

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MADISON OAKS, LLC, AND
AMERICAN RESIDENTIAL
COMMUNITIES, LLC,

Petitioners,

vs.

DOAH CASE NO.: 2018-2966BID

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

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

Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 28-110 and Rule 28-106.201, Florida Administrative Code (“Fla. Admin. Code”), Petitioners, Madison Oaks, LLC, and American Residential Communities, LLC (collectively, “Petitioners”), file this Second Amended Formal Written Protest of Award and Petition for Administrative Hearing and state:

Affected Agency

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

Petitioners

2. Petitioner Madison Oaks, LLC (“Madison Oaks”) is the Applicant entity for a proposed affordable housing development to be located in Osceola County, Application #2018-182C. American Residential Communities, LLC (“ARC”) is the “Developer” entity as defined by Florida Housing in Rule 67-48.002(28), Fla. Admin. Code.

3. Petitioners' address is 558 W. New England Ave., Suite 250, Winter Park, Florida 32789. Petitioners' telephone number is 407-333-1440. For purposes of this proceeding, Petitioners' address is that of its undersigned counsel.

4. Petitioners are challenging the eligibility of the applicants named in this petition for their failure to meet Eligibility or Proximity Funding Preference Point requirements for an award of Housing Credits ("HC") for funding under Request for Applications 2017-111, Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties (the "RFA" or "RFA-2017-111") through an administrative hearing before the Department of Administrative Hearing ("DOAH").

Petitioners' Counsel

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

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BACKGROUND

6. Florida Housing administers various affordable housing programs including the Housing Credit (HC) Program pursuant to Section 42 of the Internal Revenue Code (the "IRC" or "the Code") and Section 420.5099, Florida Statutes ("Fla. Stat."), under which Florida

Housing is designated as the Housing Credit agency for the State of Florida within the meaning of Section 42(h)(7)(A) of the IRC, and Chapters 67-48 and 67-60, Fla. Admin. Code.

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

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

9. By applying, each Applicant certifies that:

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

(RFA at p. 6).

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

11. Specifically, Florida Housing’s solicitation process for RFA 2017-111, as set forth in Rules 67-60.001-.009, Fla. Admin. Code, involves the following:

- a) Florida Housing publishes its competitive solicitation (RFA) in the Florida Administrative Register;
- b) applicants prepare and submit their response to the competitive solicitation;

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

12. Florida Housing issued RFA 2017-111 on or about October 6, 2017, and subsequently modified the RFA on October 27, and November 29, 2017. The application deadline for the RFA as modified to be December 20, 2017 (“Application Deadline”).

13. The RFA sets forth the information required to be provided by an Applicant, which includes a general description of the type of projects that will be considered eligible for funding and delineates the submission requirements. (RFA at pp. 2-62). The RFA sets forth on Pages 63 and 66, a list of mandatory Eligibility and Point Items that must be included in a response. The RFA expressly provides that “[o]nly Applications that meet all of the Eligibility Items will be eligible for funding and considered for funding selection.” (RFA at p. 63).

14. The highest scoring Applications are determined by first sorting together all eligible Applications from highest to lowest score, with any scores that are tied further separated as per the following progression: (1) Applications eligible for Proximity Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (2) Applications eligible for Per Unit Construction Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (3) Applications eligible for Development Category Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (4) Applications having a leveraging Classification of A will be ranked higher than those Applications having a leveraging Classification of B, with the leveraging Classification using a series of multipliers to group applications based on the amount of funding

per unit; (5) Applications eligible for Florida Job Creation Funding Preference will be ranked higher than those Applications that do not qualify for the preference; and (6) Applications with the lowest lottery number will receive preference. (RFA at p. 63).

15. On or about April 17, 2018, the Review Committee, consisting of Florida Housing staff, met and considered the applications responding to the RFA. At the meeting the Review Committee listed and input the scores for each application and ultimately made recommendations to the Florida Housing Board of Directors (“Board”) for its consideration. The Review Committee determined that Madison Oaks was eligible, but not selected for funding.

16. On May 4, 2018, Florida Housing’s Board of Directors adopted the Review Committee’s recommendations and tentatively authorized the selection for funding of those applications identified in RFA 2017-111 Board Approved Preliminary Awards report, which reflected the preliminary funded applicants.

NOTICE OF AGENCY ACTION

17. Petitioners received notice dated May 4, 2018 on or about May 4, 2018 of Florida Housing’s Final Agency Action entitled “RFA 2017-111 Board Approved Preliminary Awards” (“Corporation’s Notice”).

NOTICE OF PROTEST

18. On May 9, 2018, Petitioners timely filed their Notice of Protest challenging the selection of the applications in the Corporation’s Notice.

SUBSTANTIAL INTERESTS

19. Petitioners timely submitted an application in response to the RFA, Application #2018–182C (“Application”). In their Application, Petitioners sought an allocation of

\$1,510,000 in annual federal tax credits¹ to help finance the development of their project, a 72-unit High Rise Apartment complex in Osceola County. As reflected in RFA 2017-111, All Applications Report, Petitioners were assigned lottery number 19. Petitioners were scored as having satisfied eligibility requirements for funding, satisfied Proximity Funding Preference requirements and scored 10 out of 10 Total Points. (See RFA 2017-111 All Applications Report).

20. HTG Sunset, LLC (“Sunset Lake”) submitted an application in response to the RFA, Application #2018-207C. Sunset Lake sought an allocation of \$1,505,520 in annual federal tax credits to help finance the development of its project, a 96-unit Garden Apartments complex in Polk County. As reflected in RFA 2017-111 All Applications Report, Sunset Lake was assigned lottery number 3.

21. Arbours at Hester Lake, LLC (“Arbours at Hester Lake”) submitted an application in response to the RFA, Application #2018-197C. Arbours at Hester Lake sought an allocation of \$1,447,900 in annual federal tax credits to help finance the development of its project, an 80-

¹ The United States Congress has created a program, governed by Section 42 of the IRC, by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy IRC requirements. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year stream of tax credits, typically to a syndicator, with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants. Pursuant to section 420.5099, Fla. Stat., Florida Housing is the designated “housing credit agency” for the State of Florida and administers Florida’s tax credit program under its Housing Credit Program (“HC Program”). Through the HC Program, Florida Housing allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.

unit Garden Apartments complex in Pasco County. As reflected in RFA 2017-111 All Applications Report, Arbours at Hester Lake was assigned lottery number 4.

22. Blue Sunbelt, LLC (“Palmetto Hideaway”) submitted an application in response to the RFA, Application #2018-211C. Palmetto Hideaway sought an allocation of \$1,510,000 in annual federal tax credits to help finance the development of its project, a 90-unit Mid-Rise, 4-stories complex in Pasco County. As reflected in RFA 2017-111 All Applications Report, Palmetto Hideaway was assigned lottery number 8.

23. Colonnade Park, Ltd. (“Colonnade Park”) submitted an application in response to the RFA, Application #2018-260C. Colonnade Park sought an allocation of \$1,510,000 in annual federal tax credits to help finance the development of its project, a 106-unit Garden Apartments complex in Citrus County. As reflected in RFA 2017-111 All Applications Report, Colonnade Park was assigned lottery number 7.

24. HTG Creekside, LLC (“Oaks at Creekside”) submitted an application in response to the RFA, Application #2018-256C. Oaks at Creekside sought an allocation of \$1,505,520 in annual federal tax credits to help finance the development of its project, a 96-unit Garden Apartments complex in Manatee County. As reflected in RFA 2017-111 All Applications Report, Oaks at Creekside was assigned lottery number 9.

25. Harper’s Pointe, LP (“Harper’s Pointe”) submitted an application in response to the RFA, Application #2018-105C. Harper’s Pointe sought an allocation of \$1,015,000 in annual federal tax credits to help finance the development of its project, a 66-unit Garden Apartments complex in Alachua County. As reflected in RFA 2017-111 All Applications Report, Harper’s Pointe was assigned lottery number 13.

26. All of the challenged applicants were scored as having satisfied eligibility requirements for funding, satisfied Proximity Funding Preference requirements, and scored 10 out of 10 Total Points. (See RFA 2017-111 All Applications Report).

27. Each challenged applicant failed to meet or satisfy RFA eligibility, Proximity Funding Preference, or other requirements, and is not entitled to the eligibility determination, scoring, and preliminary ranking of their applications. As a result of the preliminary scoring process all challenged applicants were incorrectly included in the preliminary awards rankings and should have been scored lower than Petitioners' Application. As discussed below, Florida Housing improperly determined that these applicants satisfied RFA mandatory, eligibility requirements or the Proximity Funding Preference Points requirements.

28. Through this proceeding Petitioners are challenging and seeking a determination that Florida Housing erred in its preliminary eligibility, scoring or Proximity Funding Preference decision, and the decision to preliminary award Housing Credits to Sunset Lake, Arbours at Hester Lake, Colonnade Park, Oaks at Creekside and Harper's Pointe.

29. Palmetto Hideaway is not identified on Florida Housing's Approved Preliminary Awards list. However, under the RFA scoring matrix, Palmetto Hideaway may be entitled to funding if Arbours at Hester Lake is displaced. Accordingly, Palmetto Hideaway's preliminary scoring and eligibility is also being challenged in this petition.

30. But for the errors described in this Petition, Petitioners would have been ranked in the funded range and would have been entitled to an allocation of housing credits from RFA 2017-111.²

² Although this petition challenges a number of competing applicants, Petitioners are not required to displace all of the challenged applicants in order to be funded.

PROXIMITY POINTS

31. Applications may earn proximity points, based upon the distance between the Development's Location Point and Transit Service and Community Services. Proximity points are not applied to the Total Points score but are only used to determine whether an Applicant meets the required minimum proximity eligibility requirements and the Proximity Funding Preference. (RFA at p. 19). To satisfy RFA eligibility requirements, an Applicant with a proposed development in a medium county is required to achieve a minimum score of 7 proximity points. To qualify for the Proximity Funding Preference, an Applicant with a proposed development in a medium county is required to achieve a minimum score of 9 proximity points. (RFA at p. 20).

32. Whether to award Transit and Community Service points and if so, and the number of points will vary depending upon whether the Applicant qualifies for the points and the type of service provided. In order to calculate the value of the points, an Applicant is required to include latitude and longitude coordinates attesting to the Development Location Point, the type of service claimed, and the distance (proximity) between the claimed service and the Development's location. Qualifying Community Services include a grocery store, medical facility, pharmacy, and public school. The maximum point-value for the various transit services include 2 points for a Public Bus Stop and 6 points for a Public Bus Transfer Stop. (RFA at p. 91). The maximum point value for the various Community Services is 4 points for each qualifying service. (RFA at p. 92).

ABILITY TO PROCEED

33. An Applicant must demonstrate "Ability to Proceed elements as of the Application Deadline, for the entire proposed Development site." (RFA at p. 34). Development "means any work or improvement located or to be located in the state, including real property,

buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for persons or families.” Section 420.503(33), F.S; Rule 67-48.002(29) Fla. Admin. Code. The entire proposed Development can be readily ascertained by reviewing an Applicant’s Site Control documents, such as a contract or lease, found at Attachment 8 in the application. (RFA at pp. 18-19).

34. In order to demonstrate a Development’s ability to proceed, an Applicant is required to provide executed verification forms showing the availability of infrastructure to the proposed Development site, such as utilities and roads. In addition, Applicants are further required to provide executed verification forms demonstrating the status of site plan approval and that the proposed Development is consistent with zoning and land use regulations. (RFA at pp. 34-36). Importantly, when providing the information from third parties, the RFA requires the Applicant to certify that:

In eliciting information from third parties required by and/or included in this Application, the Applicant has provided such parties information that accurately describes the Development as proposed in this Application. The Applicant has reviewed the third-party information included in this Application [. . .] and the information provided by any such third-party is based upon, and accurate with respect to, the Development as proposed in this Application.

(See Applicant Certification and Acknowledgement Form, RFA at p. 126).

Site Plan Approval

35. Status of site plan approval is a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not demonstrate the status of site plan approval as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

36. Status of site plan approval is one of the Ability to Proceed elements that must be demonstrated as of the Application Deadline. With respect to status of site plan approval, the RFA states:

Status of Site Plan/Plat Approval. The Applicant must demonstrate the status of site plan or plat approval *as of the Application Deadline*, for *the entire proposed Development site* by providing, as Attachment 9 to Exhibit A, the applicable properly completed and executed verification form:

- (a) The Florida Housing Finance Corporation Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (Form Rev. 08-16); or
- (b) The Florida Housing Finance Corporation Local Government Verification of Status of Plat Approval for Residential Rental Developments form (Form Rev. 08-16).

(RFA at p. 34) (Emphasis added).

37. The Florida Housing Finance Corporation Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (Form Rev. 08-16) (“Site Plan Form”), which is specifically incorporated into the RFA, requires the local government to certify one of the following with respect to site plan disclosure:

- 1) the proposed Development has obtained final site plan approval;
- 2) the proposed Development requires additional site plan approval, and
 - (i) the applicable jurisdiction provides preliminary site plan approval which has been issued, or
 - (ii) site plan approval is required; however, the applicable jurisdiction does not provide preliminary site plan approval prior to issuing the final site plan; or
- 3) the proposed Development does not require additional site plan approval.

Zoning

38. Demonstration of appropriate zoning is also a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not demonstrate appropriate zoning as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

39. Appropriate zoning is one of the “Ability to Proceed” elements that must be demonstrated as of the Application Deadline. With respect to appropriate zoning, the RFA states:

Appropriate Zoning. The Applicant must demonstrate that *as of the Application Deadline, the entire proposed Development site* is appropriately zoned and consistent with local land use regulations regarding density and intended use or that the proposed Development site is legally non-conforming by providing, as Attachment 10 to Exhibit A, the applicable properly completed and executed verification form:

- (a) The Florida Housing Finance Corporation Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form (Form Rev. 08-16); or
- (b) The Florida Housing Finance Corporation Local Government Verification that Permits are not Required for this Development form (Form Rev. 08-16).

(RFA at p. 35) (Emphasis added).

40. The Florida Housing Finance Corporation Local Government Verification that Development is Consistent with Zoning and Land Use Regulations Form (Form Rev. 08-16) (“Zoning Form”), is specifically incorporated into the RFA and requires two things with respect to zoning. First, the zoning designation for the proposed Development location must be identified “on or before the submission deadline”. Second, certification must demonstrate the following:

The proposed number of units and intended use are consistent with *current* land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming

use. To the best of my knowledge, *there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein.* Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

(Emphasis Added).

SITE CONTROL

41. Site control is also a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not provide evidence of site control as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration for funding. Rule 67-60.006(1), Fla. Admin. Code.

42. With respect to site control and an Eligible Contract, Section Four, Part A. of the RFA provides, in pertinent part:

7. Readiness to Proceed

a. Site Control:

The Applicant must demonstrate site control by providing, as Attachment 8 to Exhibit A, the documentation required in Items (1), (2), and/or (3), as indicated below. If the proposed Development consists of Scattered Sites, site control must be demonstrated for all of the Scattered Sites.

- (1) Eligible Contract - For purposes of this RFA, an eligible contract is one that has a term that does not expire before June 30, 2018 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than June 30, 2018; specifically states that the buyer's remedy for default on the part of the seller includes or is specific performance; and the buyer MUST be the Applicant unless an assignment of the eligible contract which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant, is provided. Any assignment must be signed by the assignor and the assignee. If the owner of the subject property is not a party to the eligible contract, all documents evidencing intermediate contracts, agreements, assignments, options, or conveyances of any kind between or among the owner, the Applicant, or other parties, must be provided, and, if a contract, must contain the following elements of

an eligible contract: (a) have a term that does not expire before June 30, 2018 or contain extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than June 30, 2018, and (b) specifically state that the buyer's remedy for default on the part of the seller includes or is specific performance.

(RFA at p. 33).

43. Florida Housing requires that an Applicant submit site control documents to demonstrate that it can move forward with the proposed Development. Included in that demonstration is a showing that the Applicant is able to purchase the property.

SCATTERED SITES

44. Disclosure of whether the Development consists of Scattered Sites is also a mandatory Eligibility Item in the RFA. (RFA at pp. 19, 60). If an Applicant does not disclose that a Development is on a Scattered Site as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

45. For the purposes of the RFA, a Scattered Site is defined in Rule 67-48.002(105), Fla. Admin. Code as:

“Scattered Sites,” as applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a “Scattered Site”). For purposes of this definition “contiguous” means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement, provided the easement is not a roadway or street. All of the Scattered Sites must be located in the same county.

PRINCIPAL DISCLOSURE

46. The RFA at Section Four A.3.d. requires the disclosure of the applicant's and developer's principals, as follows:

The Principals Disclosure form must identify the Principals of the Applicant and Developer(s) as of the Application Deadline and should include, for each applicable organizational structure, only the types of Principals required by subsection 67-48.002(93), F.A.C. A Principals Disclosure Form should not include, for any organizational structure, any type of entity that is not specifically included in the Rule definition of Principals.

47. The term “principal” is defined by rule 67-48.002(93)(b), Florida Administrative Code, with respect to an applicant, and provides as follows when the applicant entity is a limited liability company:

3. A limited liability company, at the first principal disclosure level, any manager or member of the Applicant limited liability company, and, unless otherwise excluded at subsection 67-48.002(9), F.A.C., with respect to any manager or member of the Applicant limited liability company, at the second principal disclosure level...

CHALLENGED APPLICATIONS

48. The defects in each challenged application are presented below, delineated first by applicant name and then each issue applicable to that particular Applicant.

SUNSET LAKE

Proximity Points

49. In an attempt to maximize proximity points in its Application, Sunset Lake identified a Public Bus Transfer Stop as its Transit Service, and a grocery store, medical facility, and public school as its Community Services. If accurate, the point value for these combined services would be 11 proximity points. Sunset Lake identified Jewett School of the Arts as its qualifying Public School. (Sunset Lake application at p. 6). Sunset Lake’s Application suggests that the claimed Community Service is .40 miles from the Development Location Point. Had that information been correct, Sunset Lake would have been entitled to 4.0 proximity points for this claimed Community Service. (RFA at p. 92). However, the claimed Public School does not qualify for any proximity points.

50. The RFA defines a Public School as:

A public elementary, middle, junior and/or high school, where the principal admission criterion is the geographic proximity to the school. This may include a charter school, if the charter school is open to appropriately aged children in the radius area who apply, without additional requirements for admissions such as passing an entrance exam or audition, payment of fees or tuition, or demographic diversity considerations.

(RFA at p. 82).

51. Polk County has designated the Jewett School of the Arts (“Jewett School”) as a magnet school. Contrary to RFA requirements, the principal admission criterion to the Jewett School is not geographic proximity to the school. Once the proximity requirement is satisfied the RFA condition for the school to qualify for eligibility is that it must be “open to appropriately aged children in the radius area who apply, *without additional requirements for admissions.*” According to the Polk County School Board, admission criterion for the Jewett School includes a demographic review process and a “[a] computer-generated lottery will be conducted to select a student from the appropriate applicant pool.”

52. In light of the foregoing, Jewett School of the Arts does not qualify as a Public School and Sunset Lake is not entitled to the 4 proximity points claimed in its application for a Public School. As a result of this reduction, Sunset Lake has only 7 proximity points and does not qualify for the Proximity Funding Preference.

Zoning

53. In an attempt to demonstrate zoning for the Development site, Sunset Lake included at attachment 10 to its application Florida Housing’s Zoning Form. The Zoning Form provides that “[t]he zoning designation for the above referenced Development location is R-3 Residential Multifamily.” The R-3 zoning designation allows for up to 12 du/acre.

54. Sunset Lake’s site control document suggests that the Development site is “approximately 14.46 acres.” Similarly the “site plan” submitted by Sunset Lake to the city of Winter Haven in support of its request to have the Zoning Form completed states that the Development site is 14 acres. However, a large portion of that acreage is submerged land. While the Winter Haven Land Development Code allows densities within a wetland zone to be transferred to the uplands, there is no such allowance for submerged lands. Had the “site plan” been limited to the actual wetland and upland acreage, it does not appear that the Development site would have had sufficient density for the proposed 96 units.

COLONNADE PARK

Proximity Points

55. Colonnade Park identified a grocery store, medical facility, and public school as its Community Services in an attempt to maximize proximity points in its application. If accurate, the point value for these combined services is 9 proximity points. Colonnade Park identified Quick Care Med as its qualifying Medical Facility. (Colonnade Park Application at p. 6). Colonnade Park’s Application suggests that the claimed Community Service is 0.24 miles from the Development Location Point. Colonnade Park would have been entitled to 4.0 proximity points for this claimed Community Service had met the RFA definition of what is required to meet the definition of a “Medical Facility.” (RFA at p. 92). However, the claimed Medical Facility does not qualify for any proximity points.

56. The RFA defines a Medical Facility as:

A medically licensed facility that (i) employs or has under contractual obligation at least one physician licensed under Chapter 458 or 459, F.S. available to treat patients by walk-in or by appointment; and (ii) provides general medical treatment to any physically sick or injured person. Facilities that specialize in treating specific classes of medical conditions or specific classes of patients, including emergency rooms affiliated with specialty or

Class II hospitals and clinics affiliated with specialty or Class II hospitals, will not be accepted.

(RFA at p. 80).

57. As of the Application Deadline, the Quick Care Med facility did not employ at least one physician who was available to treat patients by walk-in or by appointment contrary to RFA requirements.

58. Therefore, Quick Care Med does not qualify as a Medical Facility and Colonnade Park is not entitled to the 4.0 Proximity Points claimed in its application for a Medical Facility. As a result of this reduction, Colonnade Park has only 5 proximity points and does not meet RFA mandated minimum eligibility requirements and further, does not qualify for the Proximity Funding Preference.

Zoning

59. In an attempt to demonstrate zoning for the Development site, Colonnade Park included at attachment 10 to its application Florida Housing's Zoning Form. The Zoning Form provides that "[t]he zoning designation for the above referenced Development location is R-4."

60. Colonnade Park's proposed Development site consists of two parcels. (See Colonnade Park application at pp. 21-48). A local government official confirmed that the two parcels have different zoning designations. The first parcel is zoned R-4 and the second parcel is zoned R-2. The R-2 zoning designation for the second parcel is not disclosed on the Zoning Form submitted by the applicant.

61. The RFA requires an applicant to demonstrate appropriate zoning "for the **entire** proposed Development site" as of Application Deadline. (RFA at p. 34). Contrary to RFA requirements, Colonnade Park's application fails to disclose the zoning designations for the entire proposed Development site. Rather, the disclosed zoning is improperly limited to one

parcel. The provided information is inaccurate and incomplete. Accordingly, Colonnade Park's application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

62. Additionally, the Zoning Form attached to Colonnade Park's application is incorrect because there are additional land use regulation hearings or approvals required to obtain the density required to develop the Colonnade Park Development. The Colonnade Park Development site is 8.91 acres (the total acreage for both parcels). The Colonnade Park Development is connected to municipal sewer or municipal water. Under 2.6.M of the City of Inverness Land Development Code, the maximum number of units allowed for multi-family developments connected to either municipal sewer or municipal water is ten (10) units per acre. Thus, the maximum number of units allowed under applicable zoning regulations is 89.3. However, the Colonnade Park Application proposes to build 106 garden style apartments. (Colonnade Park Application at p. 7)). Therefore, additional land use regulation hearings or approvals are required to obtain the density required for the Colonnade Park Development.

63. Additionally, the Colonnade Park Development cannot achieve the permitted density for the Development because a portion of the Development site cannot be used in the calculation of available land since a portion of the parcel is on wetlands.

ARBOURS AT HESTER LAKE

Zoning

64. Arbours at Hester Lake's proposed Development site consists of three parcels. (Arbours at Hester Lake Application at pp. 19-42). The first parcel is .29 acre and is zoned CG;

the second parcel is .93 acre and is zoned RIO; and the third parcel is 7 acres and is zoned PD-H2.

65. Arbours at Hester Lake included at attachment 10 to its application Florida Housing's Zoning Form as an attempt to demonstrate zoning for the Development site. The Zoning Form provides that "[t]he zoning designation for the above referenced Development location is RIO." The Zoning Form is incomplete, because only the .93-acre parcel is RIO and represents approximately 12% of the entire Development. The zoning designations for the other two parcels are (a.) different than RIO and (b.) not disclosed on the Zoning Form.

66. The RFA requires an Applicant to demonstrate appropriate zoning as of Application Deadline "for the **entire** proposed Development site." (RFA p. 34). Contrary to RFA requirements, Arbours at Hester Lake's Application fails to disclose the zoning designations for the entire proposed Development site. Rather, the disclosed zoning is improperly limited to one parcel.

67. Dade City confirms in a letter dated May 14, 2018, that the Zoning Form is incorrect and incomplete in that it fails to disclose the zoning designations for two parcels. Dade City confirmed again that the Zoning Form was incomplete in a letter dated May 17, 2018.

68. The Zoning Form is also incomplete and incorrect, because an 80-unit Garden Apartments complex cannot be constructed on the .93-acre parcel which is zoned RIO, the only parcel which discloses a zoning designation.

69. The two parcels that were not disclosed in the Zoning Form comprise approximately 88% of the Development, but do not support a finding that the parcels would meet the eligibility requirements. The .29 acre is zoned CG which is too small to construct an 80-unit Garden Apartments complex and the largest parcel is not zoned properly for the type of development requested by the applicant.

70. The City's zoning designation PD-H2 does not allow for Garden Apartments development on the largest parcel zoned PD-H2. Dade City confirms in a letter dated May 14, 2018, that the largest parcel is zoned PD-H2. Dade City further states that the "PD-H2 zoning designation allows for Single-Family, Townhouse Units and Professional Offices." *Id.* However, Arbours at Hester Lake selected Garden Apartments as the Development Type in its application, rather than Townhouses.

71. The Zoning Form further requires that "there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein." The parcel zoned PD-H2 must be re-zoned for Garden Apartments, which would require additional land use regulation hearings and approvals. Dade City's letter dated May 17, 2018, states that PD-H2 allows "multifamily development." The only type of multifamily development allowed by PD-H2 is townhouses and not garden apartments. The Dade City Land Development Code defines "Townhouses" as a type of multi-family dwelling with "dwelling units arranged on a side-by-side rather than stacked configuration" and each "individual townhouse dwelling unit has its own front and rear access to the outside." The garden apartments proposed by Arbours at Hester Lake are stacked and many do not have front and rear access to the outside. Therefore, the garden apartments cannot fit within the definition of townhouses and must receive additional re-zoning hearings and approvals.

72. For the foregoing reasons, Arbours at Hester Lake's application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

Principal Disclosure

73. Arbours at Hester Lake's Principal Disclosure Form only identifies Steve Lowitz and Hester Lake GP, LLC as Members of Arbours at Hester Lake, LLC. However, according to the records at the Secretary of State, John Moore was also a Member of Arbours at Hester Lake,

LLC on November 28, 2017. As such, Arbours at Hester Lake failed to properly identify all of its Principals.

PALMETTO HIDEAWAY

Zoning

74. In its attempt to demonstrate zoning for the Development site, Palmetto Hideaway included at attachment 10 to its application Florida Housing’s Zoning Form. The Zoning Form provides that “[t]he zoning designation for the above referenced Development location is MF-14 District.” As stated earlier, the Zoning Form states, “there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein.” The form indicating that the Development qualified within the existing zoning was in error when it was executed by a local official from the City of New Port Richey.

75. In its application, Palmetto Hideaway selected Mid-Rise, 4-stories as its Development Type. Section 7.05.02, 3.b.(1) of the City of New Port Richey’s Land Development Code states that “no building shall be erected in an MF-14 zoning district which is greater than three (3) stories in height.” Although a variance may be obtained, any variance requires approval from the City Council.

76. On April 24, 2018, the City of New Port Richey indicated that the certificate was executed in error and withdrew its certification of the Zoning Form. In light of the foregoing, Palmetto Hideaway’s Application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

OAKS AT CREEKSIDE

Site Plan Approval

77. In an attempt to satisfy Site Plan requirements, Oaks at Creekside included at attachment 9 to its application Florida Housing's Site Plan Form, which certified the following information:

The above-referenced Development is (a) new construction, or (b) rehabilitation with new construction, or (c) rehabilitation, without new construction, that requires additional site plan approval or similar process, and (i) this jurisdiction provides either preliminary site plan approval or conceptual site plan approval which has been issued, or (ii) site plan approval is required for the new construction work and/or the rehabilitation work; however, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the applicable zoning designation, has been reviewed.

The necessary approval and/or review was performed on or before the submission deadline for the above referenced FHFC Request for Proposal/Application by the appropriate City/County legally authorized body; e.g. council, commission, board, department, division, etc., responsible for such process.

78. A preliminary site plan had been issued earlier for the proposed Development. However, the site plan approval had expired on September 6, 2010, well before the Application Deadline. To construct its proposed Development, Oaks at Creekside would have to submit a general development plan or preliminary site plan and obtain approval from the Manatee County Board of County Commissioners for a specific use. As such, the necessary approval or review was not performed on or before the submission deadline as required by the RFA.

79. In light of the foregoing defect in the Site Plan Form, Oaks at Creekside's Application fails to satisfy eligibility requirements in that the Zoning Form is invalid and its application should have been scored as ineligible for funding.

Zoning

80. The Zoning Form includes the following certification: “To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein.” As previously alleged, the site plan approval for the proposed Development expired prior to the Application Deadline. In order to construct its Development, Oaks at Creekside will need to reapply and obtain approval of the preliminary site plan from the Manatee County Board of County Commissioners.

81. Manatee County, in a letter dated May 15, 2018, from the Building and Development Services, Permitting Section of Manatee County, stated that “[n]o development is allowed on this property without a valid site plan.” Further, the letter goes on to state that:

To develop on this parcel for a specific use, an application for a General Development Plan (GDP) or Preliminary Site Plan (PSP) is required to be submitted and approved by the Board of County Commissioner (BOCC) for a specified use. After a PSP or GDP is approved by the BOCC, a final site plan, construction plans, building permits, etc. would also be required.

82. As such, the certification in the Zoning Form is inaccurate and the application fails to meet minimum zoning requirements and further approvals are required.

83. In light of the foregoing defect in the Zoning Form, Oaks at Creekside’s Application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

Proximity Points

84. In an attempt to maximize proximity points in its Application, Oaks at Creekside identified a Public Bus Stop as its Transit Service, and a grocery store, medical facility, and public school as its Community Services. Oaks at Creekside identified Manatee Charter School as its qualifying Public School. (Oaks at Creekside application at p. 6). Oaks at Creekside’s Application suggests that the claimed Community Service is .89 miles from the Development Location Point. Had that information been correct, Sunset Lake would have been entitled to 3.0

proximity points for this claimed Community Service. (RFA at p. 92). However, the claimed Public School does not qualify for any proximity points.

85. As its name suggests, the Manatee Charter School is a charter school. Contrary to RFA requirements, the principal admission criterion to the Manatee Charter School is not geographic proximity to the school. In determining eligibility for admission Manatee Charter School considers various preference categories, including currently enrolled siblings and employee children.

86. In light of the foregoing, Manatee Charter School does not qualify as a Public School and Oaks at Creekside is not entitled to the 3proximity points claimed in its application for a Public School. As a result of this reduction, Oaks at Creekside does not qualify for the Proximity Funding Preference.

HARPER'S POINTE

Proximity Points

87. In an attempt to maximize proximity points in its application, Harper's Pointe identified a grocery store, medical facility, and pharmacy as its Community Services. If accurate, the point value for these combined services is 9 proximity points. Harper's Pointe identified Florida Department of Health as its qualifying Medical Facility. (Harper's Pointe Application at p. 6). The application suggests that the claimed Medical Facility is .24 miles from the Development's Location Point. Harper's Pointe would have been entitled to 4 proximity points for this claimed Community Service had the identified Medical Facility met the definition to qualify for awarding the proximity points. (RFA at p. 92). However, the claimed Medical Facility does not meet the definition and therefore the application does not qualify for any proximity points.

88. The RFA defines a Medical Facility as:

A medically licensed facility that (i) employs or has under contractual obligation at least one physician licensed under Chapter 458 or 459, F.S. available to treat patients by walk-in or by appointment; and (ii) provides general medical treatment to any physically sick or injured person. Facilities that specialize in treating specific classes of medical conditions or specific classes of patients, including emergency rooms affiliated with specialty or Class II hospitals and clinics affiliated with specialty or Class II hospitals, will not be accepted.

(RFA at p. 80). Contrary to RFA requirements, the claimed Medical Facility does not accept any new patients as of the Application Deadline.

89. In light of the foregoing, the claimed Florida Department of Health does not qualify as a Medical Facility and Harper's Pointe is not entitled to the 4 Proximity Points claimed in its application for a Medical Facility. As a result of this proximity point reduction, Harper's Pointe does not meet RFA mandated minimum eligibility requirements and further, does not qualify for the Proximity Funding Preference.

Site Control

90. In an attempt to demonstrate Site Control, Harper's Pointe included at Attachment 8 a Purchase and Sale Agreement ("Agreement") entered into by and between Mister Paper Inc. ("Seller") and Peach Way Holdings, LLC, ("Buyer"), that was later assigned to Harper's Pointe. (Harper's Point Application at pp. 17-32). The proposed Development site is reflected in Exhibit A to the Agreement, which is a metes and bounds legal description.

91. Title records reveal that the seller does not have marketable title to and site control over all of the property described in the metes and bounds description in Exhibit A to the Agreement. Rather, a number of adjoining lot owners have ownership interests in a portion of the real property described in Exhibit A to the Agreement. None of those adjoining owners are parties to the Agreement. As such, Harper's Pointe did not have Site Control for its proposed

Development as of the Application Deadline, and its application should have been scored as ineligible for funding.

Scattered Site

92. Harper's Pointe's Development site is comprised of lots within a platted subdivision. The legal description of the Development site includes not only the subdivision lots, but also a platted street.

93. Parties not related to Harper's Pointe have legal rights in the platted street. The legal rights of the non-related parties derive from their status as owners of lots within a recorded plat, as well as a series of deeds in the chain of title of adjacent land which grant the following rights over lands within the Harper's Pointe Development site: "the right of ingress and egress over the streets as shown on the plat recorded in Official Records Book 134, page 378, of the Public Records of Alachua County, Florida."

94. In addition, there are lots within the Harper's Pointe's proposed Development site which are not contiguous and, pursuant to the recorded plat, are bisected by a street.

95. A Scattered Sites Development is defined in the RFA as:

[a] Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a "Scattered Site"). For purposes of this definition "contiguous" means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement, provided the easement is not a roadway or street. All of the Scattered Sites must be located in the same county.

Rule 67-48,002(105) Fla. Admin. Code.

96. Given that some of the lots within the Harper's Pointe Development are not contiguous and bisected by a platted street, the Development is a Scattered Sites Development. The RFA specifically requires applicants to disclose whether a Development site consists of

Scattered Sites, and such disclosure is a mandatory Eligibility Item. (RFA at pp. 19, 60). Harper's Pointe failed to disclose this required information and its application should have been scored as ineligible for funding.

ISSUES OF MATERIAL FACT AND LAW

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

- a) Whether the requirements for eligibility found in the provisions of the RFA have been followed with respect to the proposed allocation of tax credits to Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe under the RFA or correct eligibility determinations have been made based on the provisions of the RFA;
- b) Whether Florida Housing's proposed allocation of the tax credits to Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe are consistent with the RFA, the requirements of a competitive procurement process and Florida Housing's rules and governing statutes;
- c) Whether the criteria for determining eligibility, ranking and evaluation of proposals in the RFA were properly followed;
- d) Whether the preliminarily rankings properly determine the eligibility of potential applicants for funding in accordance with the standards and provisions of the RFA;
- e) Whether the rankings and proposed awards are consistent with the RFA and the disclosed basis or grounds upon which tax credits are to be allocated;
- f) Whether the rankings and proposed awards are based on a correct determination of the eligibility of the applicants or correct scoring and ranking criteria in the RFA;
- g) Whether the rankings and proposed awards are consistent with fair and open competition for the allocation of tax credits;
- h) Whether the rankings and proposed awards are based upon clearly erroneous or capricious eligibility determinations, scoring or rankings;
- i) Whether the proposed awards improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents;

j) Whether Sunset Lake's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points, Proximity Funding Preference and Zoning;

k) Whether Colonnade Park's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points, Proximity Funding Preference and Zoning;

l) Whether Arbours at Hester Lake's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Zoning;

m) Whether Palmetto Hideaway's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Zoning and Principal Disclosure;

n) Whether Oaks at Creekside's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Site Plan Approval, Zoning, Proximity Points and Proximity Funding Preference;

o) Whether Harper's Pointe's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points, Proximity Funding Preference, Site Control and Zoning;

p) Whether the criteria and procedures for the scoring, ranking and eligibility determination of Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications are arbitrary, capricious, contrary to competition, contrary to the RFA requirements, or are contrary to prior Florida Housing interpretations of the applicable statutes and administrative rules;

q) Whether the RFA's criteria were properly followed in determining eligibility, ranking and evaluation of the Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications;

r) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications eligibility determination and ranking is consistent with fair and open competition for the allocation of tax credits;

s) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications eligibility determination and ranking are based on clearly erroneous or capricious eligibility determination, scoring or ranking;

t) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications eligibility determination and ranking improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents; and,

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

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

STATEMENT OF ULTIMATE FACTS AND LAW

99. As a matter of ultimate fact and law, Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe failed to complete their applications in accordance with the competitive solicitation; their applications were not responsive to and failed to comply with relevant portions of the RFA 2017-111; and, therefore, their applications should not have been considered for funding or scored as being an eligible application.

100. As a matter of ultimate fact and law Florida Housing improperly determined that Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications were completed in accordance with the competitive solicitation; were responsive to all applicable provisions of the RFA 2017-111 and, and as a result were eligible for funding under RFA 2017-111.

101. As a matter of ultimate fact and law Florida Housing improperly scored Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications as having satisfied all mandatory eligibility requirements as of the Application Deadline.

102. As a matter of ultimate fact and law Florida Housing improperly scored Sunset Lake, Colonnade Park and Harper's Pointe Applications as having satisfied all Proximity Funding Preference Point requirements as of the Application Deadline.

103. As a matter of ultimate fact and law, Florida Housing improperly determined that Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe were eligible for funding.

104. As a matter of ultimate fact and law, Florida Housing improperly determined that Sunset Lake and Oaks at Creekside were entitled to be awarded Proximity Points for their claimed Public Schools and were not qualify for Proximity Funding Preference.

105. As a matter of ultimate fact and law, Florida Housing improperly determined that Colonnade Park was entitled to be awarded 4 Proximity Points for its claimed Medical Facility and was not eligible for funding.

106. As a matter of ultimate fact and law, Florida Housing improperly determined that Harper's Pointe was entitled to be awarded 4 Proximity Points for its claimed Medical Facility and was not eligible for funding.

107. As a matter of ultimate fact and law, but for these errors in Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside, and Harper's Pointe Applications, Petitioners would have been entitled to an allocation of its requested tax credit funding.³

STATUTES AND RULES

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

³ As previously indicated, Petitioners do not need to displace all of the challenged applicants in order to be funded.

WHEREFORE, Petitioners request that:

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

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

- 1) HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP failed to complete their applications in accordance with the competitive solicitation; that their applications were non-responsive to and failed to comply with RFA 2017-111; and that their applications should not have been scored as having satisfied mandatory eligibility, Proximity Funding Preference or Total Point requirements as prescribed by RFA 2017-111;
- 2) Florida Housing improperly determined that the applications submitted by HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP were completed in accordance with the competitive solicitation;
- 3) Florida Housing improperly determined that the applications submitted by HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP were responsive to RFA 2017-111.
- 4) Florida Housing improperly determined that the HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP Applications were eligible for funding under RFA 2017-111 or satisfied Proximity Funding Preference requirements;

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

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

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

Respectfully submitted this 11th day of June, 2018.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via electronic mail on the following persons this 11th day of June, 2018:

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