

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
July 24, 2009
Action Items



COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

Action

I. COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

A. Authorize Staff to De-obligate CWHIP funds The Foundation for Osceola Education, Inc. for The Preserve / CWHIP06-28

Applicant Name (“Applicant”):	The Foundation for Osceola Education, Inc.
Development Name (“Development”):	The Preserve
Developer/Principal (“Developer”):	Jonathan Wolf
Number of Units: 120 – Multifamily	Location: Osceola County, Florida
Type: CWHIP Loan	Allocated Amount: \$5,000,000

1. Background

- a) On April 27, 2007, the Board approved the final rankings for the 2006 Community Workforce Housing Innovation Pilot (CWHIP) Program / RFP2006-05.
- b) On April 30, 2007, Florida Housing issued an invitation to the Developer to enter into credit underwriting.
- c) The proposed site for the Preserve required an amendment to an existing commercial PUD to allow 120 multi-family units to support workforce housing. Evidence was provided showing that the zoning change was supported by the City of St. Cloud, the local government having zoning jurisdiction, by resolution dated December 14, 2006.
- d) After the project was selected for funding, opposition led by the Osceola County Landlords Association persuaded the St. Cloud City Commission to deny the zoning change necessary for the project to be built on the site included in its response to RFP 2006-05.
- e) On April 14, 2008, the Developer requested Board approval for a site change, utilizing a comparable site in Osceola County that was already properly zoned.
- f) The site change was approved by the Board on May 2, 2008.
- g) On May 6, 2008, pursuant to Rule Chapter 67-58.020(6), the Developer requested a 10-month extension, advising that additional due diligence was necessary because of the site change. According to the rule, the “Applicant has 14 months from the date of the acceptance of the letter of invitation to complete credit underwriting and receive Board approval unless an extension of up to 10 months is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and detail the timeframe to close the loan. The written request will then be submitted to the Corporation’s Board for consideration. The Corporation shall charge an extension fee of 1 percent of the CWHIP loan amount if the Board approves the extension request.”
- h) On July 8, 2008, the Developer requested a waiver of the 1% extension fee.

COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

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- i) At its August 8, 2008 meeting, the Board approved the request for a 10-month extension; however, the waiver of the 1% extension fee was denied. The Developer was given until October 11, 2008 to submit the 1% extension fee.
- j) On October 13, 2008, the Developer submitted a renewed request for waiver of the 1% extension fee.
- k) On December 12, 2008, the Board denied the request for the waiver of the 1% extension fee.
- l) On January 8, 2009, the 1% extension fee of \$50,000 was received.

2. **Present Situation**

- a) On April 24, 2009, the Developer was advised that the project was not among those being deobligated under the provisions of paragraph 67ER09-3(5)(a) F.A.C.
- b) However, pursuant to the provisions of Emergency Rule 67ER09-4, F.A.C., the Applicant must receive Board approval of a final credit underwriting report within 90 Calendar Days of the notice.
- c) Both members of the Public Private Partnership for The Preserve, The Foundation for Osceola Education and the School Board of Osceola County have decided to no longer participate in the project. These two entities were the only parties to the Public Private Partnership agreement, a threshold item in the CWHIP RFP. Without their continued involvement the project is no longer eligible for CWHIP funds.
- d) On July 9, 2009, the credit underwriter advised that they were unable to make a loan recommendation due to the fact that the two principal parties to the Public-Private Partnership have withdrawn. The letter is attached as [Exhibit A](#).

3. **Recommendation**

- a) Staff recommends that the Board approve the deobligation of \$5,000,000 in CWHIP funds.
- b) Pursuant to Emergency Rule 67ER09-4, F.A.C., the \$5,000,000 in CWHIP funds will be offered to the highest ranking unfunded eligible 2006 CWHIP Development (Homes of West Augustine / CWHIP06-18).

LEGAL

Action

II. LEGAL

A. In Re: MDG Capital Corporation – FHFC Case No. 2009-011RC

Development Name: (“Development”):	Fountain Lakes Residential Cooperative
Developer/Principal: (“Developer”):	MDG Capital Corporation
Number of Units: 147	Location: Collier County
Type: Single Family Ownership	Set Aside: 80% @ or below 60% AMI 20% @ or below 40% AMI
Demographics: Essential Service Workers	CWHIP: \$5,000,000

1. Background

- a) MDG Capital Corporation (“MDG”) applied for funding, under Application No. 2008-032W, during the 2007 Community Workforce Housing Innovation Pilot (“CWHIP”) program seeking \$5,000,000 to develop 147 home ownership cooperative units in Collier County. MDG was among the thirteen 2007 CWHIP applicants selected for funding. On November 12, 2008, Florida Housing issued a preliminary funding commitment to MDG.
- b) In a special session on the 2008-2009 budget held in January, 2009, the Florida Legislature made budget cuts, swept trust fund balances, transferred certain funds among programs, and most significantly, commanded Florida Housing to pay \$ 190,000,000 on “unexpended funds,” to the state treasury not later than June 1, 2009. Ch. 2009-1, Laws. of Fla. Those funds have been paid. The Legislature gave almost complete discretion to Florida Housing to determine how to apportion the retrieval of funds to make up the \$ 190,000,000, and authorized it to do by adopting emergency rules pursuant to s. 120.54(4), Fla. Stat. On March 13, 2009, after holding public hearing and receiving comments (neither of which is required to adopt an emergency rule) Florida Housing adopted R. 67ER09-3, Fla. Admin. Code, which established the order of deobligation of funds to be used to make up the \$ 190,000,000 payment to the treasury. On April 24, 2009, acting in compliance with R. 67ER09-3, Fla. Admin. Code, the Board accepted staff recommendation to deobligate funding for a number of projects in several programs. MDG was among the eleven 2007 CWHIP projects whose funds were deobligated pursuant to the emergency rule.

2. Present Situation

- a) On May 18, 2009, MDG filed a “Petition for Administrative Determination of Invalidity of the Rule” (the “Petition”), with Florida Housing. A copy is attached as [Exhibit “A.”](#) In the Petition, MDG seeks a determination that Rule 67ER09-3 is invalid, alleging, in pertinent part, that the rule “ [I]s arbitrary and capricious and accordingly an invalid exercise of legislative authority. Additionally, the Rule is invalid because it contravenes the specific provisions of the law implemented”

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Action

- b) On June 9, 2009, Florida Housing filed its “Motion to Dismiss,” seeking to dismiss MDG’s Petition on grounds that the Corporation lacks subject matter jurisdiction to consider the Petition. A copy of the Motion to Dismiss is attached as [Exhibit “B.”](#)
- c) As noted in the Motion to Dismiss, sec. 120.56(c), Fla. Stat., requires that challenges to the validity of rules must be filed with the Division of Administrative Hearings, “which shall, immediately upon filing, forward copies to the agency whose rule is challenged . . .” The Corporation has no jurisdiction to hear such a case; the power to issue a final order is vested in the administrative law judge in sec. 120.56(1)(e), Fla. Stat. Jurisdiction is the primary element of any legal action; without jurisdiction, a tribunal cannot proceed on any aspect of a matter.
- d) On June 24, 2009, counsel for MDG filed its “Motion for Leave to Amend Petition for Administrative Proceeding.” MDG’s Motion for Leave to Amend recites that the Petition was intended to challenge Florida Housing’s actions, and “inadvertently” includes the rule challenge. A copy of the Motion for Leave to Amend is attached as [Exhibit “C.”](#) On July 2, 2009, Florida Housing filed its “Response to Petitioner’s Motion for Leave to Amend Petition for Administrative Proceeding” which is attached as [Exhibit “D”](#). The Response essentially reiterates Florida Housing’s position that the Corporation has no jurisdiction to act in this case, and for that reason the Corporation cannot grant MDG’s Motion for Leave to Amend.

3. **Recommendation**

Staff recommends that the Board enter an order denying “Motion for Leave to Amend the Petition for Administrative Determination of Invalidity of the Rule,” and dismissing the “Petition for Administrative Determination of Invalidity of the Rule,” as the Corporation has no jurisdiction to hear this case.

LEGAL

Action

B. In Re: Bonnet Shores, LLLP – FHFC Case No. 2008-100UC

Development Name: (“Development”):	Bonnet Shores Apartments
Developer/Principal: (“Developer”):	Bonnet Shores, LLLP
Number of Units:	Location: Polk County
Type: Duplex/Quadrplex	Set Aside: 100% @ or below 60% AMI %
Demographics: Family	Allocated Amount: N/A
MMRB: N/A	Housing Credits: \$ 1,393,845

1. Background

Petitioner (“Bonnet Shores”) applied for funding, under Application No. 2008-231C, during the 2008 Universal Application Cycle, seeking an allocation of Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about September 26, 2008. Bonnet Shores was not funded; another project, Madison Glen, Application No. 2008-169C was funded instead, based in part on five points awarded for Madison Glen’s Local Government Verification of Contribution, which stated that Madison Glen had, on or before the April 7, 2008 Application Deadline, a commitment from Volusia County for a \$150,000 loan. Petitioner timely filed a Petition for an Informal Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s final ranking of its 2008 Universal Cycle.

2. Present Situation

Evidence gathered in preparation for hearing revealed that Madison Glen did not have a firm commitment for the loan on or before the Application Deadline. On March, 14, 2008, Madison Glen was ranked eighth of eight projects selected for funding by Volusia County, which had funding for five projects at \$150,000 each. Madison Glen was on a wait list for funding until three other projects withdrew their applications in mid-June, 2008, at which time Madison Glen was elevated into the funding range. To resolve the ongoing litigation, Florida Housing staff has entered into a Settlement Stipulation with Bonnet Shores. A copy of the Amended Petition is attached as [Exhibit E](#); a copy of the Settlement Stipulation is attached as [Exhibit F](#).

3. Recommendation

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law, and Recommended disposition of the Settlement Stipulation as its own, and issue a Final Order consistent with its adoption of the Settlement Stipulation.

LEGAL

Action

C. **In Re: Vestcor Fund XII, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2009-118GA**

Development Name: (“Development”):	Malabar Cove – Phase I 2007-197BS
Developer/Principal: (“Developer”):	Atlantic Housing Partners, LLLP
Number of Units: 76	Location: Brevard County
Type: Garden Apartments	Set Aside: 60% @ 60% AMI 10% \$ 33% AMI
Demographics: Family	SAIL: \$4,000,000
MMRB: \$9,800,000	4% LIHTC: \$532,716

1. **Background**

- a) During the 2007 Universal Cycle, Malabar Cove Phase I, Application No. 2007-197BS, was awarded SAIL and MMRB funding (with accompanying non-competitive tax credits) to construct Malabar Cove Apartments, Phase I (Malabar Cove). Pursuant to Rule 67-48.0072, Fla. Admin. Code, Malabar Cove proceeded into credit underwriting, where it was noted that the construction of Malabar Cove may have a negative effect on some nearby developments, including Madalyn Landing, a development previously funded by Florida Housing and operated by Vestcor Fund XII, Ltd. (“Madalyn Landing”). Malabar Cove successfully completed credit underwriting, and the report thereof was presented to the Board for approval on December 12, 2008. Over objections raised by Madalyn Landing, the Board unanimously approved the Malabar credit underwriting report.
- b) Madalyn Landing subsequently filed a Petition challenging the Board’s action in approving the Malabar Cove credit underwriting report. As the allegations involved disputes of material fact, Florida Housing forwarded the Petition to the Division of Administrative Hearings for a formal hearing pursuant to Section 120.57(1), Fla. Stat. Malabar Cove intervened in the case on behalf of Respondent, Florida Housing, to defend the Board’s decision.
- c) A final hearing in this matter was held on March 26 and 27, 2009, before Administrative Law Judge William F. Quattlebaum. On June 2, 2009, Judge Quattlebaum issued a Recommended Order in favor of Florida Housing and Malabar Cove, recommending that this Board enter a Final Order dismissing Madalyn Landing’s Petition. A copy of this Recommended Order is attached hereto as [Exhibit G](#).

2. **Present Situation**

On June 17, 2009, Petitioner Madalyn Landing filed Exceptions to the Recommended Order, attached hereto as [Exhibit H](#). Intervenor Malabar Cove and Respondent Florida Housing each filed timely responses to Madalyn Landing’s exceptions, attached hereto as [Exhibits I](#) and [J](#), respectively.

LEGAL

Action Supplement

I. LEGAL

A. In Re: Signature Authority

1. Background

During the ordinary course of business, situations arise wherein an authorized signature is needed by the Corporation on routine financial documents, and to effect bond transactions. The Board has previously authorized the Executive Director to delegate signature authority to corporation senior managers by a series of resolutions. Since 2003, delegation to the Comptroller has been carried out separately under authority of Resolution 2003-078.

2. Present Situation

Draft resolutions reflect changes in the titles from “Deputy Development Officers,” to program “Directors,” for the senior managers who run the Multifamily Development, Multifamily Bonds, and Homeownership programs. Also, draft Resolutions 2009-05 ([Exhibit A](#)) and 2009-06 ([Exhibit B](#)) include delegation to the Comptroller along with delegation to the other senior managers.

3. Recommendation

That the Board adopt Resolution 2009-05 and 2009-06 authorizing the Executive Director to delegate signature authority to senior staff members as described in each Resolution.

LEGAL

Action Supplement

B. In Re: Fountain Terrace Apartments Limited Partnership – FHFC Case No. 2008-102UC

Development Name: (“Development”):	Fountain Terrace
Developer/Principal: (“Developer”):	JR Beneficial Development 8 LLC
Number of Units: 72	Location: Highlands County
Type: Garden Apartments	Set Aside: 80% @ or below 60% AMI 20% @ or below 40% AMI
Demographics: Farmworker/Commercial Fishing Worker	SAIL: \$3,378,004
MMRB: n/a	Housing Credits: \$1,070,000

1. Background

Fountain Terrace Apartments Limited Partnership (“Petitioner” or “Fountain Terrace”) applied for funding, under Application No. 2008-018CS, during the 2008 Universal Application Cycle, seeking a State Apartment Incentive Loan (“SAIL”) loan and Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about September 26, 2008. Petitioner was not funded; another applicant, SP Winter Haven Gardens LP, Application No. 2008-109S was funded instead, as there was insufficient SAIL funds for both applicants. Petitioner timely filed a Petition for an Informal Administrative Hearing under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s final ranking of its 2008 Universal Cycle.

2. Present Situation

- a) An informal hearing was conducted on February 16, 2009, before Florida Housing’s appointed Hearing Officer, Diane D. Tremor. The parties filed Proposed Recommended Orders. On March 20, 2009, Hearing Officer Tremor filed a Recommended Order, recommending that Florida Housing adopt a Final Order reversing its Final Order in *SP Winter Haven Gardens LP v. Florida Housing*, Case No. 2008-057UC, and to fund Petitioner’s application. The Recommended Order does not consider the Winter Haven Gardens Final Order to be binding precedent, as it was the result of a Joint Proposed Recommended Order filed in accord with an agreement between that petitioner and Florida Housing. A copy of the Recommended Order is attached as [Exhibit C](#).

- b) The legal posture of this case is unique to Florida Housing’s two-phase process for challenging Universal Cycle scoring and ranking decisions. It is only in this process, which provides that an Applicant may challenge only its own score in the first round, and may challenge any other Application in the second round, that a party may be denied an opportunity to intervene in a case where a legal issue may later impact that Applicant. The two-phase process exists so that all applicants have a point of entry into the administrative process to challenge Florida Housing’s scoring decisions without delaying funding awards to successful applicants. The alternative is to have a single round of challenges, with funding held until all proceedings are resolved.

LEGAL

Action Supplement

- c) Historically, Florida Housing has adopted the position that it would accept the outcome of the Hearing Officer's Recommended Order, regardless whether Florida Housing agrees or disagrees with the outcome, so long as the issue could be resolved in the following year's Universal Cycle rule. In the 2009 Universal Cycle Application Instructions, the issue of local government commitment to provide bond financing will be demonstrated by a form to be provided as an exhibit to the Application. This will eliminate issues concerning interpretation of the wording of the local government commitment. As this particular issue will not recur, accepting the Hearing Officer's recommendation thus will not create a precedent.
- d) To resolve the ongoing litigation, Florida Housing staff has entered into a Settlement Agreement with Fountain Terrace. A copy of the Settlement Agreement is attached as [Exhibit D](#).

3. Recommendation

Staff recommends that the Board adopt the Settlement Stipulation, and issue a Final Order consistent with its adoption of the Settlement Stipulation.

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Action

3. Recommendation

Staff recommends that the Board deny each and all of the Exceptions raised by Petitioner Madalyn Landing for the reasons stated in the responses filed by Malabar Cove and Florida Housing. Further, Staff recommends that the Board adopt the findings of fact and conclusions of law contained in the Recommended Order as its own, and that the Board enter a final order dismissing the Petition.

MULTIFAMILY BONDS

Action

III. MULTIFAMILY BONDS

A. Request Approval to Issue Request for Proposals (RFP) For The Use Of HOME Funds And TCAP Funds In Conjunction With Multifamily Revenue Bonds For The Purpose Of Financing Multifamily Housing Properties

1. Background

There are numerous affordable multifamily properties throughout the State of Florida developed in the 1970's and 1980's that are now in need of preservation which, if properly financed would directly benefit the health, safety and welfare of the residents. In addition, while it is recognized that there is an over-supply of rental units in certain areas of the state, there remains a demand for new construction of affordable rental units in certain other areas of the state.

2. Present Situation

- a) Florida Housing expects to have additional funds available through HOME and TCAP that have not presently been awarded. In addition to this, Florida Housing currently has both volume cap private activity bond allocation and authority to issue tax-exempt and 501(c)(3) bonds that could be used for new construction, acquisition and/or rehabilitation of multifamily housing properties.
- b) Florida Housing intends to issue an RFP to solicit proposals from both for-profit and not-for-profit developers to finance the preservation of the above-described properties, as well as construct new affordable rental properties in areas of the State with a continued demand for affordable rental units, with available HOME funds and TCAP funds to be used in connection with Multifamily Revenue Bonds. The additional subsidies are expected to provide lower cost funds in connection with the rehabilitation and construction costs and increase the ability to fill the financing gap commonly found in the current financial markets.

3. Recommendation

Authorize staff to issue an RFP to solicit proposals for the financing of the construction, acquisition and/or rehabilitation of multifamily rental properties with up to \$50 million in HOME funds and/or up to \$50 million in TCAP funds to be used in connection with Florida Housing's Multifamily Revenue Bonds.

MULTIFAMILY BONDS

Action Supplement

I. MULTIFAMILY BONDS

A. Request Approval to Issue Requests for Proposals (RFP) for the Use of HOME Funds and TCAP Funds, if Available, in Conjunction with Multifamily Revenue Bonds for the Purpose of Financing Multifamily Housing Properties

1. Background

There are numerous affordable multifamily properties throughout the State of Florida developed in the 1970's and 1980's that are now in need of preservation which, if properly financed would directly benefit the health, safety and welfare of the residents. In addition, while it is recognized that there is an over-supply of rental units in certain areas of the state, there remains a demand for new construction of affordable rental units in certain other areas of the state.

2. Present Situation

- a) Florida Housing expects to have additional funds available through HOME and possibly TCAP that have not presently been awarded. In addition to this, Florida Housing currently has both volume cap private activity bond allocation and authority to issue tax-exempt and 501(c)(3) bonds that could be used for new construction, acquisition and/or rehabilitation of multifamily housing properties.
- b) Florida Housing first intends to issue an RFP to solicit proposals from both for-profit and not-for-profit developers to finance the preservation of the above-described properties, as well as construct new affordable rental properties in areas of the State with a continued demand for affordable rental units, with available HOME funds to be used in connection with Multifamily Revenue Bonds. Should there be TCAP funds remaining after S-1 and S-2 processes, as described in Guidelines for Issuance of Requests for Proposals In connection with the American Recovery and Reinvestment Act of 2009 (ARRA) July 17, 2009 Release, funds may be reserved, and accessed through a second RFP, for Developments which are applying or have applied for a FHFC MMRB allocation or local MMRB allocation with 4% housing credits that meet application threshold requirements and are invited into credit underwriting prior to September 30, 2009. The additional subsidies are expected to provide lower cost funds in connection with the rehabilitation and construction costs and increase the ability to fill the financing gap commonly found in the current financial markets.

3. Recommendation

Authorize staff to issue an RFP to solicit proposals for the financing of the construction, acquisition and/or rehabilitation of multifamily rental properties with up to \$50 million in HOME funds and a second RFP for up to \$50 million in TCAP funds, if available, to be used in connection with either Florida Housing's Multifamily Revenue Bonds or local Multifamily Revenue Bonds.

MISCELLANEOUS

Action

IV. MISCELLANEOUS

A. **Request Approval to Issue Request for Proposal (RFP) For the Use of Local Government Housing Trust Fund Allocation For The Purpose Of Financing a Public Housing Mitigation Initiative**

1. **Background**

There are numerous affordable multifamily properties throughout the State of Florida developed in the 1970's and 1980's that are now in need of preservation which, if properly financed would directly benefit the health, safety and welfare of the residents. In addition, while it is recognized that there is an over-supply of rental units in certain areas of the state, there remains a demand for new construction of affordable rental units in certain other areas of the state.

2. **Present Situation**

- a) Florida Housing expects to receive additional funds through the Local Government Housing Trust Fund for a Public Housing Mitigation Initiative.
- b) Florida Housing intends to issue an RFP to solicit proposals from Public Housing Authorities to finance the preservation and rehabilitation of the above-described properties. The funds are to be used on a one to one match basis with the US Department of Housing and Urban Development (HUD) Stimulus Operating Funds distributed to Public Housing Authorities as defined in section 421.04, Florida Statutes, during Fiscal Year 2009-2010, in order to assist in the preservation and rehabilitation of dwellings which are 30 years or older under control by Public Housing Authorities.

3. **Recommendation**

Authorize staff to issue an RFP to solicit proposals for the financing of preservation and rehabilitation of dwellings, which are 30 years or older, under control by Public Housing Authorities with up to \$1,000,000 in funds from the Local Government Housing Trust Fund.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

V. PROFESSIONAL SERVICES SELECTION (PSS)

A. Real Estate Brokerage Services

1. Background

- a) At its June 10, 2005 meeting, the Board of Directors of Florida Housing authorized staff to enter into contract negotiations with Marcus & Millichap Real Estate Investment Brokerage Company of Florida to provide real estate brokerage services.
- b) The initial term of the contract began February 23, 2006 and expires February 23, 2009. The contract was renewed for a one year term and will expire on February 23, 2010.

2. Present Situation

In light of the current economic climate and conditions with several of Florida Housing's properties, it has become apparent that Florida Housing needs to utilize more than one real estate brokerage firm.

3. Recommendation

Staff believes that it is in the best interests of Florida Housing to proceed with a new RFP for Real Estate Brokerage Services to enhance the ability of Florida Housing to retain firms to sell properties that have been acquired by Florida Housing through foreclosure and other issues.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Request for Qualifications (RFQ) 2009-03 for Qualified Nonprofit Entities to Receive Preservation Technical Assistance

1. Background

Florida Housing Finance Corporation (Florida Housing), the Florida Housing Coalition (the Coalition), and the Shimberg Center for Housing Studies have been awarded a \$1 million grant from the John D. and Catherine T. MacArthur Foundation to carry out a three-year demonstration related to preservation of Existing Affordable Rental Housing that is aging and has expiring affordability periods. Public housing is excluded from the MacArthur Foundation's Initiative and is, therefore, not included in Florida's implementation of the Initiative.

2. Present Situation

- a) On May 8, 2009, Florida Housing staff issued RFQ 2009-03 for Qualified Nonprofits to Receive Preservation Technical Assistance through John D. and Catherine T. MacArthur Foundation grant. The deadline for receipt of Responses was 2:00 p.m., Friday, June 19, 2009. A copy of the scoring summary is attached as [Exhibit A](#).
- b) Ten (10) Responses were received by the deadline from the following Offerors:
 - (1) Ability Housing of NE Florida
 - (2) Citrus Health Network, Inc.
 - (3) Florida Home Partnership, Inc.
 - (4) Homes for Independence
 - (5) Miami Beach Community Development Corp.
 - (6) Osceola Council on Aging, Inc.
 - (7) St. John Community Development Corp., Inc.
 - (8) St. John's Housing Partnership, Inc.
 - (9) The Transition Housing, Inc.
 - (10) University Area Community Development Corp., Inc.
- c) The Review Committee members, designated by the Executive Director, were Rob Dearduff, Special Programs Administrator and Chair of the Committee; Nancy Muller, Policy Director; and Bill Aldinger, Supportive Housing Coordinator. Each member of the Review Committee individually reviewed the Responses prior to convening for the Review Committee meetings. The Review Committee meetings were held at 11:00 a.m., Wednesday, June 24, 2009, 2:00 p.m., Monday, July 6, 2009 and 2:00 p.m., Monday, July 13, 2009.
- d) The following Offerors were deemed to have failed threshold pursuant to section A7 of the RFQ in which the Offeror failed to provide proof of either the requisite number of developed units, a Land Use Restriction Agreement, Extended Use Agreement or other type of restrictive covenant regarding the affordability of said units: Citrus Health Network, Inc., Osceola County Council on Aging, Inc., St. Johns Housing Partnership, Inc., The Transition House and University Area Community Development Corp.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- e) St. John Community Development Corporation was deemed ineligible to receive technical assistance because they are in a time-out period with Florida Housing wherein they may not receive funds or other assistance until June of 2010.

3. Recommendation

The Review Committee recommends that the Board award up to 500 hours of technical assistance to the following Offerors: Ability Housing, Florida Home Partnership, Homes for Independence, and Miami Beach CDC through the Florida Housing Coalition, Inc.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

- e) St. John Community Development Corporation was deemed ineligible to receive technical assistance because they are in a time-out period with Florida Housing wherein they may not receive funds or other assistance until June of 2010.

3. Recommendation

The Review Committee recommends that the Board award up to 500 hours of technical assistance to the following Offerors: Ability Housing, Florida Home Partnership, Homes for Independence, and Miami Beach CDC through the Florida Housing Coalition, Inc.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

VI. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Authorize Staff to De-obligate SAIL Funds for Casa San Juan Bosco Community Phase II (RFP 2004-11-01)

Development Name: Casa San Juan Bosco Community Phase II (“Development”)	Location: DeSoto County
Developer/Principal: Casa San Juan Bosco, Inc. (“Developer”)	Set-Aside: 71% @ 50% AMI
Number of Units: 44	Allocated Amount: \$4,000,000
Type: Single Family Homes	Housing Credit Equity: N/A
Demographics: Farmworker	MMRB: N/A

1. Background/Present Situation

- a) On September 10, 2004, Florida Housing’s Board of Directors authorized staff to draft and issue an RFP to solicit proposals to use SAIL Program funds for the development and rehabilitation of commercial fishing worker/farmworker housing.
- b) On January 5, 2005, the Applicant submitted a proposal requesting \$2,000,000 for this 44-unit farmworker development in DeSoto County. On March 4, 2005, the Board approved the Review Committee’s recommendation and the subject was awarded \$2,000,000 in SAIL funds, subject to a positive credit underwriting report.
- c) On July 28, 2006, Florida Housing’s Board of Directors approved a petition of rule waiver increasing the request amount from \$2,000,000 to \$4,000,000 in SAIL funds.
- d) On October 2, 2006, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for a SAIL Loan in an amount up to \$4,000,000.
- e) The development has been in underwriting since November 2005, and has experienced many developmental design and financial structuring changes.
- f) In February 2009, the Rural Development funds were de-obligated. The Developer actively pursued remedies in order to have the funds reinstated. Through a mediation process in April 2009, the Developer was given an opportunity to provide documentation to address numerous items in order to have the funds reinstated. The documentation provided by the Developer did not satisfactorily address the required items. Rural Development stated that the funds remained de-obligated based on the lack of complete information.
- g) On April 24, 2009, staff issued a notice to the Developer stating that the development was not among those being de-obligated under Emergency Rule 67ER09-3(5)(c), F.A.C. However, pursuant to Emergency Rule 67ER09-5, Board approval of the final credit underwriting report must be received within 90 calendar days of the notice.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Action

- h) Other funding sources for this development include charitable donations in the amount of \$1,148,271 and \$350,000 from DeSoto County. The Developer has not provided documentation for the charitable donations. The DeSoto County officials have indicated that they have not committed any funds to the development and that there aren't any funds available to commit at this time. Without proper documentation of the funding sources there does not appear to be adequate funding to complete construction of the development.
- i) Staff and the credit underwriter continued to work diligently with the Developer in an effort to complete the underwriting process.
- j) On July 9, 2009, staff received a letter from the credit underwriter stating they are unable to make a loan recommendation at this time since they have not been provided with a complete underwriting package ([Exhibit A](#)).

2. **Recommendation**

Staff recommends that the Board approve the de-obligation of \$4,000,000 in SAIL funds.

SUBORDINATE MORTGAGE INITIATIVE

Action

VII. SUBORDINATE MORTGAGE INITIATIVE

A. Request Approval of Subordinate Financing in an Amount not to Exceed a Combined Amount of \$2,465,000 Through the Subordinate Mortgage Initiative

Development Name: Peacock Run (“Development”)	Location: St. Lucie
Developer/Principal: Creative Choice Homes (“Developer” or “Principal”)	Set-Aside: 80% @ 60% AMI
Funding Sources: MMRB 2002 Series H1 & H2	Amounts: \$9,690,000 Tax-Exempt Bonds \$3,090,000 Taxable Bonds
Number of Units: 264	Type: Rental
Subordinated Mortgage amount not to exceed:	\$625,000
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Development Name: Preserve at Oslo(fka Woods of Vero) (“Development”)	Location: Indian River
Developer/Principal: Creative Choice Homes (“Developer” or “Principal”)	Set-Aside: 80% @ 60% AMI
Funding Sources: MMRB 1999 Series N1 & N2	Amounts: \$7,665,000 Tax-Exempt Bonds \$125,000 Taxable Bonds
Number of Units: 176	Type: Rental
Subordinated Mortgage amount not to exceed:	\$400,000
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Development Name: Tuscan Isle (fka Heron Cove) (“Development”)	Location: Collier
Developer/Principal: Creative Choice (“Developer” or “Principal”)	Set-Aside: 80% @ 60% AMI
Funding Sources: MMRB 2002 Series O1 & O2	Amounts: \$15,900,000 Tax-Exempt Bonds \$ 2,650,000 Taxable Bonds
Number of Units: 298	Type: Rental
Subordinated Mortgage amount not to exceed:	\$915,000
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Development Name: Vista Palms (fka Andros Isle) (“Development”)	Location: Lee
Developer/Principal: Creative Choice Homes (“Developer” or “Principal”)	Set-Aside: 80% @ 60% AMI
Funding Sources: Lee County Bonds SAIL	Amounts: \$8,200,000 Tax-Exempt Bonds \$2,650,000 Taxable Bonds \$2,000,000 SAIL Funds
Number of Units: 229	Type: Rental
Subordinated Mortgage amount not to exceed:	\$525,000
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TOTAL Subordinated Mortgage amount not to exceed:	\$2,465,000

SUBORDINATE MORTGAGE INITIATIVE

Action

1. **Background**

Between the years 1999 and 2002, Florida Housing financed the construction of the above referenced four Developments with \$33,011,000 in tax-exempt bonds and \$6,305,833 in taxable bonds, with the exception of Vista Palms (fka Andros Isle) which was financed with local bonds through the Housing Finance Authority of Lee County, \$8,200,000 in tax-exempt bonds and \$2,500,000 in taxable bonds. The bond issues were secured by mortgages guaranteed by the Florida Affordable Housing Guarantee Program (Guarantee Program) with Peacock Run and Tuscan Isle (f/k/a: Heron Cove) mortgages being additionally guaranteed through the HUD Risk-Sharing Program.

2. **Present Situation**

- a) The Developer has requested subordinate financing on each of the four developments that are credit enhanced by the Guarantee Program. The purpose of which is to provide temporary assistance in funding its mortgage debt service obligations for a period of up to two years. It has been determined that each of the four developments submitted for financing are currently in financial distress and, as a result, are eligible for financing through the Subordinate Mortgage Initiative.
- b) Seltzer Management Group has reviewed the information and data submitted by the Developer and by letter, dated April 9, 2009 ([Exhibit A](#)), and has confirmed the need for financial assistance for these four Developments.

3. **Recommendation**

Staff recommends that the Board approve the requested subordinate financing in an amount not to exceed \$2,465,000 for the four developments, including the approval to subordinate the Subordinated Mortgage Initiative (SMI) loan for Andros Isle to the existing SAIL loan, subject to the proper resolution and closing of the HOME loans for both The Gardens and Caribbean West as well as any further approvals and verifications by Bond Counsel, Special Counsel and Florida Housing staff.

SUBORDINATE MORTGAGE INITIATIVE

Action

B. Request Approval of Subordinate Financing in an Amount not to Exceed a Combined Amount of \$1,130,000 Through the Subordinate Mortgage Initiative

Development Name: Leigh Meadows Apartments (“Development”)	Location: Duval
Developer/Principal: Vestcor (“Developer” or “Principal”)	Set-Aside: 40% @ 60% AMI (MMRB) 100% @ 60% AMI (HC)
Funding Sources: MMRB 1996 Series N SAIL (97S-019)	Amounts: \$10,690,000 Tax-Exempt Bonds \$3,157,000 SAIL Funds
Number of Units: 304	Type: Rental
Subordinated Mortgage amount not to exceed:	\$290,000
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Development Name: Noah’s Landing Apartments (“Development”)	Location: Collier
Developer/Principal: Vestcor (“Developer” or “Principal”)	Set-Aside: 50% @ 60% AMI (MMRB) 100% @ 60% AMI (HC)
Funding Sources: MMRB 2001 Series H1 & H2	Amounts: \$10,370,000 Tax-Exempt Bonds \$6,580,000 Taxable Bonds
Number of Units: 264	Type: Rental
Subordinated Mortgage amount not to exceed:	\$840,000
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TOTAL Subordinated Mortgage amount not to exceed:	\$1,130,000

1. Background

Between the years 1996 and 2001, Florida Housing financed the construction of the above referenced Developments with \$21,060,000 in tax-exempt bonds and \$6,580,000 in taxable bonds. The bond issues were secured by mortgages guaranteed by the Florida Affordable Housing Guarantee Program (Guarantee Program) along with being additionally guaranteed through the HUD Risk-Sharing Program.

2. Present Situation

- a) The Developer has requested subordinate financing on two of its four developments that are credit enhanced by the Guarantee Program. The purpose of which is to provide temporary assistance in funding its mortgage debt service obligations for a period of up to two years. It has been determined that each of the two developments submitted for financing are currently in financial distress and, as a result, are eligible for financing through the Subordinate Mortgage Initiative.
- b) Seltzer Management Group has reviewed the information and data submitted by the Developer and by letter, dated July 1, 2009 ([Exhibit B](#)), and has confirmed the need for financial assistance for these two Developments.

SUBORDINATE MORTGAGE INITIATIVE

Action

3. **Recommendation**

Staff recommends that the Board approve the requested subordinate financing in an amount not to exceed \$1,130,000 for the two developments, including the approval to subordinate the Subordinated Mortgage Initiative (SMI) loan for Leigh Meadows to the existing SAIL loan, subject to further approvals and verifications by Bond Counsel, Special Counsel and Florida Housing staff.