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**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

FLORIDA HOUSING  
FINANCE CORPORATION

MHP PINELLAS I, LLC,

Petitioner,

FHFC Case No. 2023- 096BP

RFA No. 2023-202

v.

App. Nos. 2024-144C, 2024-153C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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**MHP PINELLAS I, LLC'S WRITTEN PROTEST AND  
PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS**

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MHP Pinellas I, LLC ("MHP Pinellas"), petitions to protest a procurement decision made by the Florida Housing Finance Corporation ("FHFC" or "Florida Housing") in connection with Request for Application No. 2023-202 "Housing Credit Financing For Affordable Housing Developments Located In Broward, Duval, Hillsborough, Orange, Palm Beach, And Pinellas Counties." (the "RFA").

MHP Pinellas submitted an application in Pinellas County that was deemed eligible, but was not selected for funding in its proposed Pinellas County Geographic Area of Opportunity. Another applicant, Palm Lake Urban Sanctuary, LLLP ("Palm Lake"), was selected for funding in Pinellas County Geographic Area of Opportunity. MHP Pinellas would have been selected for funding instead of Palm Lake, but for a minor irregularity within the scoring and selection process that should have been waived. MHP Pinellas now seeks formal administrative proceedings to contest Florida Housing's scoring of, and to ultimately seek funding of, MHP Pinellas's Application.

Support for this Petition follows:

### **The Parties and the RFA**

1. The agency affected by this protest is the Florida Housing Finance Corporation. Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

2. Florida Housing is a public corporation created by section 420.504, Florida Statutes, to administer the governmental function of financing or refinancing affordable housing. Florida Housing's statutory authority and mandates are found in Part V, Chapter 420, Florida Statutes. *See* §§ 420.501–420.55, Fla. Stat.

3. Florida Housing administers competitive solicitations to make and service mortgage loans for new construction or rehabilitation of affordable housing through several programs. *See* ch. 67-60, Fla. Admin. Code.

4. Florida Housing published Request for Applications No. 2023-202 (the "RFA") to solicit proposals for the development of "Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties."

5. Through the RFA, Florida Housing announced that it expected to offer an estimated \$24,011,240 of Housing Credits available for award to proposed Developments.

6. MHP Pinellas I, LLC, is a Florida limited liability partnership in the business of providing affordable housing. MHP Pinellas maintains offices located at 777 Brickell Avenue, Suite 1300, Miami, FL 33131. For purposes of this proceeding, MHP Pinellas's address, telephone number and email address are those of its undersigned counsel.

7. MHP Pinellas submitted a proposal in response to the RFA, assigned Application No. 2024-144C as did several other applicants.

8. MHP Pinellas's Application was fully responsive to the requirements of the RFA but was not selected for funding.

9. The Applications filed by Palm Lake Urban Sanctuary, LLLP ("Palm Lake"), Application No. 2024-153C, and others were selected for funding.

10. As set forth below, MHP Pinellas's application should have been funded instead of Palm Lake, but was not due to a minor irregularity within the scoring of MHP Pinellas's application that should have been waived.

### **Notice and Authority for Petition**

11. Florida Housing issued the RFA on July 7, 2023.

12. Florida Housing modified the RFA on August 15, 2023.

13. Applications in response to the RFA were due September 13, 2023, at 3:00 p.m., Eastern Time.

14. Florida Housing received thirty (30) applications in response to the RFA.

15. MHP Pinellas is a responsible applicant that filed an application that was fully responsive to the material requirements of the RFA. MHP Pinellas was deemed eligible for funding by Florida Housing but was not selected for funding.

16. MHP Pinellas received notice of Florida Housing's preliminary RFA scoring and ranking through electronic posting on October 27, 2023, at 9:58 a.m.

17. On November 1, 2023, MHP Pinellas timely filed its Notice of Intent to Protest, attached as Exhibit "A".

18. This Protest and Petition is timely filed on November 13, 2023, pursuant to Sections 120.569, 120.57(1) and 120.57(3), Florida Statutes, and Florida Administrative Code Chapters 28-110, 67-48, and 67-60.

19. Pursuant to Florida Administrative Code Rule 67-60.009(5), no bond is required for this protest.

**RFA 2023-202 Goals and Criteria**

20. The RFA sought proposals for affordable housing that would serve Families or the Elderly. The RFA also announced certain preferences, including preferences for proposals with the development category New Construction or Rehabilitation, with or without acquisition.

21. The RFA provided the following funding goals, and the Applicant must select either a., b., or c. in which to compete, even if the Application qualifies for multiple goals:

a. Local Government Revitalization Plan

The Corporation has a goal to fund one Application proposing a Development that is part of a Local Government Revitalization Plan, as described in Section Four, A.5.f.(2) above, with a preference that it is a Priority 1 Application.

b. Geographic Area of Opportunity / SADDA

(1) The Corporation has a goal to fund one Family Application proposing a Development located in Broward County that qualifies for the Geographic Areas of Opportunity / SADDA Goal, with a preference that it is a Priority 1 Application.

(2) The Corporation has a goal to fund one Family Application proposing a Development located in Pinellas County that qualifies for the Geographic Areas of Opportunity / SADDA Goal, with a preference that it is a Priority 1 Application.

c. Local Government Areas of Opportunity Designation Goal

(1) The Corporation has a goal to fund one Application proposing a Development located in Duval, Hillsborough, Orange, and Palm Beach County that qualifies for the Local Government Areas of Opportunity Designation, with a preference that it is a Priority I Application.

(2) The Corporation has a goal to fund one Application proposing a Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier, with a preference that it is a Priority I Application.



The criteria to demonstrate continuous Local Government Area of Opportunity support is stated in the RFA.

See RFA § 5, B.1.

### **Application Sorting Order**

22. The RFA then provided a sorting order to select applicants for funding:
- a. Sorting Order when selecting Applications to meet the Local Government Area of Opportunity Funding Goal.

When selecting Applications to meet the Local Government Area of Opportunity Funding Goal, the highest scoring Applications will be determined by first sorting together all eligible Priority 1 Applications that qualify for the goal from highest score to lowest score, with any scores that are tied separated in the following order. This will then be repeated for Priority 2 Applications that qualify for the goal:

(1) First, by the Application's eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.b.(4) of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(2) Next, by the Application's Leveraging Classification, applying the multipliers outlined in Item 3 of Exhibit C of the RFA (with Applications having the Classification of A listed above Applications having the Classification of B);

(3) Next, by the Application's eligibility for the Florida Job Creation Funding Preference which is outlined in Item 4 of Exhibit C of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(4) And finally, by lottery number, resulting in the lowest lottery number receiving preference.

- b. Sorting Order when selecting Applications to meet the Local Government Revitalization Plan Goal and the Geographic Area of Opportunity / SADDA Goal

For each goal, the highest scoring Priority 1 Applications within the county will be determined by first sorting together all eligible Priority 1 Applications that qualify for each goal from highest score to lowest score, with any scores that are tied separated in the following order. This will then be repeated for Priority 2 Applications that qualify for each goal:

(1) First, by the Application's eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.b.(4) of the RFA (with

Applications that qualify for the preference listed above Applications that do not qualify for the preference);

- (2) Next, by the Application's Leveraging Classification, applying the multipliers outlined in Item 3 of Exhibit C of the RFA (with Applications having the Classification of A listed above Applications having the Classification of B);
- (3) Next, by the Application's eligibility for the Proximity Funding Preference (which is outlined in Section Four A.5.e. of the RFA) with Applications that qualify for the preference listed above Applications that do not qualify for the preference;
- (4) Next, by the Application's eligibility for the Florida Job Creation Funding Preference which is outlined in Item 4 of Exhibit C of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);
- (5) And finally, by lottery number, resulting in the lowest lottery number receiving preference.

See RFA § 5, B.2.

#### **Requirement to Submit Responsive Applications**

23. The RFA contained instructions regarding what must be provided in each responsive application. In order to be selected for funding, Applications were required to meet Eligibility Requirements. See RFA § 5, A.1.

24. Each applicant was also required to identify the location of its proposed development, and whether it was located in an area that met an RFA funding goal.

25. Additionally, the RFA specifications informed applicants that Florida Housing had the right to waive any "minor irregularities" within submitted applications. See RFA § 3.C.1, p. 6 of 128. This reservation is consistent with Florida Housing rules, which also permit Florida Housing to waive irregularities that are minor. The rule provides:

Minor irregularities are those irregularities in an Application, such as computation, typographical, or other errors, that do not result in the omission of any material information; do not create any uncertainty that the terms and requirements of the

competitive solicitation have been met; do not provide a competitive advantage or benefit not enjoyed by other Applicants; and do not adversely impact the interests of the Corporation or the public. Minor irregularities may be waived or corrected by the Corporation.

See Fla. Admin. Code R. 67-60.008.

26. Once deemed eligible, Applications were then scored by a committee of Florida Housing, using scoring guidelines contained within the RFA.

#### **Application Sorting Order**

27. The RFA then provided a sorting order to select applicants for funding. The RFA provided that the highest scoring Applications would be determined by first sorting all eligible Priority 1 Applications from highest score to lowest score, with any scores that are tied separated in the following order:

First, by the Application's eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.b.(4) of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

Next, by the Application's Leveraging Classification, applying the multipliers outlined in Item 3 of Exhibit C of the RFA (with Applications having the Classification of A listed above Applications having the Classification of B);

Next, by the Application's eligibility for the Proximity Funding Preference (which is outlined in Section Four A.5.e. of the RFA) with Applications that qualify for the preference listed above Applications that do not qualify for the preference;

Next, by the Application's eligibility for the Florida Job Creation Funding Preference which is outlined in Item 4 of Exhibit C of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

And finally, by lottery number, resulting in the lowest lottery number receiving preference.

#### **Funding Selection Process**

28. The RFA mandated a Funding Selection process for the selection of eight Medium and Large County, New Construction Applications. *See* RFA, § 5, B.4.

29. The first Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application that qualifies for the Local Government Revitalization Plan Goal. If there are no eligible Priority 1 Applications that qualify for the Local Government Revitalization Plan Goal, then the highest-ranking eligible Priority 2 Application that qualifies for the Local Government Revitalization Plan Goal will be selected for funding.

30. The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development located in Broward County that qualifies for the Geographic Area of Opportunity / SADDA Goal.

31. If there are no eligible Priority 1 Applications located in Broward County that qualify for the Geographic Area of Opportunity / SADDA Goal, then the highest ranking eligible Priority 2 Application for a proposed Development located in Broward County that qualifies for the Geographic Area of Opportunity / SADDA Goal will be selected for funding.

32. The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development located in Pinellas County that qualifies for the Geographic Area of Opportunity / SADDA Goal.

33. If there are no eligible Priority 1 Applications for a proposed Development located in Pinellas County that qualify for the Geographic Area of Opportunity / SADDA Goal, then the highest-ranking eligible Priority 2 Application located in Pinellas County that qualifies for the Geographic Area of Opportunity / SADDA Goal will be selected for funding.

34. The next Application selected for funding will be the highest-ranking eligible unfunded Priority I Application proposing a Development located in Duval County that qualifies for the Local Government Areas of Opportunity Designation. This will be repeated for Hillsborough, Orange and Palm Beach County.

35. If any of the four counties were not credited with one award because there were no eligible Priority 1 Applications proposing Developments in the county that qualified for the goal, then the highest-ranking eligible Priority 2 Application in those counties without an award will be selected for funding.

36. The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

37. If there are no eligible Priority 1 Applications located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier, then the highest-ranking eligible Priority 2 Application for a proposed Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

38. If any of the six counties were not credited with at least one award in either Local Government Revitalization Plan Goal, Geographic Area of Opportunity/SADDA, or Local Government Areas of Opportunity Designation Goal, then the highest-ranking eligible Priority 1 Application in those counties without an award will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

39. If any of the six counties were still not credited with at least one award in Local Government Revitalization Plan Goal, Geographic Area of Opportunity/SADDA, or Local Government Areas of Opportunity Designation Goal, nor were there any eligible Priority 1 Applications in the county, then the highest-ranking eligible Priority 2 Application in those counties without an award will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

#### **Review Committee Scoring and Selections**

40. Appointed committee members from Florida Housing independently evaluated and scored their assigned portions of the submitted applications based on mandatory and scored items. The Selection Process was carried out by the members of the Review Committee at a public meeting held October 27, 2023, at 9:58 a.m.

41. Both MHP Pinellas' Application and Palm Lake's Application were found eligible. However, Palm Lake's Application was selected for funding. MHP Pinellas's Application was not selected for funding.

#### **MHP Pinellas's Application Should Have Been Funded**

42. It appears the Florida Housing Review Committee determined that MHP Pinellas's Application did not meet the Geographic Area of Opportunity/SADDA funding goal. Additionally Florida Housing's Review Committee awarded MHP Pinellas's Application zero (0) points for its Local Government Contribution. *See* RFA § 4.A.11.

43. However, MHP Pinellas's Application clearly indicated its election for the GAO funding goal within its Application, and provided a properly completed local government contribution form entitling it to an award of five points.

44. MHP Pinellas's Application met the Geographic Area of Opportunity/SADDA funding goal and is entitled to receive five (5) points for providing an eligible Local Government Contribution.

**MHP Pinellas proposed a development within a Geographic Area of Opportunity**

45. The RFA explains that to qualify for the Geographic Areas of Opportunity / SADDA Goal, proposed developments serving the Family Demographic must be located entirely within a Geographic Areas of Opportunity, within a HUD-designated SADDA, or within a combination the two. *See* RFA § 4.A.10.a(1)(d), p. 55 of 128.

46. For a Development that qualifies and is selected for the Goal, the Applicant's answers to any questions regarding meeting the goal will be confirmed during credit underwriting. If it is determined that the entire proposed Development site is not located in a SADDA ZCTA and/or a Geographic Areas of Opportunity, the Housing Credit award may be rescinded by Florida Housing.

47. In several sections of its Application, MHP Pinellas identified its development as located in a Geographic Opportunity Area and that it was applying to meet the Geographic Opportunity Area funding goal.

48. For example, within MHP Pinellas' Application Exhibit A, at Section 4.A.10, para. D, and at Section 5.B.1, the MHP Pinellas application provided clear indication that the proposal was in a Geographic Area of Opportunity. *See* MHP Appl. No. 2024-153C, pp. 18, 29. The MHP Pinellas Application was very clear about its development site being eligible for the Geographic Area of Opportunity/SADDA Funding Goal:



**(d) Geographic Areas of Opportunity/SADDA Goal**

Is the proposed Development eligible to be considered for the Geographic Areas of Opportunity/SADDA Funding Goal (Family demographic only)?

Yes

If "Yes", to qualify for the Goal, indicate which of the criteria has been met for the entire proposed Development site, including any Scattered Sites:

Located entirely in a GAO

**Section 5.B.1  
Goals in RFA 2023-201**

**B. Selection Process**

**1. Goals**

Applicants should select the Goal from the three available in the dropdown menu below that the Application qualifies for and selects to compete in. Applicants can only compete in one goal.

**b. Geographic Area of Opportunity / SADDA (Broward, Pinellas Counties)**

*See id.*

49. The MHP Pinellas Application clearly defines the location of subject property including the Development Location Point ("DLP") via latitude and longitude coordinates. *See* MHP Appl. No. 2024-153C, p. 8. MHP Pinellas' Application also provided the address of the development at 1150 S. Pinellas Avenue, Tarpon Springs. The DLP and the development location clearly identify that the development site is within a Geographic Area of Opportunity.

50. However, in Section 4.A.10 of the MHP Pinellas Application, the RFA sought a response to a question asking whether any buildings in the proposed development were located in a Geographic Area of Opportunity, and therefore might qualify for a QAP-designated basis boost. The MHP Pinellas Application inadvertently checked "No." *See* MHP Appl., Ex. A, s. 4.A.10. pp. 17-18.

51. This response was a scrivener's error, as the MHP Pinellas proposal does, in fact, demonstrate that its entire site is located within a Geographic Area of Opportunity and would qualify for a QAP-designated basis boost. Furthermore, the scrivener's error was in relation to the



applicant's designated basis boost, rather than questions in the RFA related to meeting the Geographic Area of Opportunity/SADDA Funding Goal.

52. The error made in response to that question caused Exhibit A to block out a related question seeking the Geographic Area of Opportunity census tract for the building in question. By selecting "No" in response to the question about Geographic Areas of Opportunity, the cells regarding the census tract of those locations were locked. However, the MHP Pinellas Application contained several clear responses within Exhibit A that the proposal intended and met the GAO funding goal, including its precise location.

53. At most, the incorrect answer to one question within MHP's Application constitutes a minor irregularity. *See e.g., HTG Addison, II, LLC v. Fla. Housing Fin. Corp.*, DOAH Case No. 20-1770BID (Fla. DOAH June 19, 2020, *adopted in toto*, FHFC July 17, 2020) (waiving as a minor irregularity an applicant's answer "no" to a funding goal question where the applicant also included all information and documentation required to qualify for said goal).

**MHP Pinellas's Application should have received five (5) points for Local Government Contribution**

54. Additionally, the RFA required properties within Pinellas County to show evidence of a Local Government Contribution ("LGC") in the face amount of \$75,000, in order to achieve maximum point award of five points. *See* RFA § 4.A.11.d, p. 69 of 128.

55. Florida Housing determined that MHP Pinellas's Application did not meet the requirements for the LGC Funding and therefore did not award the available five (5) points.

56. However, MHP Pinellas' Application was entitled to an award of five points, because the Application clearly indicated that a \$75,000 cash contribution would be made from a local government in the form of a loan:

**Local Government Contribution Funding Table**

<b>LG Verification of Contribution</b>	<b>Face Amount</b>	<b>Net Present Value</b>	<b>Value of Contribution</b>
<i><b>Cash Contributions:</b></i>			
Loan Form(s)	\$75,000.00	\$75,000.00	\$0.00
Grant Form(s)			\$0.00
<i><b>Non-Cash Contributions:</b></i>			
Fee Waiver Form(s)			\$0.00
Fee Deferral Form(s)			\$0.00
<b>Totals</b>	<b>\$75,000.00</b>	<b>\$75,000.00</b>	<b>\$0.00</b>

MHP Pinellas Appl. Exhibit A, § 4.A.11, LGC Funding Table, attached as Exh. “B” to this Petition.

57. Although MHP Pinellas’s Application indicates that a local government contribution in the face amount of \$75,000 is provided in the form of a loan, Florida Housing did not award any points for local government contribution, seemingly because the column titled “Value of Contribution” did not repeat the same \$75,000 loan value.

58. MHP Pinellas erroneously provided \$75,000 in the “Net Present Value” column which caused Exhibit A to reflect \$0.00 in “Value of Contribution” column, as the Florida Housing Form automatically subtracted any amount listed as “Net Present Value” from the listed “Face Amount.” In other words, the Florida Housing Form was formatted to automatically subtract the Net Present Value from the Face Amount.

59. Upon information and belief, Florida Housing withheld five points from the MHP Pinellas’s Application because the “Value of Contribution” column on the LGC Funding Table was listed as \$0.00.

60. MHP Pinellas provided a completed and eligible Local Government Verification of Contribution form from Pinellas County within its Application. See MHP Appl., Exh. A, Att. 11, attached as Exhibit “C” to this Petition. The form meets the eligibility requirements of the RFA. See RFA § 11.c, p. 67 of 128. The terms of the Pinellas County loan are 0% interest and forgivable, thereby representing a Net Present Value of \$75,000. Confirmation of these terms are provided by

Sherilyn Harris of Pinellas County Housing and Community Development via emails on September 5, 2023. That correspondence is attached as Exhibit “D” to this Petition.

61. As a result, the Face Value and the Net Present Value are both \$75,000 and the information provided within MHP Application is true and correct. See Exh. “B: to this Petition. The formatting of Florida Housing’s Form created a false indication that MHP Pinellas’s Local Government Contribution value is \$0.00, when it is always was \$75,000.

62. Pursuant to the RFA terms, the Net Present Value amount entered on MHP Pinellas’s Exhibit A Section 4.A.11 should not be provided any consideration.

63. The RFA in Section 11.c (page 66) indicates that “If the loan form is used for a loan with forgiveness provision (and no accrued interest charges), the space for entering the net present value **is not applicable to the RFA and will not be considered.**” MHP Pinellas did provide a loan form and emails from Sherilyn Harris referenced above in this petition, indicate that the loan is forgivable and does not accrue interest. Thus, the Net Present Value amount is not applicable and should not be able to negatively impact MHP Pinellas’s scoring.

64. MHP Pinellas’s Application, at Exhibit A Section 4.A.11, affirmatively states that MHP Pinellas proposed the necessary governmental contribution. Additionally, MHP Pinellas’s Application properly indicated the amount of the LGC within the Pro Forma of the Exhibit A on Pages 23 and 24 respectively.

65. Thus, in several instances, the MHP Pinellas Application clearly indicated that a \$75,000 Local Government Contribution was an essential element of the proposal. The incorrect reporting of that contribution as \$0.00 in one instance and in one column constitutes, at worst a minor irregularity that should be waived.

66. MHP Pinellas’s Local Government Contribution does in fact meet the eligibility criteria for points based on the RFA (page 67). Specifically, the RFA states that

In order to be eligible to be considered for points as a Local Government Contribution, the contribution must: 1) Be in effect as of Application Deadline; 2) Be effective at least through December 31, 2023; 3) Be dedicated solely for the proposed Development; 4) Provide a tangible economic benefit that results in a quantifiable cost reduction and must be given specifically to the proposed Development because the Development will provide affordable housing; and 5) State, federal, or Local Government funds initially obtained by or derived from a Local Government qualify as a Local Governmental Contribution even though the funds are directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization, provided that the otherwise meet the requirements set forth in the RFA, including those relating to the executed verification form.

MHP Pinellas’s LGC met all the requirements.

67. In any event, even if Florida Housing determined that MHP Pinellas improperly filled out the “Net Present Value” column of the LGC Funding Table in the Exhibit A, Section 4.A.11, it was a minor irregularity that should have been waived by Florida Housing pursuant to rule 67-60.008, Florida Administrative Code.

68. That Rule provides that “mistakes clearly evident to the Corporation on the face of the Application, such as computation and typographical errors, may be corrected by the Corporation.”

#### **Disputed Issues of Material Fact and Law**

69. Disputed issues of material fact and law entitle MHP Pinellas to formal administrative proceedings pursuant to section 120.57(1), Florida Statutes. Disputed facts include, but are not limited to:

- (a) Whether MHP Pinellas proposed development is located within a Geographic Area of Opportunity;

- (b) Whether MHP Pinellas's Application met the RFA's Geographic Area of Opportunity/SADDA funding goal;
- (c) Whether MHP Pinellas's answer "no" to a question in section 4.A.10, paragraph V of the application regarding whether buildings in the proposed development were located in a Geographic Area of Opportunity and would qualify for a QAP-designated basis boost is a minor irregularity that should have been waived by Florida Housing pursuant to rule 67-60.008, Florida Administrative Code;
- (d) Whether MHP Pinellas provided evidence in its application of a \$75,000 Local Government Contribution from Pinellas County for the proposed development;
- (e) Whether MHP Pinellas provided a Local Government Contribution form that met eligibility requirements of the RFA as specified in section 11.c on page 67 of the RFA;
- (f) Whether MHP Pinellas correctly listed an amount in the "Net Present Value" column of the LGC Funding Table in the Exhibit A, Section 4.A.11 of its application;
- (g) Whether erroneously listing an amount in the "Total "Value of Contribution" column of the LGC Funding Table in the MHP Pinellas' application is a minor irregularity that Florida Housing should have waived pursuant to rule 67-60.008, Florida Administrative Code;
- (h) Whether MHP Pinellas is entitled to receive five (5) additional points for a qualifying Local Government Contribution;
- (i) Whether MHP Pinellas's application scores higher than Palm Lake's application when accounting for the Geographic Area of Opportunity funding goal and the additional points for providing a qualifying Local Government Contribution.
- (j) Whether MHP Pinellas's application should have been funded; and

(k) Such other disputed issues as are raised in this proceeding or identified during discovery.

**Statutes and Rules Entitling Relief**

70. MHP Pinellas is entitled to relief pursuant to sections 120.569, 120.57(1), and 120.57(3), Florida Statutes, and Florida Administrative Code Chapters 28-106, 28-110 and 67-60.

**Ultimate Statement of Facts and Law and MHP Pinellas' Substantial Interests**

71. MHP Pinellas' Application evinced a clear intent to locate its proposed development in a Geographic Area of Opportunity. MHP Pinellas' Application met the funding goal for locating a development in a GAO.

72. Additionally, MHP Pinellas' Application contained a clear indication that a \$75,000 local government contribution would be obtained. MHP Pinellas' Application should have received five points or that reason but wasn't awarded those points by Florida Housing.

73. If proper credit for meeting the GAO funding goal were provided, and if points were awarded for local government contributions, then MHP Pinellas' Application would be funded, and the application filed by Palm Lake would not.

74. MHP Pinellas reserves the right to amend this Petition if additional disputed issues of material fact arise during discovery.

**REQUEST FOR RELIEF**

75. MHP Pinellas requests the following relief:

A. That the Application funding process be halted until this protest is resolved by final agency action;

B. That Florida Housing provide an opportunity to resolve this Protest by mutual agreement within seven days of the filing of this Petition, as provided in section 120.57(3)(d)1., Florida Statutes;

C. That, if this protest cannot be resolved by agreement, the matter be referred to the Division of Administrative Hearings for formal administrative proceedings involving disputed issues of material fact pursuant to section 120.57(1) and (3), Florida Statutes;

D. That the assigned administrative law judge determines as a matter of fact and law, MHP Pinellas' eligible Application was entitled to additional points and, when properly scored, should be funded;

E. That Florida Housing adopt the administrative law judge's recommendation to fund MHP Pinellas' Application by final order; and

F. Such other relief as is just and equitable.

Dated on this 13<sup>th</sup> day of November 2023.

Respectfully Submitted,

PARKER, HUDSON, RAINER & DOBBS, LLP



Seann M. Frazier

Florida Bar No. 971200

Sfrazier@phrd.com

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101 East College Avenue, Suite 302

Tallahassee, Florida 32301

(850) 681-0191

*Counsel for MHP PINELLAS I, LLC*



**CERTIFICATE OF SERVICE**

This original Petition was filed electronically with the Clerk of Florida Housing Finance Corporation at CorporationClerk@floridahousing.org

Additionally, I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 13<sup>th</sup> day of November 2023 to:

Ethan Katz  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301  
Ethan.Katz@floridahousing.org;  
ana.mcglamory@floridahousing.org  
*Attorneys for Florida Housing Finance Corporation*

  
Seann M. Frazier



# EXHIBIT "A"



Seann M. Frazier  
d: (850) 629-0575  
sfrazier@phrd.com

November 1, 2023

Via E-Mail

Ana McGlamory, CP, FCP, FRP  
Corporation Clerk  
corporationclerk@floridahousing.org  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

RECEIVED

NOV 1 2023 8:49 AM

FLORIDA HOUSING  
FINANCE CORPORATION

Re: Notice of Intent to Protest by MHP Pinellas I, LLC  
RFA 2023-202 Housing Credit Financing for Affordable Housing Developments  
Located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas  
Counties

Ms. McGlamory,

Please accept this correspondence as a Notice of Intent to Protest filed by MHP Pinellas I, LLC (“MHP Pinellas I”) to challenge Florida Housing Finance Corporation’s (“Florida Housing”) preliminary procurement decisions in connection with RFA 2023-202 “Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties” (the “RFA”). This Notice is filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Florida Administrative Code Rules 28-110.003 and 67-60.009, and the RFA.

This Notice is filed within seventy-two (72) hours (not including weekends and holidays) of the posting of preliminary awards made on Florida Housing’s website on October 27, 2023, 9:58 a.m. MHP Pinellas I preserves the right to file a formal written protest within ten (10) days of this Notice, pursuant to section 120.57(3), Florida Statutes.

Sincerely,

Seann M. Frazier

# EXHIBIT “B”

**Exhibit A to RFA 2023-202 Housing Credit Financing For Affordable Housing Developments Located In Broward, Duval, Hillsborough, Orange, Palm Beach, And Pinellas Counties**

**Section 4.A.11  
Local Government Contributions**

- a. The Applicant does NOT automatically receive the maximum points based on the selected Development Category of New Construction.
- b. If the Applicant selected the Development Category of New Construction (i.e., the Application is not eligible for automatic points), has a Local Government committed to provide a contribution to the proposed Development? Yes
- c. To demonstrate the Local Government Contribution, provide the applicable Local Government Verification of Contribution form(s) as **Attachment 11** as outlined in Section Four, 11. of the RFA.

Please enter the cumulative total values of all relative forms provided as **Attachment 11**. If more than one form of the same kind is provided, please add the amounts together and enter the total. The Value of Contribution (if applicable) is calculated automatically by taking the Face Amount and subtracting the Net Present Value of the repayment terms (calculated as provided in the RFA). The amounts for the Face Amount and the Net Present Value are provided on each Local Government Contribution form, as applicable.

Local Government Contribution Funding Table			
LG Verification of Contribution	Face Amount	Net Present Value	Value of Contribution
<i>Cash Contributions:</i>			
Loan Form(s)	\$75,000.00	\$75,000.00	\$0.00
Grant Form(s)			\$0.00
<i>Non-Cash Contributions:</i>			
Fee Waiver Form(s)			\$0.00
Fee Deferral Form(s)			\$0.00
<b>Totals</b>	<b>\$75,000.00</b>	<b>\$75,000.00</b>	<b>\$0.00</b>

Please enter the names of the Local Government(s) in the table below that have provided the funding identified in the table above. Identify the type of contribution being made for each entity. If one entity is providing more than one type of contribution, list each separately. If one entity is providing more than one form with the same type of contribution, only list it once.

Local Government Contributors	
Name of Local Government	Type of Contribution
Pinellas County	Loan
	<select one>
	<select one>
	<select one>
	<select one>

In order for the Applicant to receive the maximum of five points without the automatic qualification, the applicable Local Government Verification of Contribution form(s) provided as evidence of Local Government grant(s), loan(s), fee waiver(s) and/or fee deferral(s) meeting the eligibility criteria for such contributions must have a total amount calculated by taking the face amount of the commitment(s) minus the net present value of the commitment(s) (per RFA guidelines) with a cumulative total dollar amount equal to or greater than \$75,000. Applicants that do not have the necessary contribution amount to achieve maximum points will be scored on a pro-rata basis.

**Based on the above information, it appears the Applicant would receive a total of 0.00 points towards the 5-point Local Government Contribution Points.**

- d. Does the documentation provided as **Attachment 11** demonstrate that the Application qualifies for the Local Government Areas of Opportunity Designation, as outlined in Section Four, A.11.a. of the RFA? Yes

# EXHIBIT “C”

**FLORIDA HOUSING FINANCE CORPORATION  
LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – LOAN FORM**

Name of Development: Ekos on Pinellas

Development Location: 1150 S. Pinellas Avenue, Tarpon Springs  
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county). If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)

The City/County of Pinellas, commits \$ 75,000.00 at face value, (which may be used as an FHFC Non-Corporation Funding Proposal in an Application for FHFC funding if it meets the required criteria) in the form of a reduced interest rate loan to the Applicant for its use solely for assisting the proposed Development referenced above.

Please note: In some competitive processes, Florida Housing will use the face value of the commitment minus the net present value of the commitment for scoring purposes. The net present value of the above-referenced loan, based on its payment stream, inclusive of a reduced interest rate and the designated discount rate (as stated in the applicable RFA) is: \$ 75,000.00.

No consideration or promise of consideration has been given with respect to the loan. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this loan must be effective as of the Application Deadline for the applicable RFA, and is provided specifically with respect to the proposed Development.

**CERTIFICATION**

I certify that the foregoing information is true and correct and that this commitment is effective at least through the date required in the applicable RFA.

  
\_\_\_\_\_  
Signature

Barry Burton  
\_\_\_\_\_  
Print or Type Name

County Administrator  
\_\_\_\_\_  
Print or Type Title

September 5, 2023  
\_\_\_\_\_  
Date Signed

NOTE TO LOCAL GOVERNMENT OFFICIAL: Additional information is set forth in the applicable Request for Application under which the Applicant is applying for funding for the above referenced Development.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. The amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

If there are alterations made to this form that change the meaning of the form, the form will not be accepted.

APPROVED AS TO FORM  
By: Derrill M. Icker  
Office of the County Attorney

# EXHIBIT “D”



**From:** [Harris, Sherilyn K](#)  
**To:** [Chris Shear](#)  
**Cc:** [Sean Smith](#)  
**Subject:** RE: Loan Contribution Form  
**Date:** Thursday, September 7, 2023 8:54:44 AM

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152x20px/100% You don't often get email from [sharris@pinellas.gov](mailto:sharris@pinellas.gov). [Learn why this is important](#)

You are correct. It is a 0% interest rate.

**From:** Chris Shear <[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)>  
**Sent:** Tuesday, September 5, 2023 4:01 PM  
**To:** Harris, Sherilyn K <[sharris@pinellas.gov](mailto:sharris@pinellas.gov)>  
**Cc:** Sean Smith <[ssmith@mcdhousing.com](mailto:ssmith@mcdhousing.com)>  
**Subject:** RE: Loan Contribution Form

**CAUTION:** *This message has originated from outside of the organization. **Do not** click on links or open attachments unless you are expecting the correspondence from the sender and know the content is safe.*

Ok, please confirm a 0% interest rate and we are in good shape. Thanks!

**Christopher Shear**

COO

**McDowell Housing Partners**

Office: (786) 577-9837 | Cell: (773) 981-1817

[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)

**From:** Harris, Sherilyn K <[sharris@pinellas.gov](mailto:sharris@pinellas.gov)>  
**Sent:** Tuesday, September 5, 2023 3:59 PM  
**To:** Chris Shear <[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)>  
**Cc:** Sean Smith <[ssmith@mcdhousing.com](mailto:ssmith@mcdhousing.com)>  
**Subject:** RE: Loan Contribution Form

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Hi Chris:

I forwarded the form that was provided to me and it should not be net present value. It is a deferred loan that is forgiven at the end. Hope this helps.

Sheri

**From:** Chris Shear <[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)>  
**Sent:** Tuesday, September 5, 2023 3:55 PM



**To:** Harris, Sherilyn K <[sharris@pinellas.gov](mailto:sharris@pinellas.gov)>  
**Cc:** Sean Smith <[ssmith@mcdhousing.com](mailto:ssmith@mcdhousing.com)>  
**Subject:** RE: Loan Contribution Form

**CAUTION:** *This message has originated from outside of the organization. **Do not** click on links or open attachments unless you are expecting the correspondence from the sender and know the content is safe.*

Hi Sherri – Thank you so much. Sorry for this inconvenience but we would strongly prefer the grant form such that there is no potential dispute on the Net Present Value. Is it possible to have Mr. Burton execute that form (Sean had filled out an executable Grant version previously).

Please let me know if that's possible.

Best,

**Christopher Shear**

COO

**McDowell Housing Partners**

Office: (786) 577-9837 | Cell: (773) 981-1817

[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)

**From:** Harris, Sherilyn K <[sharris@pinellas.gov](mailto:sharris@pinellas.gov)>  
**Sent:** Tuesday, September 5, 2023 3:02 PM  
**To:** Chris Shear <[cshear@mcdhousing.com](mailto:cshear@mcdhousing.com)>  
**Subject:** Loan Contribution Form

You don't often get email from [sharris@pinellas.gov](mailto:sharris@pinellas.gov). [Learn why this is important](#)

Good afternoon:

Here is the executed loan contribution form per your request. Thanks and good luck!

Sheri

**Sheri Harris**

Housing and Community Development

310 Court Street

Clearwater, FL 33756

Phone 727.464.4185

[sharris@pinellas.gov](mailto:sharris@pinellas.gov)

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\_\_\_\_\_  
Signature

Barry Burton  
\_\_\_\_\_  
Print or Type Name

County Administrator  
\_\_\_\_\_  
Print or Type Title

September 5, 2023  
\_\_\_\_\_  
Date Signed

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Office of the County Attorney