application</b>														
2018-088C	Residences at Dr. King Boulevard	Kenneth Maylor	Residences at Dr. King Boulevard Development, LLC	2,436,070	Y	N	Y	15	Y	Y	Y	A	Y	2
<b>Two Family Applications that qualify for the Geographic Area of Opportunity/HUD-designated SADDA Goal</b>														
2018-099C	Cardova Estates	Lewis V Swesty	Lewis Swesty, BS Development Corp	2,551,000	Y	Y	N	15	Y	Y	Y	A	Y	11
2018-102C	Paradise Lakes Apartments	Matthew A. Fieger	HTG Paradise Developer, LLC	1,517,634	Y	Y	N	15	Y	Y	Y	A	Y	18

If less than three applications selected above, additional Application(s) selected for funding  
none

On May 4, 2018, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above Applications for funding and invite the Applicants to enter credit underwriting

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67.60 009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Exhibit A



# Michael G. Maida, P.A.

Attorney at Law

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FLORIDA HOUSING  
FINANCE CORPORATION

TELEPHONE (850)425-8124

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Michael G. Maida  
Civil Circuit Mediator

May 8, 2018

Via Hand Delivery

Via Electronic Mail: [CorporationClerk@floridahousing.org](mailto:CorporationClerk@floridahousing.org)

Ana McGlamory  
Corporation Clerk  
Florida Housing Finance Corporation  
227 N. Bronough St., Ste. 5000  
Tallahassee, FL 32301

RE: RFA 2017-112 Housing Credit Financing for Affordable Housing  
Developments Located in Miami-Dade ("the RFA") - Notice of Protest

Dear Ms. McGlamory:

On behalf of Applicant Fair Oaks, LLC, Application No. 2018-077C ("Fair Oaks") and Developer Landmark Development Corp., ("Landmark"), this letter constitutes a Notice of Protest ("Notice") filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Rules 28-110 and 67-60.009, Florida Administrative Code and the RFA. Fair Oaks and Landmark protest Florida Housing Finance Corporation's ("Corporation") intended decision with respect to the scoring, ranking and selection of applications in the RFA, including but not limited to those applications selected for funding as identified in the notice of intended decision. (Sec Board Approved Preliminary Awards attached as Exhibit "A.")

This Notice is being filed within 72 hours (not including weekends) of the posting of the notice of intended decision on the Corporation's website on Friday, May 4, 2018 at 10:30 a.m. Fair Oaks and Landmark reserve the right to file a formal written protest within (10) days of the filing of this Notice pursuant to section 120.57(3), Florida Statutes. This Notice is being filed to, among other matters, preserve Fair Oaks' and Landmark's ability to initiate or intervene in proceedings that may impact that scoring, ranking and funding determination.

Please acknowledge receipt of this filing by stamping the date and time on the enclosed copy of this letter.

Sincerely,

Michael G. Maida  
Michael G. Maida

MGM/sem  
Attachment

Exhibit A

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Mark Steven Johnson, who after being duly sworn, deposes and states the following:

1. My name is Mark Steven Johnson. I personally know the facts stated herein.
2. I am licensed by the State of Florida as a professional surveyor. My license number is 4775.
3. I am submitting this Affidavit on behalf of Fair Oaks, LLC ("Fair Oaks") and I am not a financial beneficiary of Fair Oaks and am not related to any principals or financial beneficiaries of Fair Oaks.
4. Fair Oaks is challenging an application filed by East Florida City, LLC ("Cordova Estates") submitted under RFA 2017-112 to Florida Housing Finance Corporation (application #2018-099C; the "Application").
5. As part of its Application, Cordova Estates entered coordinates under the subheading "Public Bus Rapid Transit Stop", indicating the location of such transit service. Attached as Exhibit "A" is a copy of page 6 of the Application.
6. On 04/09/18, under my supervision, a Schwebke-Shishkin and Associates' survey crew visited the location and the specific coordinates referenced above and determined that such coordinates corresponded to bus stop #10322 located on the east side of the South Miami-Dade Busway, 215 feet north of the intersection of SW 344<sup>th</sup> Street and South Miami-Dade Busway in the city of Florida City.

Under penalties of perjury, I declare that these statements are true and correct.



Mark Steven Johnson  
Professional Surveyor and Mapper  
State of Florida Registration No. 4775

Dated 04/26/18

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

Sworn to and subscribed before me this 26 day of April, 2018, by Mark Steven Johnson.

Witness my hand and official seal this 26 day of April, 2018.

*Kathleen E. Shuskin*

Notary Public  
State of Florida  
My Commission Expires: \_\_\_\_\_

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



Attachments

# Exhibit A

As Modified 11.1.17

Applicants may select Private Transportation or provide the location information and distance for one (1) of the remaining four (4) Transit Services on which to base the Application's Transit Score.

(a) Does the Applicant commit to provide Private Transportation?

Yes       No       N/A

(b) Other Transit Services:

Service	Latitude	Longitude	Distance (rounded up to the nearest hundredth of a mile) *
Public Bus Stop	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>
Public Bus Transfer Stop	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>
Public Bus Rapid Transit Stop	<u>25.448422</u>	<u>-80.479214</u>	<u>0.66</u>
SunRail Station, MetroRail Station, or TriRail Station	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>

\*Distance between the coordinates of the Development Location Point and the coordinates of the service. The method used to determine the latitude and longitude coordinates must conform to Rule SJ-17, F.A.C., formerly 61G17-6, F.A.C. All calculations shall be based on "WGS 84" and be grid distances. The horizontal positions shall be collected to meet sub-meter accuracy (no autonomous hand-held GPS units shall be used).

(3) Community Services

Service	Name and Address of Service	Latitude	Longitude	Distance (rounded up to the nearest hundredth of a mile):*
Grocery Store	<u>WalMart</u> 33501 S Dixie Hwy Florida City, FL 33034	<u>25.457467</u>	<u>: 80.472389</u>	<u>0.19</u>
Medical Facility	<u>MLK Jr Clinic</u> 810 W Mowry Drive Homestead, FL 33030	<u>25.469283</u>	<u>: 80.487833</u>	<u>1.42</u>

*[Handwritten Signature]*  
01/24/18  
Exhibit B



miamidade.gov

**TRANSIT**  
Overtown Transit Village  
701 N.W. 1<sup>st</sup> Court • 12th Floor  
Miami, Florida 33136  
Tel: 786-469-5163 Fax: 786-469-5491

May 8, 2018

Mr. Daniel Lopez  
Landmark Development Corp.  
3050 Biscayne Boulevard  
Suite 300  
Miami, Florida 33137

**RE: Bus Stop #10322 located on the east side of the South Miami-Dade Busway, 215 feet north of the intersection of SW 344<sup>th</sup> Street and South Miami-Dade Busway in the city of Florida City.**

Dear Mr. Lopez:

With respect to the above-referenced bus stop, please be advised that the bus stop was not serviced by any routes on December 18, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Bryan".

Gerald Bryan  
Chief, Service Planning and Scheduling  
**Miami-Dade County**  
**Department of Transportation and Public Works**  
701 NW 1<sup>st</sup> Court, Suite 1200  
Miami, FL 33136  
786-469-5163

**Daniel Lopez**

**From:** Motsoa, Cheryl (DTPW) <Cheryl.Motsoa@miamidade.gov>  
**Sent:** Thursday, May 10, 2018 2:27 PM  
**To:** Daniel Lopez  
**Subject:** RE: Bus Stop Information Request for #3813 and #10322

Good afternoon Danny,

Below is the information regarding the routes and schedules for the two bus stops you provided.

Bus Stop #3813:

**Bus Stops**

Routes: - All Routes -	Bus Stop #: 3813	Look Up Bus Stop
Address: Busway@SW 112 Av, Florida 33189, USA		
Latitude: 25.676762	Longitude: -80.372924	Look Up Address
Look Up Latitude and Longitude		

Stop ID	Stop Name	Route	Direction	Distance
3813	BUSWAY & SW 112 AV	31 Busway Local	Northbound	0 ft
3813	BUSWAY & SW 112 AV	34 Express	Northbound	0 ft
3813	BUSWAY & SW 112 AV	200-Cutler Bay Local	Clockwise	0 ft

Scheduled service for December 18, 2017, Monday – Friday northbound at Stop #3813

Route 31	7 – 9 AM	4 – 6 PM	7 – 9 AM	7 – 9 AM	4 – 6 PM
	7:08	4:03	7:02	7:52	4:03
	7:25	4:30	7:10	7:55	4:30
	7:36	4:48	7:12	8:02	4:48
	7:54	5:03	7:22	8:22	5:03
	8:07	5:18	7:25	8:25	5:18
	8:24	5:31	7:32	8:32 (last morning trip)	5:31
	8:37	5:52	7:40		5:52
	8:52		7:42		

Route 34

	7:02	7:10	7:12	7:22	7:25	7:32	7:40	7:42
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Route 34

	7:02	7:10	7:12	7:22	7:25	7:32	7:40	7:42
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4 – 6 PM

N/A route operates northbound in the morning and southbound in the afternoon

Route 200 is a circular route that serves stop # 3813 hourly from 8:55 AM to 4:55 PM

Bus Stop #10322

Bus Stops	
Route: - All Routes -	Bus Stop #: 10322
Look Up Bus Stop	
Address: 5 Miami-Dade Bwayway, Florida City, FL 33054, USA	
Look Up Address	
Latitude: 25.448483	Longitude: -80.479227
Look Up Latitude and Longitude	
50 Nearest Bus Stops To: 25.448483, -80.479227	

Our system does not show any routes serving that stop on December 18, 2017 – there is a bus terminal located less than 100 ft. west of the station.

Thanks,

**Cheryl Motsco**

Service Planning & Scheduling, Department of Transportation and Public Works  
786-469-5162  
motscc@miamidade.gov  
"Delivering Excellence Every Day"

**From:** Daniel Lopez [mailto:danny@landmarkco.net]  
**Sent:** Tuesday, May 08, 2018 2:59 PM  
**To:** Motsco, Cheryl (DTPW) <Cheryl.Motsco@miamidade.gov>  
**Subject:** Bus Stop Information Request

This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected emails. Please click here if this is a suspicious message [reportspam@miamidade.gov](mailto:reportspam@miamidade.gov) **Enterprise Security Office**

Cheryl,

Exhibit D

I'd like to request information on the following bus stops. Specifically, what routes they service, how frequently buses pickup at those locations, and which routes travel along the South Miami-Dade Busway or any other exclusive bus lane:

- Busway & SW 112 Ave - Northbound (Stop #3813)
- SW 344 ST / Florida City – Northbound (Stop #10322)

Feel free to call me if you have any questions.

**Danny Lopez**

**Landmark Development Corp.**

**3050 Biscayne Boulevard, Suite #300**

**Miami, FL 33137**

**Cell: (305)951-4745**

**Office: (305)538-9552 ext. 112**



**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Mark Steven Johnson, who after being duly sworn, deposes and states the following:

1. My name is Mark Steven Johnson. I personally know the facts stated herein.
2. I am licensed by the State of Florida as a professional surveyor. My license number is 4775.
3. I am submitting this Affidavit on behalf of Fair Oaks, LLC ("Fair Oaks") and I am not a financial beneficiary of Fair Oaks and am not related to any principals or financial beneficiaries of Fair Oaks.
4. Fair Oaks is challenging an application filed by Las Brisas Estates, LLC ("Las Brisas Estates") submitted under RFA 2017-112 to Florida Housing Finance Corporation (application #2018-098C; the "Application").
5. As part of its Application, Las Brisas Estates entered coordinates under the subheading "Public Bus Rapid Transit Stop", indicating the location of such transit service. Attached as Exhibit "A" is a copy of page 6 of the Application.
6. On 04/09/18, under my supervision, a Schwebke-Shishkin and Associates' survey crew visited the location and the specific coordinates referenced above and determined that such coordinates corresponded to bus stop #3813 located on the east side of the South Miami-Dade Busway, 130 feet southwest of the intersection of South Miami-Dade Busway and SW 112<sup>th</sup> Avenue in Unincorporated Miami-Dade County.

Under penalties of perjury, I declare that these statements are true and correct.



Mark Steven Johnson  
Professional Surveyor and Mapper  
State of Florida Registration No. 4775

Dated 04/26/18

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

Sworn to and subscribed before me this 26 day of April, 2018, by Mark Steven Johnson.

Witness my hand and official seal this 26 day of April, 2018.

*Kathleen E. Shiskin*

Notary Public  
State of Florida  
My Commission Expires: \_\_\_\_\_

Personally Known  OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



Attachments

# Exhibit A

As Modified 11.1.17

Applicants may select Private Transportation or provide the location information and distance for one (1) of the remaining four (4) Transit Services on which to base the Application's Transit Score.

(a) Does the Applicant commit to provide Private Transportation?

Yes  No  N/A

(b) Other Transit Services:

Service	Latitude	Longitude	Distance (rounded up to the nearest hundredth of a mile) *
Public Bus Stop	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>
Public Bus Transfer Stop	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>
Public Bus Rapid Transit Stop	<u>25.575678</u>	<u>-80.373003</u>	<u>0.29</u>
SunRail Station, MetroRail Station, or TriRail Station	<u>Latitude Coordinates</u>	<u>Longitude Coordinates</u>	<u>Distance</u>

\*Distance between the coordinates of the Development Location Point and the coordinates of the service. The method used to determine the latitude and longitude coordinates must conform to Rule 5J-17, F.A.C., formerly 61G17-6, F.A.C. All calculations shall be based on "WGS 84" and be grid distances. The horizontal positions shall be collected to meet sub-meter accuracy (no autonomous hand-held GPS units shall be used).

(3) Community Services

Service	Name and Address of Service	Latitude	Longitude	Distance (rounded up to the nearest hundredth of a mile):*
Grocery Store	<u>Publix</u> 20711 S Dixie Hwy Cutler Bay, FL 33189	<u>25.573822</u>	<u>-80.373181</u>	<u>0.19</u>

  
04/26/18 Exhibit E



miamidade.gov

**TRANSIT**  
Overtown Transit Village  
701 N.W. 1<sup>st</sup> Court • 12th Floor  
Miami, Florida 33136  
Tel: 786-469-5163 Fax: 786-469-5491

May 8, 2018

Mr. Daniel Lopez  
Landmark Development Corp.  
3050 Biscayne Boulevard  
Suite 300  
Miami, Florida 33137

**RE: Bus Stop #3813 located on the east side of the South Miami-Dade Busway, 130 feet southwest of the intersection of South Miami-Dade Busway and SW 112<sup>th</sup> Avenue in Unincorporated Miami-Dade County.**

Dear Mr. Lopez:

With respect to the above-referenced bus stop, please be advised as follows:

1. The above referenced bus stop is served by the following routes:
  - a. Route 34
  - b. Route 31
  - c. Route 200
2. The frequency at which Route 34 stops at bus stop #3813 is as follows:
  - a. Stops at least every 20 minutes between the hours of 7:00AM and 8:32AM (last morning trip) on weekdays.
  - b. No stops between the hours of 4:00PM and 6:00PM on weekdays.
3. The frequency at which Route 31 stops at bus stop #3813 is as follows:
  - a. Stops at least every 20 minutes between the hours of 7:00AM and 9:00AM on weekdays.
  - b. Stops at least every 20 minutes between the hours of 4:00PM and 6:00PM on weekdays except for two intervals as follows.
    - i. Between 4:03PM and 4:30PM (27 minutes)
    - ii. Between 5:31PM and 5:52PM (21 minutes)
4. The frequency at which Route 200 stops at bus stop #3813 is hourly between the hours of 8:55AM and 4:55PM on weekdays. There is no weekday service at bus stop #3813 after 4:55PM.

Exhibit F

The above information is correct as of December 18, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Bryan", written in a cursive style.

Gerald Bryan  
Chief, Service Planning and Scheduling  
**Miami-Dade County**  
**Department of Transportation and Public Works**  
701 NW 1<sup>st</sup> Court, Suite 1200  
Miami, FL 33136  
786-469-5163