

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

FAIR OAKS, LLC AND LANDMARK  
DEVELOPMENT, CORP.,

Petitioners,

v.

FHFC Case No.: 2018-033BP  
DOAH Case No.: 18-2953BID

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent,

and

LAS BRISAS ESTATES, LLC AND,  
EAST FLORIDA CITY, LLC,

Intervenors.

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**FINAL ORDER**

This cause came before the Board of Directors of the Florida Housing Finance Corporation (“Board”) for consideration and final agency action on July 27, 2018. On July 5, 2018, 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 Las Brisas Estates, LLC and East Florida City, LLC are ineligible for funding under the terms of Request for Applications

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Thomas Delamora* ATTL: 7/27/18

2017-112 (the "RFA"). According to the ranking and selection process outlined in the RFA, Fair Oaks is selected for funding, subject to credit underwriting.

**DONE and ORDERED** this 27th day of July, 2018.

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, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, 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.**

**BEFORE THE STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

**FAIR OAKS, LLC, AND  
LANDMARK DEVELOPMENT CORP.,  
Petitioners,**

vs.

**DOAH CASE NO.: 18-2953BID  
FHFC CASE NO.: 2018-033BP**

**FLORIDA HOUSING FINANCE  
CORPORATION,**

**Respondent,**

**and**

**LAS BRISAS ESTATES, LLC AND  
EAST FLORIDA CITY, LLC,**

**Intervenors.**

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**CONSENT AGREEMENT**

Petitioner FAIR OAKS, LLC, and LANDMARK DEVELOPMENT CORP., (“Fair Oaks” or “Petitioners”), Respondent FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing” or “Respondent”), Intervenor LAS BRISAS ESTATES, LLC, (“Las Brisas”), and Intervenor EAST FLORIDA CITY, LLC (“East Florida City”) by and through undersigned counsel, hereby enter into the following Consent Agreement in accordance with Section 120.57(4), Florida Statutes.

**BACKGROUND**

1. Fair Oaks is an applicant (Number 2018-077C) for competitive low-income housing tax credits (“housing credits”) in Request for Applications 2017-112 Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County (the “RFA”). Fair Oaks’ application was deemed eligible for consideration but was not preliminarily selected

for funding under the RFA.

2. Las Brisas is an applicant (Number 2018-098C) for competitive housing credits in the RFA. Las Brisas was deemed eligible for consideration but was not preliminarily selected for funding under the RFA.

3. East Florida City is an applicant (Number 2018-099C) (proposed Development name "Cordova Estates") for competitive housing credits in the RFA. East Florida City was deemed eligible for consideration and was preliminarily selected for funding under the RFA.

4. A total of twenty-nine (29) applicants applied for funding in RFA 2017-112. Twenty-five were deemed eligible for consideration for funding, but only three were selected for funding, due to the amount of funding available for award.

5. Fair Oaks timely filed protests to the notice of intended decision issued by Florida Housing on March 16, 2018. Las Brisas and East Florida City timely intervened.

6. The matter was referred to the Division of Administrative Hearings ("DOAH") and a hearing was scheduled for July 9, 2018 before the Honorable Administrative Law Judge ("ALJ") Robert L. Kilbride.

#### **STIPULATIONS**

In order to avoid the time, expense, and uncertainty of further litigation, the parties have reached the following stipulations:

7. According to the RFA, applications earn proximity points based on the distance between the proposed Development and certain community services, including bus transit services. Proximity points are not applied to the total score, rather proximity points are used to determine whether the Applicant meets the minimum proximity eligibility requirements and for application of the Proximity Funding Preference.

8. In order to select a Transit Service, Applicants are required to enter the longitude and latitude coordinates of its selected transit stop. (RFA p. 21).

9. All applications must achieve a minimum number of Transit Service Points and achieve a minimum number of total proximity points to be eligible for funding. Applications that are not eligible for the Proximity Point Boost must achieve a minimum of two Transit Service Points to be eligible for funding. (RFA p. 20).

10. In order to attain Transit Service Points, applicants may select between Private Transportation (2 points), Public Bus Stop (maximum 2 points), Public Bus Transfer Stop (maximum 6 points), Public Bus Rapid Transit Stop (maximum 6 points), or Public Rail Station (maximum 6 points). (RFA p. 21-22). The number of Proximity Points awarded for qualifying Transit Services is based on the distance between the proposed Development and the location of the selected transit stop. The further away the transit stop is from the proposed Development, the fewer points. (RFA p. 93).

11. 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.

(emphasis supplied).

12. East Florida City's application required a minimum of two transit points to be eligible for consideration for funding.

13. East Florida City selected a Public Bus Rapid Transit Stop for its Transit Service. During scoring, based on the information provided in its Application, Florida Housing awarded the East Florida City application 5 points for its Public Bus Rapid Transit Stop. The coordinates provided by East Florida City in selecting its Transit Service corresponds to bus stop #10322, which is located on the east side of the South Miami-Dade Busway, approximately 215 feet north of the intersection of SW 344<sup>th</sup> Street and South Miami-Dade Busway in the city of Florida City.

14. As determined in discovery in this case, Bus Stop #10322 was not serviced by any routes as of the Application Deadline and accordingly does not qualify for any Transit Service Points. Because bus stop #10322 does not qualify as a Public Bus Rapid Transit Stop, East Florida City will receive zero points for transit services and is, therefore, ineligible for funding under the terms of the RFA.

15. Florida Housing and Fair Oaks agree that this does not constitute a withdrawal of the East Florida City application, or any form of false statement or misrepresentation, and will not affect the ability of East Florida City, its developers or co-developers, or any principal of the applicant or developer entities involved in the East Florida City application, to participate in future Florida Housing funding programs.

16. In light of the foregoing, Fair Oaks agrees to withdraw its other challenges to the East Florida City application. East Florida City agrees to withdraw all challenges to the Fair Oaks application.

17. Las Brisas' application required a minimum of two transit points to be eligible for consideration for funding.

18. Las Brisas selected a Public Bus Rapid Transit Stop for its Transit Service. During scoring, based on the information provided in its Application, Florida Housing awarded

the Las Brisas application 5.5 points for its Public Bus Rapid Transit Stop. The coordinates provided by Las Brisas in selecting its Transit Service corresponds to bus stop #3813, which is located on the east side of the South Miami-Dade Busway, approximately 130 feet southwest of the intersection of South Miami-Dade Busway and SW 112<sup>th</sup> Avenue in Unincorporated Miami-Dade County.

19. Through discovery it has been confirmed that Bus stop #3813 is serviced by three routes as of the Application Deadline: Route 31, Route 34, and Route 200.

- a. Route 34 stops at least every 20 minutes between 7:00 am and 8:32 am on weekdays, but there are no stops between the hours of 4:00 pm and 6:00 pm on weekdays.
- b. Route 200 stops hourly between the hours of 8:55 am and 4:55 pm on weekdays, but there is no weekday service after 4:55 pm.
- c. Route 31 stops at least every 20 minutes between the hours of 7:00 am and 9:00 am on weekdays. Route 31 stops at least every 20 minutes between the hours of 4:00 pm and 6:00 pm on weekdays except: 1) between 4:03 pm and 4:30 pm (27 minutes), and 2) between 5:31 pm and 5:52 pm (21 minutes).

20. Based on this information, Bus stop #3813 does not qualify as a Public Bus Rapid Transit Stop, Las Brisas will receive zero points for transit services and is, therefore, ineligible for funding under the terms of the RFA.

21. Florida Housing and Fair Oaks agree that this does not constitute a withdrawal of the Las Brisas application, or any form of false statement or misrepresentation, and will not affect the ability of Las Brisas, its developers or co-developers, or any principal of the applicant



or developer entities involved in the Las Brisas application, to participate in future Florida Housing funding programs.

22. In light of the foregoing, Fair Oaks agrees to withdraw its other challenge to the Las Brisas application. Las Brisas agrees to withdraw all challenges to the Fair Oaks application.

23. Since both East Florida City and Las Brisas are ineligible, according to the ranking and selection process in the RFA, Fair Oaks would be selected for funding subject to credit underwriting.

24. Fair Oaks, Las Brisas, and East Florida City understand and agree that this Consent Agreement is subject to approval by the Florida Housing Board of Directors (the "Board"). If the Board does not approve this Consent Agreement, this Agreement shall be null and void as if it were never executed.

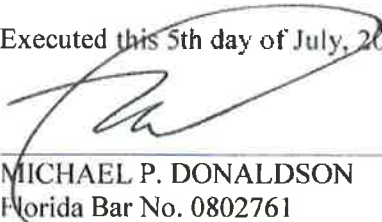
25. The undersigned attorneys represent that they have the authority to execute this Consent Agreement on behalf of their respective clients.

26. The parties agree to jointly request that DOAH relinquish jurisdiction back to Florida Housing for final agency action consistent with the terms of this Agreement.

27. If this Consent Agreement is approved by the Board, a Final Order will be entered adopting the terms of this Agreement, and each party will bear its own costs and attorney's fees incurred in this matter.

28. After the Consent Agreement is approved by the Board, Fair Oaks will voluntarily dismiss its petition.

Executed this 5th day of July, 2018.



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