

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

**MARLYN BEHAVIORAL HEALTH
SYSTEMS, INC., DBA QUALITY
RESOURCE CENTER**

Petitioner,

**FHFC CASE NO.: 2017-025BP
RFA 2016-115
Application No. 2017-173S**

vs.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on May 5, 2017. On April 21, 2017, the parties executed the attached Consent Agreement in the above-captioned case. The Consent Agreement is adopted and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED that based on Petitioner Marlyn Behavioral Health Systems, Inc. dba Quality Resource Center’s eligibility, after applying the ranking and selection process in RFA 2016-115, Petitioner’s Application No. 2017-

173S is selected for funding, subject to credit underwriting. This Order does not impact any other funding recommendations for RFA 2016-115.

DONE and ORDERED this 5th day of May, 2017.

FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chair

Copies to:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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_____ /

CONSENT AGREEMENT

Petitioner, Marlyn Behavioral Health Systems, Inc. dba Quality Resource Center (“Petitioner”) and Respondent, Florida Housing Finance Corporation (“Florida Housing”), by and through undersigned counsel, hereby present the following Consent Agreement in accordance with Section 120.57(4), Florida Statutes:

PRELIMINARY STATEMENT

On or before January 19, 2017, Petitioner submitted Application No. 2017-173S (“the Application”) to Florida Housing in response to Florida Housing’s Request for Applications 2016-115, State Apartment Incentive Loan (“SAIL”) Financing for Smaller Permanent Supportive Housing Developments for Persons with Special Needs (“the RFA”), to fund Petitioner’s proposed Veterans Landing Development to be located in Duval County, Florida. Florida Housing’s Review Committee for the RFA met on March 9, 2017, and reviewed all responsive applications to the RFA. The Review Committee determined that the proposed Petitioner’s Application failed to

include an Executive Director for its Applicant entity in the Principals Disclosure Form, rendering Petitioner's Application ineligible for funding. The Review Committee developed a chart listing its funding recommendations for the RFA that, among other things, included a list of eligible and ineligible applications, reflecting Petitioner's ineligibility for funding. The Florida Housing Board of Directors ("Board") adopted the Review Committee's RFA funding recommendations on March 24, 2017. Florida Housing notified Petitioner of its ineligible RFA Application on March 24, 2017, and provided Petitioner with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes.

Petitioner filed a timely Notice of Intent to Protest on March 17, 2017, giving notice of its intent to protest the scoring and ranking of the RFA. Petitioner timely filed a Formal Written Protest and Petition for Informal Administrative Hearing ("Petition") challenging the Board's finding that the Petitioner's Application was ineligible for funding. On April 18, 2017, Florida Housing sent a Notice to All Bidders on RFA 2016-115 ("Notice"), including those bidders who had been preliminarily selected for funding. The Notice informed all bidders that their substantial interests might be affected by the disposition of Petitioner's Petition and advised the bidders of their opportunity to intervene. No bidders have sought to intervene.

Florida Housing has reviewed the Board's preliminary RFA funding decision, the Application, and the Petition, and has determined that because Petitioner's Applicant entity does not have a person officially designated as Executive Director, and Petitioner's Application set forth the individual serving in a role comparable to Executive Director, Petitioner's Application sufficiently complied with the RFA requirements of the Principals Disclosure Form. Therefore, Petitioner's Application is eligible, and should be funded accordingly.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Petitioner agrees to dismiss their Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear its own costs and attorney's fees. This Consent Agreement is subject to the approval of the Florida Housing Board. If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Petitioner is a Florida Not-for-Profit Corporation located at 1265 Alumni Way, Jacksonville, Florida 32246.

2. Florida Housing is a public corporation that is organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Chapter 67-60, Fla. Admin. Code.

3. Florida Housing administers the SAIL Program set forth in Section 420.5087, Florida Statutes. Chapter 67-60, Florida Administrative Code, establishes the procedures by which Florida Housing administers the competitive solicitation funding process for the SAIL Program.

4. Florida Housing issued RFA 2016-115 seeking applications for development of affordable housing for persons with special needs utilizing SAIL funding.

5. The RFA was issued pursuant to and in accordance with Rules 67-60.001 and 67-60.003, Florida Administrative Code, and is adopted and incorporated herein by reference, including all modifications to the RFA issued pursuant to Rule 67.60.005, Florida Administrative Code.

6. On or about January 19, 2017, Petitioner and others submitted applications for financing for RFA 2016-115. Petitioner (Application #2017-173S) applied for funding to help finance the construction of a 23-unit apartment complex in Duval County, Florida, called Veterans Landing.

7. Section Four A.3.d. of the RFA set forth that applications must include a properly completed Principals of the Applicant and Developer(s) Disclosure Form (“Principals Disclosure Form”) to be eligible for funding.

8. Pursuant to the RFA, the Principals Disclosure Form must identify the Principals of the Applicant and Developer(s) as of the Application Deadline and must include the types of Principals set forth in Rule 67-48.002(93), Fla. Admin. Code.

9. During the Review Committee Meeting for Petitioner’s Application, Florida Housing determined that Petitioner’s Application did not include a properly completed Principals Disclosure Form, and recommended that Petitioner’s application was ineligible. The Board adopted Florida Housing’s recommendation on March 24, 2017.

10. On April 10, 2017, Petitioner submitted a Formal Written Protest and Petition for Informal Administrative Hearing Review pursuant to Section 120.57(3), Florida Statutes.

11. The issue raised in the Petition was whether Florida Housing incorrectly determined Petitioner’s Application was ineligible due to its failure to submit a properly completed Principals Disclosure Form.

12. Upon review of the Petition, as well as the Application and RFA documents, Florida Housing has determined that the Petitioner’s Application included a sufficiently completed Principals Disclosure Form. Accordingly, Petitioner’s Application was eligible for funding.

13. Because the Petitioner's Application is eligible, it should be selected for funding because it is the second highest-ranking application to meet the RFA's requirements.

14. Selecting Petitioner's Application for funding does not impact any other applicants for RFA 2016-115.

STIPULATED CONCLUSIONS OF LAW

15. Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 67-60, Florida Administrative Code, the Florida Housing Board of Directors has jurisdiction over the parties to this proceeding.

16. Florida Housing is statutorily authorized to institute a competitive application process for SAIL Program Funding, Section 420.5087, Florida Statutes, and has done so through Rules 67-60.001 and 67-60.003, Florida Administrative Code.

17. Petitioner's Application is eligible for funding under RFA 2016-115.

STIPULATED DISPOSITION

Petitioner has met all eligibility requirements and the Veterans Landing Application is entitled to funding under RFA 2016-115.

Respectfully submitted this __21st__ day of April, 2017.

By: /s/ Michael Donaldson
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