

BEFORE THE STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

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**BID-A-WEE APARTMENTS, LLC,**

**Petitioner,**

vs.

**FHFC Case No. 2019-103BP**  
**RFA No. 2019-111**  
**Petitioner's Application No. 2020-076RB**

**FLORIDA HOUSING FINANCE  
CORPORATION,**

**Respondent.**

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**BID-A-WEE APARTMENTS, LLC'S FORMAL WRITTEN PROTEST  
AND PETITION FOR FORMAL ADMINISTRATIVE PROCEEDING**

Bid-A-Wee Apartments, LLC, ("Bid-A-Wee" or "Petitioner"), pursuant to Section 120.57(1) and (3), Fla. Stat., FHFC Rule 67-60.009(3)(a), and Uniform Rules of Procedure 28-106.201 and 28-110.004, Fla. Admin. Code, hereby files the foregoing Formal Written Protest and Petition for Formal Administrative Proceedings to contest eligibility and ineligibility determinations and proposed funding awards by Respondent Florida Housing Finance Corporation in RFA 2019-111. In support of this Protest and Petition, Bid-A-Wee states as follows:

**Parties**

1. Bid-A-Wee Apartments, LLC, ("Petitioner" or "Bid-A-Wee") is a Florida limited liability company that applied for funding in Request for Application ("RFA") 2019-111. Bid-A-Wee applied for a \$6,114,900 million RRLP base loan; an ELI loan of \$1,056,300; \$16.5 million in Multifamily Mortgage Revenue Bonds; and an annual allocation of \$1,186,730 in non-competitive federal low income housing tax credits to construct a 144 unit multifamily development in Bay County. Petitioner's application for funding in RFA 2019-111 was assigned Application No. 2020-076RB, and was deemed ineligible for consideration for funding by Florida

Housing. For purposes of this proceeding, Petitioner's address is that of its undersigned attorney, M. Christopher Bryant; Oertel, Fernandez, Bryant & Atkinson, P.A.; PO Box 1110, Tallahassee, Florida 32302.

2. Respondent is Florida Housing Finance Corporation (FHFC), whose address is 227 N Bronough St # 5000, Tallahassee, FL 32301. As explained more fully in this petition, FHFC is the state agency whose action is the subject of this protest. The file number for this funding effort is RFA 2019-111.

### **Substantial Interest Affected**

3. Petitioner is an applicant for an RRLP loan, Multifamily Mortgage Revenue Bond ("MMRB") financing, and non-competitive housing credits from Florida Housing in Request for Applications (RFA) 2019-111, for a proposed development in Bay County. RFA 2019-111 was designed and intended to provide financing for multifamily rental housing in counties impacted by Hurricane Michael in October, 2018 and in other rural areas. Petitioner was not selected for funding. Without the award of the requested funding, Bid-A-Wee would not be able to construct the development for affordable housing. Bid-A-Wee is thus substantially affected by FHFC's proposed decision to not select its application for funding.

### **Notice**

4. Bid-A-Wee received formal notice of Respondent's proposed action when Respondent posted notices of intended funding awards, and of determinations of eligibility and scores, on its website, [www.floridahousing.org](http://www.floridahousing.org), on Friday, December 13, 2019, at 9:18 a.m. The notice of intended awards of funding is attached hereto as Exhibit A; and the determination of eligibility and ineligibility are attached as Exhibit B. Bid-A-Wee timely filed a Notice of Protest by email on Wednesday, December 18, 2019 prior to 9:00 a.m., a time-stamped copy of the Notice

of Protest is attached hereto as Exhibit C.

**Background**

5. Through RFA 2019-111, FHFC sought to award an estimated total of \$50,000,000 in Rental Recovery Loan Program (RRLP) funding to applicants for Family or Elderly housing in counties impacted by Hurricane Michael. Applicants from Bay and Leon Counties seeking to develop more than 30 residential units were required to also utilize Tax Exempt Bonds, known as Multifamily Mortgage Revenue Bonds (MMRB). If an applicant is awarded MMRB it is also entitled to an award of non-competitive federal low income housing tax credits, sometimes referred to as “4% credits,” which was also a required component of financing for Bay and Leon applicants seeking more than 30 units.

6. A recipient of tax credits typically sells the future stream of housing credits, which are received each year for a ten year period, to an equity investor, by selling the majority of the ownership interest in the applicant entity to a new limited partner or member of an LLC to raise capital for construction of the development. This infusion of capital by the equity investor (limited partner or investor member) allows the applicant to pay a portion of the development costs with “equity” financing, and lower the required amount of debt financing; with lower debt, the development can thus charge rents for the dwelling units at substantially below market rents to tenants making sixty percent or less of Area Median Income.

7. Applicants could only propose developments in counties impacted by Hurricane Michael for purposes of this RFA. Those counties were specified in the RFA as Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Wakulla, and Washington. Bid-A-Wee proposed its development for Bay County.

8. Applicants in RFA 2019-111 are assigned a numerical score by Florida Housing on

only one item: whether the Applicant included in its Application a Principal Disclosure Form that had been submitted to Florida Housing in advance for review, and was stamped “Pre-Approved” and returned to the applicant. This item would earn the applicant 5 points.

9. Applicants are also reviewed for eligibility by Florida Housing staff based on whether all of the information required to be included in an application or attached to it was submitted, and whether such information and documentation complied with the RFA requirements. Eligibility determinations are made by FHFC staff members serving on a review committee, which met on November 20, 2019 in a public meeting to announce such determinations and to conduct scoring, ranking, and preliminary funding selection.

10. After scoring and eligibility determinations are made by staff, Applicants are rank ordered based first on total application score. The RFA established a series of tie-breakers to be invoked in the event applicants had the same total application score. The tie-breakers in this RFA were preferences identified in the RFA as:

- a. Applicants that qualify for an Enhanced Structural System (ESS) Construction Preference, as described in the RFA.
- b. By “Leveraging Level,” which is based on a Percentage resulting from the Applicant’s RRLP Request Amount divided by the number of low income Set-Aside Units proposed by the Applicant, with the lowest Leveraging Levels getting the preference.
- c. Applicants qualifying for the Florida Job Creation Funding Preference.
- d. By lottery numbers randomly assigned by Florida Housing.

11. The Leveraging Level determination referenced above is calculated as set forth in the RFA at Exhibit C, Section 2, on pages 77 and 78 of the RFA. The process divides all eligible

Applications into five leveraging levels, based on each Applicant's RRLP funding request amount (as adjusted by various factors) divided by the number of apartment units designated as affordable housing ("Set-Aside Units"). The least expensive twenty percent (20%) of the developments on a per Set-Aside Unit basis are deemed Leveraging Level 1, and are entitled to a preference in the selection process. More "expensive" developments are assigned Leveraging Levels 2, 3, 4, and 5.

12. Bid-A-Wee with an RRLP request of under \$37,000 per unit, had the least expensive proposal by far – over \$20,000 per unit less than the next least expensive Applicant, and about \$30,000 per unit less than the next least expensive Bay County applicant. Had Bid-A-Wee been deemed eligible, it would have been designated Leveraging Level 1, entitling it to a selection preference; and it would in fact have been selected.

13. The RFA also employed a "funding test," that requires that the full amount of an applicant's RRLP request amount be available for award when that applicant is under consideration for funding. Partial funding awards were not permitted in the RFA.

14. The RFA specified the order, by County, that would be followed in selecting developments for funding. The first applicant to be selected would be the highest-ranking Bay County applicant which included the Bay County Public Housing Authority ("PHA"). (Only one such application was submitted: 2020-068RB, The Park at Palo Alto.) The second applicant would be the highest ranked Bay County applicant which did not include a PHA.

15. The next funding awards were to be to the highest ranked applicants from the following ten counties in the following order: Jackson, Calhoun, Gadsden, Gulf, Washington, Liberty, Franklin, Leon, Wakulla, and Holmes. The RFA then specified that this list of ten counties would then be repeated, with the possibility of a second applicant funded in each such county. In fact, there were no applications submitted for developments in seven of these ten counties:

Jackson, Calhoun, Gadsden, Gulf, Washington, Liberty, and Holmes. The RFA then specified that, after repeating this “ten county” list a second time, no further applications would be funded.

16. Nine (9) applicants submitted applications in response to RFA 2019-111. At the public review committee meeting held November 20, 2019, FHFC’s staff review committee members reported eligibility and ineligibility determinations, scores for each review criterion for each of the applications submitted, and a working spreadsheet was prepared for funding selection purposes.

17. At the review committee meeting, Florida Housing staff determined that two of the applicants were deemed ineligible for consideration for funding: Bid-A-Wee, and Application No. 2020-073R, Greyes Place Phase II, in Wakulla County. Of those two, only Bid-A-Wee filed a notice of protest, indicating its intent to challenge the ineligibility determination. The other ineligible applicant, Greyes Place, did not file a notice of protest, and has waived its right to be considered for funding.

18. At the review committee meeting, the review committee produced a recommended funding list. The RFA specified a funding Selection Order, summarized as follows, with the selected applicant shown:

- a. Highest Ranked Bay County Applicant that included the Bay County PHA:
  - (1) 068RB, Park at Palo Alto
- b. Highest Ranked Bay County Applicant not including a PHA:
  - (2) 069RB, Fletcher Black (Leveraging Level II, Lottery #1)
- c. Highest Ranked Applications from Remaining Counties:
  - (3) 075R, New River Landing/Franklin County (Leveraging

Level 5, Lottery #3)

(4) 074RB, Magnolia Oaks/Leon County (Leveraging Level

1, Lottery #2)

(5) 075RB, Canopy Cove/Leon County (Leveraging Level ,

Lottery #9)

19. After funding Canopy Cove, there was still over \$14.5 million in RRLP funding remaining; however, the RFA stated that no further applications would be funded. There were at that point two remaining eligible applicants who were not selected for funding. These applicants were:

072B, Bridge Plaza (Leveraging Level 3, Lottery #6)

071B, Arbors at Lynn Haven (Leveraging Level 3, Lottery #7)

20. The Review Committee's eligibility and ineligibility determinations, and funding recommendations, were presented to Florida Housing's Board of Directors at its December 13, 2019 meeting, which approved the committee's funding recommendations. The Board of Directors also approved the funding of the two additional eligible Bay County applicants: 2020-072RB, Bridge Plaza, which had requested \$7,863,600 in RRLP funding; and 2020-071B, Arbor at Lynn Haven, with an RRLP request of \$10,594,300. These two applicants totaled over \$18.4 million, even though there was only \$14,566,676 in RRLP funding remaining. The explanation provided at the Board meeting was that the approximate \$3.9 million shortfall would be provided by program income from prior RRLP loans.

21. The Board-adopted eligibility and ineligibility determinations, and the funding selections, were posted to the Florida Housing website on Friday, December 13, at approximately 9:19 a.m. On the following Wednesday, December 18, presumably before 9:19 a.m., three notices

of protests were filed. The three applicants filing notices were: Bid-A-Wee, Bridge Plaza, and Arbors at Lynn Haven. As noted, Bid-A-Wee was deemed ineligible for funding, and by this Petition challenges that determination. Bridge Plaza and Arbors at Lynn Haven were deemed eligible and were selected for funding, and presumably will file at most a “defensive petition” seeking to protect their funded status.

### **Nature of the Controversy**

22. The stated basis by Florida Housing staff for declaring Bid-A-Wee ineligible is its pre-approved Principal Disclosure Form. The Principal Disclosure Form did not specifically identify an “investor member” of the Applicant LLC. As a result, in the pre-approval process for Bid-A-Wee’s Disclosure Form, Florida Housing staff only approved the form for “Non-Housing Credits.”

23. The Principal Disclosure Form set out the following disclosures for the Applicant, Bid-A-Wee Apartments, LLC:

Manager: Bid-A-Wee Manager, LLC – Limited Liability Company  
Non-Investor Member: James Sari – Natural Person  
Non-Investor Member: James Freeman – Natural Person

The Second Principal Disclosure level for Bid-A-Wee consisted of the natural persons who are managers and members of Bid-A-Wee Manager, LLC – namely, James Sari and James Freeman. A copy of the Bid-A-Wee Principal Disclosure for the Applicant Entity is attached as Exhibit “D.”

24. The absence of naming an Investor Member of the Applicant LLC is not non-compliant with the RFA requirements, or should, at most, be deemed a minor irregularity. This is so for several reasons.

25. First, the disclosure of Principals of Applicants and Developers is supposed to be accurate “as of the Application Deadline.” See RFA 2019-111 at p. 9, Section Four A.3.c.(1). As



of the date of pre-approval of the Principal Disclosure Form for the Application (September 30, 2019), and as of the Application Deadline (October 9, 2019), there were no investor members of the Applicant. Bid-A-Wee would have been submitting an inaccurate form if it had identified an investor member.

26. Second, Bid-A-Wee could have engaged in the fiction of identifying James Sari or James Freeman as a “placeholder” investor member, and presumably this would have been acceptable to Florida Housing. But Mr. Sari and Mr. Freeman were already disclosed in the Principal Disclosure Form, so their identities were known, and any concern that Florida Housing may be being asked to do business with “unknown persons” is misplaced. Further, according to recent precedent (*Ambar Riverview, Ltd. v. FHFC and Las Brisas Trace, LP*, FHFC Case No. 019-014BP, Final Order entered June 24, 2019), it is not necessary to disclose all roles within Applicant or Developer entities by specific natural persons, as long as the natural person’s identity in some capacity is disclosed. Specifically, at Finding of Fact paragraph 47 of the Ambar Riverview Recommended Order:

even if [the Applicant’s] failure to list the multiple roles of its disclosed principals on the Principal Disclosure Form is an error, it is so minor as to constitute a waivable, minor irregularity because Florida Housing has the required information in the application, and there was no competitive advantage to [the Applicant].

The Recommended Order was adopted in its entirety in Florida Housing’s Final Order.

27. Third, the actual identity of the eventual Investor Member of an Applicant LLC cannot be known at the time of submitting the Application. Even where, as here, an applicant includes in its application an equity proposal letter from an interested investor, such interested investor may or may not end up being the actual investor admitted into the LLC as a member at closing. If an applicant is awarded an allocation of housing credits, the applicant would typically

take that award and approach other investors in the equity market to insure that it receives the maximum investment possible for those credits. That is not only good business practice, it is being a good steward of a scarce resource (housing credits), and assures the Applicant/Owner, the owner's future tenants, and Florida Housing that well-sourced developments are being constructed and operated with the best chance for long term success.

28. Finally, the Bid-A-Wee application did contain within its four corners the disclosure of at least one potential investor member with an interest in joining the development. At Attachment 15, Bid-A-Wee provided a fully compliant equity proposal letter from Hunt Capital Partners, LLC, signed by the potential investor and signed as "Agreed and Accepted" by the Applicant. See, Exhibit "E" to this Petition. Notably, had Bid-A-Wee identified "Hunt Capital Partners, LLC" as the investor member on the Principal Disclosure Form, it would not have had to even further disclose principals involved in Hunt Capital to a Second or Third Disclosure Level. So, within the application, Bid-A-Wee disclosed a potential investor member.

#### **Applications Submitted by Heartland Development Group**

29. Three applications preliminarily selected for funding in this RFA included within their Developer entity a limited liability company known as Heartland Development Group, LLC. Those three applications were for Magnolia Oaks in Leon County (No. 2020-074RB), Canopy Cove in Leon County (No. 2020-070RB), and New River Landing in Franklin County (No. 2020-075R). Together these applicants were awarded almost \$17 million in RRLP funding.

30. Heartland Development Group, LLC, was identified as a Member of each of the three Applicants' developer entity. Martin M. Wohl is identified as the sole manager and sole member of Heartland.

31. Each application relied solely on Mr. Wohl as the person with Development

Experience for purposes of the Development Experience requirement of the RFA. In each application, Mr. Wohl's purported experience is derived from two developments: Highlands Cove in Lake Placid, Florida which is identified as being a 64 unit development funded with 9% Low Income Housing Tax Credits, completed in 2011; and Cornell Colony, a 44 unit development in Avon Park, Florida, financed with a HOME loan and completed in 2016.

32. RFA 2019-111 sets forth Developer Experience requirements. The requirements are:

Completion of at least two affordable housing developments since January 1, 1999

For Applications using Tax-Exempt Bond Financing and Non-Competitive Housing Credits, at least one must be a Housing Credit Development completed since January 1, 2009.

At least one of the two developments must consist of a total number of units no less than 50% of the total number of units in the proposed Development.

If the experience of a natural person Principal for the Developer entity listed in the Application was acquired from a previous affordable housing Developer entity, the natural person Principal must have also been a Principal of that previous Developer entity as the term Principal was defined by the Corporation at that time.

RFA at page 9, Section Four 3.b.(3)(a)

33. It is this last requirement for which Mr. Wohl falls short of the RFA's requirement. Highlands Cove was funded with housing credits in the 2009 Universal Application Cycle, as Application Number 2009-167C. Highlands Cove was not developed by Heartland Development Group. The Developer of those developments was Diamond Housing Partners, LLC, which consisted of two entities : Z and F Housing, LLC, and MCJ Associates, LLC, both of which were Manager Members with 50% interest each in Diamond Housing. Based on information and belief, Mr. Wohl was not a Principal of Diamond Housing, Z and F Housing, or MCJ Associates when

Highlands Cove was applied for in 2009 and was completed in 2011. Mr. Wohl was not a Principal of the Developer entity for Highlands Cove, so Magnolia Oaks, Canopy Cove, and New River Landing should have been deemed ineligible for failure to demonstrate General Development Experience.

**Disputed Issues of Material Fact**

34. Petitioner has initially indicated the following disputed issues of material fact, which it reserves the right to supplement as additional facts become known to it.

- a. Whether the Bid-A-Wee application, taken in its entirety, demonstrated that there would be an investor member of the Applicant entity Bid-A-Wee Apartments, LLC; and whether it would be arbitrary (not supported by fact) and capricious (contrary to fact) to disregard those facts and declare the Bid-A-Wee application ineligible.
- b. Whether the omission of an express reference to an investor member for the Applicant entity in the Principal Disclosure Form is a waivable minor irregularity that should have been waived; and whether the failure to waive the irregularity is arbitrary, capricious, and contrary to competition.
- c. Whether the Bid-A-Wee application, in its entirety, demonstrated substantial compliance with all material requirements of the RFA, and should have been deemed eligible for consideration for funding.
- d. Whether, if deemed eligible, the Bid-A-Wee application would have been assigned a Leveraging Level classification of 1, and would be the highest ranked Bay County applicant not involving the Bay County PHA.
- e. Whether the Applications of Canopy Cove, Magnolia Oaks, and New River

Landing should have been deemed ineligible due to inadequate Developer Experience in the named individual Martin Wohl.

**Concise Statement of Ultimate Facts, Relief Sought, and Entitlement to Relief**

35. Bid-A-Wee asserts that its application substantially complied with all material requirements of the RFA and should have been deemed eligible and selected for funding; and that Florida Housing acted inconsistently with the terms of the RFA and its rules, in a manner which was arbitrary, capricious, clearly erroneous, and contrary to competition when it did not select Bid-A-Wee for funding; or that it would be inconsistent with the RFA and Florida Housing's rules, in a manner that is arbitrary, capricious, clearly erroneous, and contrary to competition to not select Bid-A-Wee for funding. Bid-A-Wee should have been selected for funding as the highest ranked eligible non-PHA application from Bay County with a proper application of the Funding Selection Preferences.

36. Petitioner requests that it be afforded the opportunity to resolve this matter by mutual agreement within seven working days of filing this Petition. If the matter cannot be resolved, Petitioner requests that this Petition be forwarded to the Division of Administrative Hearings for assignment of an Administrative Law Judge to conduct a formal evidentiary proceedings and that recommended and final orders be entered finding Petitioner entitled to funding. Petitioner is entitled to this relief by Chapters 120 and 420, Fla. Stat., including but not limited to Sections 120.569, 120.57(2), and 420.5089; and Rule Chapters 28-106, 28-110, 67-48, and 67-60, Fla. Admin. Code; and Florida Housing RFA 2019-109.

**FILED AND SERVED** this 30<sup>th</sup> day of December, 2019.

*/s/ M. Christopher Bryant*  
\_\_\_\_\_  
M. CHRISTOPHER BRYANT  
Florida Bar No. 434450  
OERTEL, FERNANDEZ,

BRYANT & ATKINSON, P.A.  
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*Attorney for Petitioner Bid-A-Wee Apartments, LLC*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that the original of the foregoing Formal Written Protest and Petition for Administrative Proceedings has been filed by e-mail with the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 ([CorporationClerk@floridahousing.org](mailto:CorporationClerk@floridahousing.org)), and a copy via e-mail to the following this 30<sup>th</sup> day of December, 2019:

Hugh Brown, General Counsel  
Betty Zachem, Assistant General Counsel  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
[Hugh.brown@floridahousing.org](mailto:Hugh.brown@floridahousing.org)  
[Betty.zachem@floridahousing.org](mailto:Betty.zachem@floridahousing.org)

*/s/ M. Christopher Bryant*  
\_\_\_\_\_  
ATTORNEY

**Exhibits to Bid-A-Wee Petition**

- A. Board-Adopted Funding Awards in RFA 2019-111, posted Friday, December 13, 2019 at 9:18 a.m.
- B. Board-Adopted Eligibility and Ineligibility Determinations in RFA 2019-111, posted Friday, December 13, 2019 at 9:18 a.m.
- C. Bid-A-Wee Notice of Protest letter, filed Wednesday, December 18, 2019, date-stamped at 8:55 a.m.
- D. Principal Disclosure form for Applicant from Bid-A-Wee Application
- E. Equity Proposal Letter from Hunt Capital Partners for Bid-A-Wee Application

## RFA 2019-111 – Board Approved Preliminary Awards

Application Number	Name of Development	Name of Applicant	Name of Developers	County	Total Units	Demo.	Total RRLP Request (RRLP plus ELI)	Eligible for Funding?	Qualifies for the Bay County PHA Funding Goal?	Points	Qualifies for ESS Const.	Leveraging Level	Florida Job Creation Preference	Lottery
2020-068RB	The Park at Palo Alto	The Park at Palo Alto, LLC	Royal American Properties, LLC ; InVictus Development, LLC; PCHA Developer, LLC	Bay	120	F	9,220,200	Y	Y	5	Y	4	Y	8
2020-069RB	Fletcher Black	Fletcher Black Redevelopment, LLC	Royal American Properties, LLC; InVictus Development, LLC; PCHA Developer, LLC	Bay	100	F	7,588,500	Y	N	5	Y	2	Y	1
2020-070RB	Canopy Cove	MHP Canopy Cove, LLC	MHP Canopy Cove Developer, LLC	Leon	96	F	6,712,400	Y	N	5	Y	1	Y	9
2020-071RB	Arbors at Lynn Haven Bluffs	SP Bluffs LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	138	F	10,594,300	Y	N	5	Y	3	Y	7
2020-072RB	Bridge Plaza Apartments	SP Bay LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	102	F	7,863,600	Y	N	5	Y	3	Y	6
2020-074RB	Magnolia Oaks	MHP Magnolia Oaks, LLC	MHP Magnolia Oaks Developer, LLC	Leon	110	F	6,792,400	Y	N	5	Y	1	Y	2
2020-075R*	New River Landing	MHP New River Landing, LLC	MHP New River Landing Developer, LLC	Franklin	30	F	5,119,824	Y	N	5	Y	5	Y	3

\*The Corporation Funding Per Set-Aside Amount was adjusted during scoring.

On December 13, 2019, 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.



## RFA 2019-111 – Board Approved Scoring Results

Application Number	Name of Development	Name of Applicant	Name of Developers	County	Total Units	Demo.	RRLP Request Amount	ELI Request Amount	Total RRLP Request (RRLP plus ELI)	Eligible for Funding?	Qualifies for the Bay County PHA Funding Goal?	Points	Qualifies for ESS Const.	Corporation Funding Per Set-Aside	Leveraging Level	Florida Job Creation Preference	Lottery
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**Eligible Applications**

2020-068RB	The Park at Palo Alto	The Park at Palo Alto, LLC	Royal American Properties, LLC ; InVictus Development, LLC; PCHA Developer, LLC	Bay	120	F	8,400,000	820,200	9,220,200	Y	Y	5	Y	69,423.20	4	Y	8
2020-069RB	Fletcher Black	Fletcher Black Redevelopment, LLC	Royal American Properties, LLC; InVictus Development, LLC; PCHA Developer, LLC	Bay	100	F	6,889,900	698,600	7,588,500	Y	N	5	Y	66,694.23	2	Y	1
2020-070RB	Canopy Cove	MHP Canopy Cove, LLC	MHP Canopy Cove Developer, LLC	Leon	96	F	5,980,000	732,400	6,712,400	Y	N	5	Y	61,045.83	1	Y	9
2020-071RB	Arbors at Lynn Haven Bluffs	SP Bluffs LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	138	F	9,660,000	934,300	10,594,300	Y	N	5	Y	67,760.00	3	Y	7
2020-072RB	Bridge Plaza Apartments	SP Bay LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	102	F	7,100,000	763,600	7,863,600	Y	N	5	Y	67,380.39	3	Y	6
2020-074RB	Magnolia Oaks	MHP Magnolia Oaks, LLC	MHP Magnolia Oaks Developer, LLC	Leon	110	F	5,985,000	807,400	6,792,400	Y	N	5	Y	58,653.00	1	Y	2
2020-075R*	New River Landing	MHP New River Landing, LLC	MHP New River Landing Developer, LLC	Franklin	30	F	4,988,724	131,100	5,119,824	Y	N	5	Y	232,807.12	5	Y	3

**Ineligible Applications**

2020-073R*	Greys Place, Phase 2	Affordable Housing Solutions for Florida, Inc	Affordable Housing Solutions for Florida, Inc.; Panhandle Affordable II, LLC	Wakulla	30	F	4,970,891		4,970,891	N	N	5	Y	160,394.08		Y	5
2020-076RB	Bid-A-Wee Apartments	Bid-A-Wee Apartments, LLC	Bid-A-Wee Developer, LLC	Bay	144	F	6,114,900	1,056,300	7,171,200	N	N	5	Y	36,995.15		Y	4

\*The Corporation Funding Per Set-Aside Amount was adjusted during scoring.

On December 13, 2019, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

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.



**OERTEL,  
FERNANDEZ,  
BRYANT &  
ATKINSON, P.A.**

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KENNETH G. OERTEL  
TIMOTHY J. PERRY

OF COUNSEL:  
C. ANTHONY CLEVELAND

December 18, 2019

*Via E-mail*

Corporation Clerk  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
[CorporationClerk@floridahousing.org](mailto:CorporationClerk@floridahousing.org)

Re: RFA 2019-111 Rental Recovery Loan Program (RRLP) Financing for Rental Developments in Hurricane Michael Impacted Counties

Notice of Protest by Bid-A-Wee Apartments, LLC  
Applicant for Application No. 2020-076RB, Bid-A-Wee Apartments

Dear Corporation Clerk:

Pursuant to Section 120.57(3) Fla. Stat., and Rules 67-60.009(2) and 28-110.003, Fla. Admin. Code, Bid-A-Wee Apartments, LLC ("Bid-A-Wee"), Applicant for Application No. 2020-076RB in RFA 2019-111, hereby gives notice of its intent to protest the determinations contained on the attached spreadsheets reflecting proposed awards of funding (Attachment A) and proposed scoring, eligibility, and ineligibility determinations (Attachment B) in RFA 2019-111, as approved by the Corporation's Board of Directors on Friday, December 13, 2019. These spreadsheets were posted on the Corporation's website on Friday, December 13, 2019, at 9:18 a.m.; this Notice of Protest is being filed within 72 hours of such posting (excluding Saturdays and Sundays).

Bid-A-Wee will file its formal written protest within the time required by Section 120.57(3), Fla. Stat.

Sincerely,

M. Christopher Bryant  
Counsel for Bid-A-Wee Apartments, LLC  
Applicant for Application No. 2020-076RB

cc: Hugh Brown, General Counsel (by e-mail only - [Hugh.Brown@floridahousing.org](mailto:Hugh.Brown@floridahousing.org))

**RFA 2019-111 – Board Approved Preliminary Awards**

Application Number	Name of Development	Name of Applicant	Name of Developers	County	Total Units	Demo.	Total RRLP Request (RRLP plus ELI)	Eligible for Funding?	Qualifies for the Bay County PHA Funding Goal?	Points	Qualifies for ESS Const.	Leveraging Level	Florida Job Creation Preference	Lottery
2020-068RB	The Park at Palo Alto	The Park at Palo Alto, LLC	Royal American Properties, LLC ; InVictus Development, LLC; PCHA Developer, LLC	Bay	120	F	9,220,200	Y	Y	5	Y	4	Y	8
2020-069RB	Fletcher Black	Fletcher Black Redevelopment, LLC	Royal American Properties, LLC; InVictus Development, LLC; PCHA Developer, LLC	Bay	100	F	7,588,500	Y	N	5	Y	2	Y	1
2020-070RB	Canopy Cove	MHP Canopy Cove, LLC	MHP Canopy Cove Developer, LLC	Leon	96	F	6,712,400	Y	N	5	Y	1	Y	9
2020-071RB	Arbors at Lynn Haven Bluffs	SP Bluffs LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	138	F	10,594,300	Y	N	5	Y	3	Y	7
2020-072RB	Bridge Plaza Apartments	SP Bay LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	102	F	7,863,600	Y	N	5	Y	3	Y	6
2020-074RB	Magnolia Oaks	MHP Magnolia Oaks, LLC	MHP Magnolia Oaks Developer, LLC	Leon	110	F	6,792,400	Y	N	5	Y	1	Y	2
2020-075R*	New River Landing	MHP New River Landing, LLC	MHP New River Landing Developer, LLC	Franklin	30	F	5,119,824	Y	N	5	Y	5	Y	3

\*The Corporation Funding Per Set-Aside Amount was adjusted during scoring.

On December 13, 2019, 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.

RFA 2019-111 – Board Approved Scoring Results

Application Number	Name of Development	Name of Applicant	Name of Developers	County	Total Units	Demo.	RRLP Request Amount	ELI Request Amount	Total RRLP Request (RRLP plus ELI)	Eligible for Funding?	Qualifies for the Bay County PHA Funding Goal?	Points	Qualifies for ESS Const.	Corporation Funding Per Set-Aside	Leveraging Level	Florida Job Creation Preference	Lottery
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Eligible Applications

2020-068RB	The Park at Palo Alto	The Park at Palo Alto, LLC	Royal American Properties, LLC ; InVictus Development, LLC; PCHA Developer, LLC	Bay	120	F	8,400,000	820,200	9,220,200	Y	Y	5	Y	69,423.20	4	Y	8
2020-069RB	Fletcher Black	Fletcher Black Redevelopment, LLC	Royal American Properties, LLC; InVictus Development, LLC; PCHA Developer, LLC	Bay	100	F	6,889,900	698,600	7,588,500	Y	N	5	Y	66,694.23	2	Y	1
2020-070RB	Canopy Cove	MHP Canopy Cove, LLC	MHP Canopy Cove Developer, LLC	Leon	96	F	5,980,000	732,400	6,712,400	Y	N	5	Y	61,045.83	1	Y	9
2020-071RB	Arbors at Lynn Haven Bluffs	SP Bluffs LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	138	F	9,660,000	934,300	10,594,300	Y	N	5	Y	67,760.00	3	Y	7
2020-072RB	Bridge Plaza Apartments	SP Bay LLC	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc.	Bay	102	F	7,100,000	763,600	7,863,600	Y	N	5	Y	67,380.39	3	Y	6
2020-074RB	Magnolia Oaks	MHP Magnolia Oaks, LLC	MHP Magnolia Oaks Developer, LLC	Leon	110	F	5,985,000	807,400	6,792,400	Y	N	5	Y	58,653.00	1	Y	2
2020-075R*	New River Landing	MHP New River Landing, LLC	MHP New River Landing Developer, LLC	Franklin	30	F	4,988,724	131,100	5,119,824	Y	N	5	Y	232,807.12	5	Y	3

Ineligible Applications

2020-073R*	Greys Place, Phase 2	Affordable Housing Solutions for Florida, Inc	Affordable Housing Solutions for Florida, Inc.; Panhandle Affordable II, LLC	Wakulla	30	F	4,970,891		4,970,891	N	N	5	Y	160,394.08		Y	5
2020-076RB	Bid-A-Wee Apartments	Bid-A-Wee Apartments, LLC	Bid-A-Wee Developer, LLC	Bay	144	F	6,114,900	1,056,300	7,171,200	N	N	5	Y	36,995.15		Y	4

\*The Corporation Funding Per Set-Aside Amount was adjusted during scoring.

On December 13, 2019, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

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.

**Principal Disclosures for the Applicant**

**APPROVED for NON-HOUSING CREDITS**  
 FHFC Advance Review 9.30.19

Select the organizational structure for the Applicant entity:

The Applicant is a: Limited Liability Company

Provide the name of the Applicant Limited Liability Company:

Bid-A-Wee Apartments, LLC

**First Principal Disclosure Level:**

[Click here for Assistance with Completing the Entries for the First Level Principal Disclosure for the Applicant](#)

<u>First Level Entity #</u>	<u>Select Type of Principal of Applicant</u>	<u>Enter Name of First Level Principal</u>	<u>Select organizational structure of First Level Principal identified</u>
1.	<u>Manager</u>	<u>Bid-A-Wee Manager, LLC</u>	<u>Limited Liability Company</u>
2.	<u>Non-Investor Member</u>	<u>James Sari</u>	<u>Natural Person</u>
3.	<u>Non-Investor Member</u>	<u>James Freeman</u>	<u>Natural Person</u>

**Second Principal Disclosure Level:**

Bid-A-Wee Apartments, LLC

[Click here for Assistance with Completing the Entries for the Second Level Principal Disclosure for the Applicant](#)

<u>Select the corresponding First Level Principal Entity # from above for which the Second Level Principal is being identified</u>	<u>Second Level Entity #</u>	<u>Select the type of Principal being associated with the corresponding First Level Principal Entity</u>	<u>Enter Name of Second Level Principal</u>	<u>Select organizational structure of Second Level Principal identified</u>
<u>1. (Bid-A-Wee Manager, LLC)</u>	1.A.	<u>Manager</u>	<u>James Sari</u>	<u>Natural Person</u>
<u>1. (Bid-A-Wee Manager, LLC)</u>	1.B.	<u>Manager</u>	<u>James Freeman</u>	<u>Natural Person</u>
<u>1. (Bid-A-Wee Manager, LLC)</u>	1.C.	<u>Member</u>	<u>James Sari</u>	<u>Natural Person</u>
<u>1. (Bid-A-Wee Manager, LLC)</u>	1.D.	<u>Member</u>	<u>James Freeman</u>	<u>Natural Person</u>

**Principal Disclosures for the Developer**

*APPROVED for NON-HOUSING CREDITS  
FHFC Advance Review 9.30.19*

How many Developers are part of this Application structure?

1

Select the organizational structure for the Developer entity:

The Developer is a: Limited Liability Company

Provide the name of the Developer Limited Liability Company:

Bid-A-Wee Developer, LLC

**First Principal Disclosure Level:**

Bid-A-Wee Developer, LLC

[Click here for Assistance with Completing the Entries for the First Level Principal Disclosure for a Developer](#)

<u>First Level Entity #</u>	<u>Select Type of Principal of Developer</u>	<u>Enter Name of First Level Principal</u>	<u>Select organizational structure of First Level Principal identified</u>
1.	Manager	James Sari	Natural Person
2.	Manager	James Freeman	Natural Person
3.	Member	James Sari	Natural Person
4.	Member	James Freeman	Natural Person



October 2, 2019

James Freeman  
Bid-A-Wee Manager, LLC on Behalf of Bid-A-Wee Apartments, LLC  
1180 Peachtree St, NW, Suite 3330  
Atlanta GA 30309

Re: Bid-A-Wee Apartments, a 144 unit affordable housing development to be located in Panama City, Florida (the "Project"), owned and operated by Bid-A-Wee Apartments, LLC, a Florida limited liability company (the "Company") the Beneficiary, and to be developed by an affiliate of the Company in compliance with Section 42 of the *Internal Revenue Code of 1986* ("IRC")

Dear Mr. Freeman:

Thank you for providing Hunt Capital Partners, LLC ("HCP") the opportunity to present this Letter of Intent Agreement. The following sets forth our proposal of the basic business terms with the Company for HCP or its designees as the Member Investor (the "Investor") regarding the Project.

- Investment Entity:* Bid-A-Wee Apartments, LLC, the Beneficiary
- Tax Credits Available:* \$11,867,300 ("projected LIHTCs")
- LIHTC to Be Purchase:* The INVESTOR is acquiring 99.98% of the Company's tax credits in the total amount of \$11,864,926.50 based on an annual housing credit allocation of \$1,186,730
- Net Credit Price to Partnership:* \$0.93 (Federal LIHTC)
- Net Capital Contribution:* \$11,034,300
- Equity Proceeds Pay-In Schedule:* Based on the terms of this letter agreement and the information, projections, and assumptions you have provided to us, equity contributions will be made to the Company by the Investor in the percentages set forth below:

1. 15% will be funded at (a) the Investor's admission into the Company, (b) closing and initial funding of all of the construction financing for the Project, (c) receipt of the commitments for all of the permanent financing, and (d) receipt of the LIHTC allocation; such funds shall be used to fund hard and soft development costs.
2. 5% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraph (1), and (b) 50% construction completion as certified by project architect; such funds shall be used to fund hard and soft development costs.
3. 50% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraphs (1) and (2) and (b) 100% construction completion as certified by project architect; such funds shall be used to fund hard and soft development costs
4. 30% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payments set forth in paragraphs (1), (2) and (3), (b) the issuance of final Municipal or County Occupancy Certificates, (c) receipt of the certification of qualified expenditures by an independent certified public accountant, (d) 90% qualified occupancy for three consecutive months ("Stabilized Operations"), (e) funding of the Permanent Loan, (f) the issuance of all Treasury Forms 8609, and (g) receipt of the federal income tax return and K-1s for the Company; such funds shall be used to fund initial operating deficit reserves and any remaining hard and soft development costs.

The amount of equity to be paid prior to construction completion shall be \$6,000,000.

*Obligations of the General  
Partner and Guarantor(s):*

Operating Deficit Guaranty: The Guarantors will guarantee and agree to loan to the Company sufficient funds, for a period of 48 months following the date stabilized operations is achieved (the "Operating Deficit Guarantee Period"), to fund operating deficits.



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Development Completion Guaranty: The Guarantors will guarantee completion of construction of the Project substantially in accordance with plans and specifications approved by Hunt Capital Partners, LLC, including, without limitation, a guaranty: (i) to pay any amounts needed in excess of the construction loan and other available proceeds to complete the improvements; and (ii) to pay operating deficits prior to the conclusion of Project construction.

Credit Adjusters: The Guarantors will provide that, if in any year actual credits are less than Projected Credits, then LP shall be owed an amount necessary to preserve its anticipated return based on the Projected Credit.

The obligations of the Company shall be guaranteed by the Guarantors.

*Asset Management Fee (AMF):* \$7,500 annually

*Cash Flow Split:* Cash Flow to the Company shall be distributed as follows:

- a. To the Investor, to make any tax credit adjuster payment not previously made;
- b. To the payment of any debts, excluding any unpaid Development Fee, owed to the Partners and/or their affiliates, until all such debts have been paid in full;
- c. To the payment of the AMF plus all accrued AMF unpaid from prior years;
- d. 90% to the payment of any unpaid Development Fee, until such fee has been paid in full and 10% to the Investor;
- e. The balance, 90% to the GP as an Incentive Property Management Fee and 10% to the partners in accordance with their ownership percentages.

All tax profits, losses, and credits from operations will be allocated 0.02% to the GP and 99.98% to the LP.

*Residual Split:*

From Refinancing or Sale. Taxable profits and/or losses from a sale of the Property will be allocated among the Partners of the Company to adjust capital accounts as required by the Internal Revenue Code and in accordance with sale proceeds distributions.

Sale and Refinancing Proceeds will be distributed as follows:

- a. Payment in full of all Company debts except those due to Partners and/or their affiliates;
- b. To the Investor, to make any tax credit adjuster payment not previously made;
- c. To the payment of any debts owed to Partners and/or their affiliates until all such debts have been paid in full, and Company's capital contribution;
- d. The balance, 90% to the GP and 10% to the Investor.

*Replacement Reserves:*

\$250/unit/year

*Other Terms and Conditions:*

- 1) Proof of award and allocation of LIHTC.
- 2) The GP must have a firm commitment for a fixed-rate permanent first mortgage with terms, conditions and a Lender acceptable to the Investor.
- 3) Receipt, review, and approval of market study, environmental and geological reports, plans and specifications, contractor and such other conditions which are customary and reasonable for an equity investment of this nature and amount;
- 4) The Capital Contributions are determined on the projected credits delivered to Hunt based on the lease-up schedule provided to Hunt by the GP. Any changes in the timing of construction and/or lease-up may impact the timing and amounts of Capital Contributions.
- 5) Approval of the transaction by (i) HCP's Investment Committee and (ii) HCP's Investor including transaction yield and tax rate assumptions.

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James Freeman  
Bid-A-Wee Apartments  
October 2, 2019  
Page 5 of 5

In recognition of the time and expense to be spent by Hunt in evaluating this transaction prior to closing, the GP will deal exclusively with Hunt with respect to the transactions noted in this firm commitment letter until this firm commitment letter is terminated by either party. You hereby confirm that no other party presently has any right to acquire an interest in the Property or the Company.

Please execute and promptly return to us a copy of this commitment letter. The terms herein shall expire 10 business days after the date of this letter if your signed copy has not been received by us.


Sincerely,



Dana Mayo  
Executive Managing Director  
Hunt Capital Partners, LLC

AGREED and ACCEPTED:

Bid-A-Wee Apartments, LLC

By:   
Name: James W. Freeman  
Title: Manager

October 3, 2019  
Date

Cc: Steve Bien (Hunt Capital Partners)