

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
April 30, 2010
Action Items



COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

Action

I. COMMUNITY WORKFORCE HOUSING INNOVATION PILOT (CWHIP) PROGRAM

A. Reinstatement of the CWHIP Loan for The Preserve of Boynton Beach / CWHIP06-05

Applicant Name (“Applicant”):	Boynton Village, LLC / CRA of Boynton Beach for The Preserve of Boynton Beach
Development Name (“Development”):	The Preserve of Boynton Beach
Developer/Principal (“Developer”):	Mara S. Mades
Number of Units: 115	Location: Palm Beach 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, with The Preserve of Boynton Beach being put on the “waitlist”. Due to the withdrawal of another project, Florida Housing issued an invitation to the Developer to enter into credit underwriting on October 29, 2007.
- b) The Credit Underwriting report dated January 10, 2008 was approved at the January 25, 2008 Board Meeting and the CWHIP loan closed on August 20, 2008 with a Maturity Date of April 14, 2009. A modification to the CWHIP Mortgage and Loan Documents was completed June 8, 2009 which extended the maturity date to April 14, 2010.

2. Present Situation

- a) To date, \$2,978,778 in CWHIP funds have been expended and twelve units have been constructed. No units have been sold, but there are currently two homebuyer files in process.
- b) On March 28, 2010, the Developer requested that the Board approve the reinstatement and extension of the CWHIP loan, advising that they are in the process of extending their construction loan with City National Bank. The letter is attached as [Exhibit A](#).
- c) The Credit Underwriter has reviewed the request and recommends that the Board grant the reinstatement and extension of the CWHIP loan, subject to certain conditions. The Credit Underwriter’s recommendation letter is attached as [Exhibit B](#).

3. Recommendation

Staff recommends that the Board grant the reinstatement and extension of the CWHIP loan, subject to the extension of the construction loan, with the maturity date to be co-terminus with the construction loan and in no case be longer than a period of one year. Additionally, no further CWHIP funds are to be expended until all of the twelve units that are complete have been sold to Eligible Persons, subject to further approvals by the credit underwriter, counsel, and the appropriate corporation staff.

FISCAL

Action

II. FISCAL

A. Unrestricted Net Assets

1. Background

- a) For financial statement presentation purposes, Florida Housing's net assets fall into three categories: Invested in Capital Assets, Restricted and Unrestricted. Invested in Capital Assets reflects capitalized furniture, equipment and leasehold improvements. Restricted net assets are those on which constraints have been placed by law or external agreements or entities.
- b) Florida Housing's Board may "designate" net assets within the Unrestricted Net Asset balance for specific purposes. This designation means that the Board has directed the use of these assets for certain purposes. The Board may choose to modify or remove such designations through future votes.
- c) There are three main categories of designations: demonstration and other initiatives, single family bond program and operating reserve.
- d) In past years, the Board has approved the use of unrestricted net assets for specific demonstration programs such as Victims of Domestic Violence and Special Needs. In 2009, the Board directed the use of unrestricted net assets to be used in a subordinate mortgage program.
- e) The designation for the single family bond program includes all funds in the Single Family Escrow accounts. These accounts include cash, investments and loans remaining after bonds were fully defeased. Since these funds derive from the single family bond program, they have historically been set aside for use within that program.
- f) The Board approved a housing credit reserve (for future compliance monitoring fees) and a budget stabilization in the 1999 budget. The amount of this designation currently provides for future compliance monitoring fees and two years of operations. The 2010 operating budget adopted by the Board in December 2009 included the use of unrestricted net assets to support the development and implementation of a data management system.

2. Present Situation

- a) With the 2009 financial statements near completion, the total amount of unrestricted net assets has been determined.

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- b) Using the three primary categories of designation, staff proposes the following designations for 2009:

Demonstration and Other Initiatives	\$	55,986,854
<i>Includes funds currently committed to specific demonstration loans and associated expenses, commitments to the Subordinated Mortgage Initiative, funds for ongoing costs associated with stimulus funds and funds for future demonstration or other initiatives</i>		
Single Family		20,800,000
Dedicated Reserve for Operations		
<i>Includes housing credit reserve and budget stabilization</i>		
		<u>37,490,000</u>
Total Designated Net Assets	\$	<u>114,276,854</u>

3. Recommendation

Staff recommends that the Board approve the designation of unrestricted net assets as proposed above. Though no changes are expected, should adjustments to the total amount of unrestricted net assets be required, direct staff to reflect those adjustments in the designation for Demonstration and Other Initiatives.

GUARANTEE PROGRAM

Action

III. GUARANTEE PROGRAM

A. Approval of Purchase and Sale Agreement for Landings at Boot Ranch Apartments

1. Background

- a) Boot Ranch West, Ltd. d/b/a Landings at Boot Ranch Apartments (“Boot Ranch”) is a 232 unit multifamily development located in Palm Harbor, approximately 20 miles northwest of Tampa in Pinellas County. The property was financed with FHFC bonds, 1995 Series K, an allocation of 4% housing credits and SAIL. The Guarantee Program and HUD (through a Risk-Sharing agreement) guaranteed the first mortgage.
- b) On March 16, 2009, the Guarantee Program filed an Application for Initial Claim Payment with HUD and on May 7, 2009, filed for foreclosure in the 6th Circuit Court in Pinellas County, case number 2009-008285-CI-007.
- c) On August 27, 2009, Boot Ranch filed their consent to summary judgment and final summary judgment was granted on September 4, 2009. A foreclosure sale date was set for October 6, 2009. FHFC was the winning bidder at the foreclosure sale and a certificate of title was issued on October 19, 2009 in the name of FHFC III, Inc.
- d) Following established protocol, Boot Ranch was listed for sale via competitive bid process with C.B. Richard Ellis (CBRE). The deadline for submitting bids was April 13, 2010. A total of 31 bids were received.

2. Present Situation

By April 23, 2010, CBRE will have vetted the offerors to facilitate the best and final offers. Staff will meet to select top bidders and formulate a recommendation to the Board for approval of the sale of the property. As such, additional information regarding the selection will be provided at the Board meeting.

3. Recommendation

Ratify the purchase and sale agreement for the sale of Landings at Boot Ranch Apartments to an entity yet undetermined but to be disclosed at the Board meeting, and direct staff to proceed with the closing on the sale.

HFA HARDEST HIT FUND

Action

IV. HFA HARDEST HIT FUND

A. Request Approval to Issue Requests for Proposals (RFP), Requests for Qualifications (RFQ) or Invitations to Negotiate (ITN) for Services Needed in Conjunction with the HFA Hardest Hit Fund Initiative

1. Background

- a) On February 19, 2010, President Obama announced \$1.5 billion in funding to help families in the five states that have been hit the hardest by the combination of housing price declines and unemployment. The initial states chosen were Florida, California, Nevada, Arizona and Michigan. The HFA Hardest-Hit Fund is designed to allow the maximum possible flexibility to eligible HFAs in designing programs that are tailored to the needs of their states. All programs must protect home values, preserve homeownership, promote jobs and economic growth, and provide accountability to the public. Florida's share of these funds is \$418 million.
- b) On March 26, 2010, five more states (Ohio, North Carolina, South Carolina, Oregon and Rhode Island) and an additional \$600 million were added to this program.

2. Present Situation

- a) Florida Housing was required to submit its proposal for use of these funds to Treasury on April 16, 2010. A copy of this proposal is attached as [Exhibit "A"](#). Treasury has stated that they will take four to six weeks to review the proposals submitted by the HFA's and may ask states to make certain changes, clarifications or modifications to their proposals.
- b) To properly implement the strategies outlined in the plan, staff has identified the need to procure the services of local housing counseling agencies and compliance monitors. Additional types of services may be needed and require the issuance of an RFP, RFQ or ITN for program implementation.

3. Recommendation

- a) Staff recommends the Board authorize staff to begin the solicitation (RFP, RFQ, ITN) process in order to obtain responses from qualified entities to provide services needed under the HFA Hardest Hit Fund.
- b) Staff recommends that the Board authorize the Executive Director to establish Review Committees to review the responses and make recommendations to the Board.

LEGAL

Action

V. LEGAL

A. In Re: DeSoto County Homeless Coalition - FHFC Case No. 2009-014GA; Application No. 2009-006FHS

Development Name: (“Development”):	Rosene’s Success House
Developer/Principal: (“Developer”):	DeSoto County Homeless Coalition
Number of Units: 17	Location: DeSoto County
Type: Apartments	Set Aside: 11 units < 50% AMI 6 units < 80% AMI
Demographics: Homeless	SHADP: \$1,500,000

1. Background

- a) In June 2007, DeSoto County Homeless Coalition (“DCHC”) applied for \$1,500,000 in funding under the Special Housing Assistance and Development Program (“SHADP”) to assist in the construction of the development described above. On January 28, 2008, Florida Housing preliminarily allocated the requested SHADP funds to DCHC.
- 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 of “unexpended funds,” to the state treasury not later than June 1, 2009. (See Ch. 2009-1, Laws. of Fla.) Those funds have been paid. The Legislature granted Florida Housing some discretion 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, including SHADP. Rosene’s Success House was among those developments which had funds deobligated as a result.
- c) On May 18, 2009, DCHC submitted an Election of Rights requesting proceedings under Section 120.569 and 120.57(2), Florida Statutes, but elected to submit a written statement and documentary evidence in lieu of a hearing. DCHC’s written statement is attached hereto as [Exhibit A](#). In the meantime, several Applicants in the Community Workforce Housing Initiatives Partnership (“CWHIP”) Program challenged the deobligation of their preliminarily allocated funding and requested formal hearings before the Division of Administrative Hearings (DOAH), to determine whether Florida Housing acted appropriately in deobligating their funding in the manner described above. As a result, resolution of the DCHC case was withheld pending the outcome of the CWHIP proceedings. On February 18, 2010, the Administrative Law Judge presiding over the CWHIP litigation issued a Recommended Order finding that neither DOAH nor Florida Housing possessed jurisdiction to provide a remedy for the CWHIP litigants. That Recommended Order is to be considered by the Board concurrently with the DCHC proceedings.

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2. **Present Situation**

The Board must issue a Final Order in this matter.

3. **Recommendation**

Staff recommends the Board reject the written argument submitted by DCHC and issue a Final Order dismissing the proceedings for lack of jurisdiction pursuant to the Final Order issued in Pasco CWHIP Partners, LLC, et al. v. Florida Housing Finance Corporation, DOAH Case No. 09-3330 et al.

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Action

B. In Re: Pasco CWHIP Partners, LLC, et al. – DOAH Case Nos. 09-0330 et al.

1. Background

a) 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 of “unexpended funds,” to the state treasury not later than June 1, 2009. (See Ch. 2009-1, Laws. of Fla.) Those funds have been paid. The Legislature granted Florida Housing some discretion 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 program, including the CWHIP developments belonging to the entities listed below.

b) In response, the following Community Workforce Housing Initiatives Partnership (“CWHIP”) Program Applicants (“Petitioners”) filed petitions challenging the deobligation of the funds preliminarily allocated to their developments. These Petitioners include:

- (1) Auburn Development, LLC*
- (2) Pasco CWHIP Partners, LLC
- (3) All Saints Square, LLC*
- (4) Legacy Pointe, Inc.
- (5) Villa Capri, Inc.
- (6) Prime Homebuilders (three developments)
- (7) MDG Capital Corporation

*These developments withdrew from the proceedings prior to final hearing as a result of accepting funds returned from prior CWHIP developments.

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- c) On June 17, 2009, after finding the Petitions alleged disputes of material fact, Florida Housing forwarded these Petitions to the Division of Administrative Hearings, where the various Petitions were consolidated into a single proceeding. A final hearing was held on October 13-14, 2009, in Tallahassee, Florida. The Administrative Law Judge (ALJ) subsequently issued a Recommended Order, attached hereto as [Exhibit B](#). In the Recommended Order, the ALJ found that Florida Housing's deobligation of preliminarily allocated CWHIP funding was a modification of an agency budget, and therefore not "agency action" that could be challenged under Chapter 120, Florida Statutes. The ALJ then recommended that Florida Housing enter a Final Order dismissing the consolidated cases for lack of jurisdiction.
- d) In response, the remaining Petitioners timely filed Exceptions to the Recommended Order, attached hereto as [Exhibit C](#).

2. **Present Situation**

The Board must now rule on Exceptions filed by Petitioners and issue a Final Order in this matter.

3. **Recommendation**

Staff recommends the Board reject the exceptions submitted by Petitioners in opposition to the Recommended Order, and adopt without changes the Findings of Fact, Conclusions of Law and Recommendation of Recommended Order as its own and issue a Final Order consistent with same in this matter.

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Action

C. **Villa Capri Associates Ltd. v. Florida Housing Finance Corporation - 1st DCA Case No. 1D08-5235; FHFC Case No. 2008-058UC**

Development Name: (“Development”):	Villa Capri Apartments Application # 2008-266BS
Developer/Principal: (“Developer”):	
Number of Units: 160	Location: Miami-Dade County
Type: Garden	
Demographics: Family	MMRB \$12,000,000 SAIL \$3,700,000 Non-competitive HC \$837,806

1. **Background/Present Situation**

- a) During the 2008 Universal Cycle, Villa Capri Associates, Ltd. (“Petitioner”) applied for funding to finance the construction of Villa Capri Apartments (the “Development”) located in Miami-Dade County, Florida.
- b) Petitioner’s application failed threshold and Petitioner timely filed a petition challenging Florida Housing’s scoring of its application. An informal hearing was held on August 27, 2008. On September 8, 2008, the designated Hearing Officer entered a Recommended Order recommending that Florida Housing’s final scoring of the Petitioner’s application be upheld, and that Petitioner’s application be rejected for failure to establish the threshold requirement that electricity be available to the project as of the application deadline. On September 26, 2008, the Board entered a Final Order adopting the Recommended Order and rejecting Petitioner’s application for failure to establish the threshold requirement that electricity be available to the project as of the application deadline.
- c) On October 22, 2008, Florida Housing received Petitioner’s “Motion for Reconsideration” (“Motion”). Subsequent to the filing of its Motion for Reconsideration, Villa Capri appealed the Final Order entered in this matter to the First District Court of Appeal. A copy of Villa Capri’s Notice of Administrative Appeal was served on Florida Housing on October 24, 2008. The Motion for Reconsideration was denied, as jurisdiction lay with the First District Court of Appeal.
- d) On May 13, 2009, Villa Capri filed its Initial Brief. Its appeal stated that an earlier Rental Recovery Loan Program case, *Eclipse West Associates, Ltd., v. Florida Housing Finance Corporation*, FHFC Case No. 2006-078RLP (Final Order March 16, 2007), was “almost identical” to the Villa Capri case, and that Villa Capri was denied the benefit of having the *Eclipse West* case to argue in its case, as Florida Housing had failed to post the *Eclipse West* Final Order in the usual place for final orders on the Florida Housing website.
- e) On June 29, 2009, Florida Housing filed its Answer Brief, arguing that the *Eclipse West*, while involving somewhat similar factual issues, was decided on a legal basis different enough that it would not change the outcome of the *Villa Capri* case; further, that *Villa Capri* could not reasonably claim that *Eclipse West* was concealed from it, as Villa Capri’s principal had filed the NOPSE that initiated the *Eclipse West* case, and was provided actual notice of the *Eclipse West* hearing.

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- f) After hearing Oral Argument on October 28, 2009, The First District Court of Appeal issued its opinion, Villa Capri Associates Ltd. v Florida Housing Finance Corporation, 23 So.3d 795 (Fla. 1st DCA 2009). The District Court of Appeal specifically held that by failing to publish the Final Order in Eclipse West Associates, Ltd. v. Florida Housing Finance Corporation, FHFC Case No. 2006-078RRLP (March 13, 2007) on the Florida Housing website in the same location as all its other final orders, Florida Housing had deprived Village Capri of the use of that case in its argument in the hearing below. To remedy this error, the Court provided “Accordingly, we remand for Florida Housing to submit the instant case to a hearing officer to conduct a hearing to assess the applicability of Eclipse to this case.”
- g) Pursuant to the remand and after notice, an informal hearing was held in this matter before Hearing Officer Diane D. Tremor on February 23, 2010, in Tallahassee, Florida. The Hearing Officer filed her Recommended Order on March 23, 2010. A copy is attached as Exhibit D. The Hearing Officer found that the Eclipse case “is factually and legally distinguishable from the instant case, and does not affect the outcome of the Final Order entered on September 26, 2010.”
- h) On March 26, 2010, Villa Capri filed its “Written Argument,” in response to the Recommended Order, arguing that the Hearing Officer erred in her conclusion that the cases were factually distinguishable due to the difference in “triggering events,” in the two cases. A copy of the Written Argument is attached as Exhibit E. Villa Capri, having previously argued on appeal that the cases were “almost identical,” now argues that the cases are “identical factually and legally,” because both cases involved, at some point, a letter that failed to verify that electric service was available on or before the application deadline.
- i) In Eclipse, Florida Housing’s scoring error—accepting the NOPSE’s contention, based on a mapping program not approved by rule for that purpose, began a series of events that culminated in Florida Housing admitting its error and correcting same by placing the Applicant in the same position as before the error; as though its cure had never been filed. In Villa Capri, the Applicant created an inconsistency when its electric service verification letter bore an address in a different city from every other part of its application. The letter offered as a cure for that issue created yet another problem—that while the address issue was resolved, the letter failed to demonstrate that electric service was available to the project site on or before the application deadline.

2. Recommendation

Staff recommends that the Board issue an order adopting the Recommended Order dated March 23, 2010, in its entirety.

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Action

D. Bonita Cove, LLC vs. Florida Housing Finance Corporation – FHFC Case No. 2010

1. Background

- a) Petitioner Bonita Cove, LLC, applied for \$1,572,513.00 in annual tax credits and a \$4,000,000.00 HOME loan in the 2009 Universal Application Cycle pursuant to Application No. 2009-077CH to help finance the development of its project, a 60-unit apartment complex in Miami-Dade County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition (the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. Present Situation

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit F](#).

3. Recommendation

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; (2) Florida Housing shall provide Petitioner's requested HOME funding from the next available funding as provided in Rule 67-48.005(7), F.A.C.; and (3) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

E. **Brownsville Village III, Ltd. vs. Florida Housing Finance Corporation – FHFC Case No. 2010-012UC**

1. **Background**

- a) Petitioner Brownsville Village III, Ltd., applied for \$2,450,000 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-148C to help finance the development of its project, a 100-unit apartment complex in Miami-Dade County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit G](#).

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

F. **Ehlinger Apartments, Ltd. vs. Florida Housing Finance Corporation – FHFC Case No. 2010-014UC**

1. **Background**

- a) Petitioner, Ehlinger Apartments, Ltd., applied for \$2,526,000 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-146C to help finance the development of its project, a 155-unit apartment complex in Broward County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition (the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit H](#).

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

G. **Northwest Properties III, Ltd. vs. Florida Housing Finance Corporation – FHFC Case No. 2010-015UC**

1. **Background**

- a) Petitioner, Northwest Properties III, Ltd., applied for \$2,340,000 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-145C to help finance the development of its project, a 150-unit apartment complex in Broward County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition (the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit I](#).

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

H. **NVC-Spring Hill, Ltd. vs. Florida Housing Finance Corporation – FHFC Case No. 2010-013UC**

1. **Background**

- a) Petitioner, NVC-Spring Hill, Ltd., applied for \$1,275,000 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-208C to help finance the development of its project, a 90-unit apartment complex in Hernando County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition (the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit J](#).

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

I. **Oak Ridge Estates, LLC, and Avery Glen, LLC vs. Florida Housing Finance Corporation – FHFC Case No. 2010-009UC**

1. **Background**

- a) Petitioner Oak Ridge applied for \$961,000.00 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-171C to help finance the development of its project, a 62-unit scattered site townhouse apartment complex in Tarpon Springs, Florida.
- b) Petitioner Avery Glen applied for \$2,150,000.00 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-139C to help finance the development of its project, a 139-unit scattered site garden apartment complex in Sunrise, Florida.
- c) The Oak Ridge and Avery Glen applications, while otherwise eligible, were not among those in the funding range in the final rankings adopted by Florida Housing.
- d) Rule 67-48.005(5), Florida Administrative Code (“F.A.C.”), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that “but for” a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner’s application would have been in the funding range at the time Florida Housing issued its final rankings.
- e) Petitioners timely filed their petition (the “Petition”) challenging Florida Housing’s scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors both the Oak Ridge and Avery Glen applications would have been in the funding range in the final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioners present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioners in their petition. A copy of the Consent Agreement is attached hereto as [Exhibit K](#).

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Action

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioners: (1) Florida Housing shall allocate Petitioner Oak Ridge's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; (2) Florida Housing shall allocate Petitioner Avery Glen's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (3) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, each of the Petitioners may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action

J. **Pinnacle at Hammock Square, LLC vs. Florida Housing Finance Corporation – FHFC Case No. 2010-006UC**

1. **Background**

- a) Petitioner, Pinnacle at Hammock Square, LLC, applied for \$980,000.00 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-140C to help finance the development of its project, a 100-unit garden apartment complex in Bay County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition (the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. **Present Situation**

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit L](#).

3. **Recommendation**

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP.

LEGAL

Action Supplement

I. LEGAL

A. In Re: Gardenia Garden, Inc. v. Florida Housing Finance Corporation - FHFC Case No. 2010016UC

Development Name: (“Development”):	Gardenia Garden Apartments
Developer/Principal: (“Developer”):	Gardenia Garden, Inc. Fla. Low Income Housing Associates, Inc.
Number of Units: 100	Location: Alachua County
Type: Garden Apartments	Set Aside: 20% @ or below 50% AMI; 80% at 60% AMI
Demographics: Family	SAIL: n/a
MMRB: n/a	HOME: \$3,954,639

1. Background

- a) Gardenia Garden, Inc. (“Petitioner”) applied for funding under Application No. 2009-183H during the 2009 Universal Application Cycle, seeking an allocation of HOME Investment Partnership funds in the amount of \$3,954,639. While it met all of Florida Housing’s threshold application requirements, received a final application score of 66 points, Petitioner is eligible, but unfunded because of a lack of HOME funds remaining to fund 75% of Petitioner’s requested amount. As permitted by Florida Housing’s Universal Cycle rules, Petitioner timely filed a Petition for Formal Administrative Hearing (“Petition”) in which it contended that Florida Housing acted in contravention of 24 CFR 92.300 when it failed to award any HOME funds to eligible Community Development Housing Organizations (“CHDO’s”). A copy of the Petition is attached as [Exhibit A](#).
- b) On April, 12, 2010, Florida Housing filed a Motion for Summary Final Order in response to the Petition. In it, Florida Housing determined that it accepted all the facts pled in the Petition, but as a matter of law, Petitioner failed to state a cause of action upon which relief could be granted. A copy of the Motion is attached as [Exhibit B](#).
- c) To date, Petitioner has not responded to Florida Housing’s Motion for Summary Final Order.

2. Present Situation

24 CFR 92.300 provides that Florida Housing as the Participating Jurisdiction has 24 months after executing a HOME Investment Partnership Agreement to allocate 15% of the HOME allocation to CHDO’s. The most recent HOME Investment Partnership Agreement was executed on July 27, 2009. Accordingly, Florida Housing has until July 27, 2011 to allocate 15% of the 2009 HOME funds to CHDO’s. The fact that Florida Housing did not award any HOME funds to any CHDO’s in the 2009 Universal Cycle does not establish that Florida Housing acted in contravention of the federal statute.

LEGAL

Action Supplement

B. Town Park Crossing, L.P. vs. Florida Housing Finance Corporation – FHFC Case No. 2010-018UC

1. Background

- a) Petitioner, Town Park Crossing, L.P., applied for \$1,735,993.00 in annual tax credits in the 2009 Universal Application Cycle pursuant to Application No. 2009-255C to help finance the development of its project, a 100-unit apartment complex in Broward County, Florida.
- b) Petitioner's application, while otherwise eligible, was not among those in the funding range in the final rankings adopted by Florida Housing.
- c) Rule 67-48.005(5), Florida Administrative Code ("F.A.C."), provides an entry point and a procedure pursuant to which an applicant in the Universal Application Cycle may file an administrative petition contesting the final rank or score of a competing applicant, subject to certain conditions. The rule is designed to provide a means of redress to an otherwise eligible universal cycle applicant whose application was not ranked in the funding range in the final ranking adopted by Florida Housing due to an error made by Florida Housing in its scoring of a competing application. The rule requires that the petitioner allege facts in its petition sufficient to demonstrate that "but for" a specifically identified error(s) made by Florida Housing in scoring or ranking the challenged application, the petitioner's application would have been in the funding range at the time Florida Housing issued its final rankings.
- d) Petitioner timely filed its petition and amended petition (as amended, the "Petition") challenging Florida Housing's scoring of one or more competing applications, alleging that Florida Housing made certain errors in its scoring of those applications, and that but for those errors Petitioner's application would have been in the funding range in the final rankings.

2. Present Situation

Florida Housing staff and the Petitioner present herewith for consideration by the Board a Consent Agreement, conditioned upon Board approval, which, if adopted by the Board will resolve the matters raised by Petitioner in its petition. A copy of the Consent Agreement is attached hereto as [Exhibit C](#).

3. Recommendation

Staff recommends the Board approve the Consent Agreement and enter a Final Order in this matter adopting the terms of the Consent Agreement, including the stipulated disposition, which will result in the following relief to Petitioner: (1) Florida Housing shall allocate Petitioner's requested HC allocation from the next available allocation as provided in Rule 67-48.005(7), F.A.C.; and (2) In addition, to the extent eligible under the terms of RFP 2010-04 (the "RFP"), including the requirement that a final order be entered in this matter on or before June 18, 2010, Petitioner may apply for Exchange funds that remain available to 2009 Universal Cycle Applicants under the RFP, subject to the applicable terms and conditions of the RFP..

LEGAL

Action Supplement

3. **Recommendation**

Staff recommends that the Board grant the Motion for Summary Final Order, and issue a Final Order consistent with Motion for Summary Final Order finding that Petitioner's Petition for Formal Administrative Hearing be dismissed for failure to state a claim upon which relief can be granted.

MULTIFAMILY BONDS

Action

VI. MULTIFAMILY BONDS

A. Request Approval of Ranking for Requests for Proposals (RFP) for the Use of HOME Funds in Conjunction with Multifamily Revenue Bonds for the Purpose of Financing Multifamily Housing Properties

1. Background

On February 3, 2010 Florida Housing staff issued RFP 2009-06 to finance the preservation of existing affordable housing developments and acquisition, rehabilitation and new construction of properties in areas of the state experiencing a continued demand for affordable rental units using Florida Housing's HOME funds in conjunction with its Multifamily Mortgage Revenue Bonds (MMRB). The deadline for receipt of Responses was 2:00 p.m. Eastern Time, February 23, 2010.

2. Present Situation

- a) A total of 45 Responses were received and reviewed by the Review Committee. The Review Committee members, designated by the Executive Director, consisted of Wayne Conner (Chairman), Director of Multifamily Bonds, Len Stirrat, Multifamily Bonds Administrator, Shannon Rivera, Multifamily Bonds Manager, David Woodward, Multifamily Bonds Manager, Jan Rayboun, Loan Closing Coordinator, Derek Helms, Multifamily Loans Administrator, Carolyn Hayse, Multifamily Loans Manager.
- b) Each member of the Review Committee individually reviewed the responses prior to convening for Review Committee meetings. The Review Committee meetings were held on March 1, 2010, March 15, 2010 and April 15, 2010.
- c) Pursuant to Section Four of the RFP ([Exhibit A](#)), Responses must have satisfactorily met all Threshold Items of this RFP as well as all of the threshold items and obtained a minimum of 70 points in the Original Supplemental Application, which must have been submitted by the due date for this RFP.
- d) The following Responses did not satisfactorily meet all Threshold Items of this RFP as well as all of the threshold items and obtain a minimum of 70 points in the Original Supplemental Application:
 - (1) Artspace Lofts
 - (2) Bayside Reserve
 - (3) Broward Garden Apts.
 - (4) Campbell Arms
 - (5) Caribbean West
 - (6) Circle Creek Apts., Ltd.
 - (7) Colonial Lakes

MULTIFAMILY BONDS

Action

- (8) Coral Gardens
 - (9) Dovetail Villas
 - (10) Glorieta Apts.
 - (11) Greynolds Commons, Ltd.
 - (12) Hollybrook Homes
 - (13) Kissimmee Homes Orlando, LP
 - (14) New Horizons
 - (15) Riverwalk II
 - (16) SBC Senior Housing, LLC
 - (17) Taylor Apartments
 - (18) Towers of Jacksonville
 - (19) Village at the Park, Ltd.
- e) Results of the Review Committee's evaluation and ranking of the Responses, recommending that a total of eleven Responses be funded, with the remaining eligible, unfunded Responses being placed on the waiting list, per the RFP are provided in the attached [Exhibit B](#).

3. Recommendation

Approve the Committee's recommendation for the RFP 2009-06 funding awards, as well as the waiting list of unfunded Responses, and authorize staff to proceed to issue the invitations to enter credit underwriting.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

VII. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request for Proposals (RFP) for Hearing Officer Services

1. Background

- a) Florida Housing entered contracts for hearing officer services with Chris H. Bentley, Senior Partner and Diane D. Tremor, Partner, Rose, Sundstrom & Bentley, LLP and David E. Ramba, Shareholder, Lewis, Longman & Walker, P.A. in August, 2007.
- b) The initial term provided in the Contracts was for one (1) year. The Contracts could be renewed twice for an additional one (1) year period.
- c) The Contract with Rose, Sundstrom & Bentley, LLP, was renewed for an additional one (1) year period in August 2008 and August 2009.

2. Present Situation

- a) The Contract expires in August 2010.
- b) Florida Housing requires the services of a Hearing Officer to preside over administrative hearings, pursuant to Sections 120.569 and 120.57(2), Fla. Stat. and Fla. Admin. Code R. 28-106, at Florida Housing for litigation resulting from a Florida Housing agency action.

3. Recommendation

Authorize staff to begin the solicitation (RFP) process in order to obtain responses from qualified entities to deliver hearing officer services. Authorize the Executive Director to establish a Review Committee to review the RFP responses and make a recommendation to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Request for Qualifications (RFQ) for Special Promotional Printing Services

1. Background

In June 2006 Florida Housing entered into contracts for Specialty Promotional Printing Services with the following entities: Awards 4U, Bowman Promotional Specialties, CorpLogoWare and Office Depot. The contract was for a three year period and will expire on June 6, 2010. Specialty Promotional Printing Services are for items such as pens, calculators, paper clip holders, etc.

2. Present Situation

The contracts were for a three year period and will expire on June 6, 2010. Florida Housing requires the services of the specialty promotional printing companies and would like to renew all contracts.

3. Recommendation

Florida Housing requests permission to enter into the first one-year renewal for the specialty promotional printing contracts with Awards 4U, Bowman Promotional Specialties, CorpLogo Ware, and Office Depot.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

C. Request for Qualifications (RFQ) for Approved Energy Consumption Providers

1. Background

At its January 22, 2010, meeting Florida housing's Board authorized staff to begin the RFQ process, and establish a review committee, to select a pool of qualified professionals from which housing credit property owners may choose to perform utility allowance analysis. A copy of the RFQ is attached as [Exhibit A](#).

2. Present Situation

- a) An RFQ process was initiated and RFQ 2010-03 was issued on March 12, 2010. Responses to the RFQ were due on or before 2:00 p.m., Tuesday, April 6, 2010.
- b) Eight (8) responses were received from EarthSteps, LLC, Matern Professional Engineering, Inc., 2rw Consultants, Inc., Florida Solar Energy Center, Energy Consulting, Inc., Engineering Services Consultancy, LLC, Energy Conserving Options and Infinite Energy Solutions.
- c) The Review Committee members designated by the Executive Director were Robin Grantham, Asset Management Administrator, Matt Jugenheimer, Asset Management Manager, Elizabeth O'Neill, Senior Policy Analyst and Janet Peterson, Asset Management Systems Manager.
- d) The Review Committee meeting was held on Tuesday, April 13, 2010.

3. Recommendation

- a) The Review Committee determined that the following responses failed to meet threshold because they failed to provide copies of the certificate(s) or license(s), as applicable, evidencing that the Offeror is a RESNET certified energy rater or a Licensed Engineer as defined in the RFQ: EarthSteps, LLC, Energy Consulting, Inc., and Energy Conserving Options.
- b) The Review Committee recommends that the following be included in the pool of Energy Consumption Providers approved by Florida Housing to calculate utility allowance estimates using the "energy consumption model" for owners of Housing Credit Program developments monitored by Florida Housing:
 - (1) Matern Professional Engineering, Inc.
 - (2) University of Central Florida/Florida Solar Energy Center
 - (3) 2rw Consultants, Inc. (the inclusion of 2rw Consultants, Inc., in the pool is specifically conditioned upon 2rw Consultants, Inc., providing evidence from the Florida Department of State that it is qualified to do business in the State of Florida as required by the RFQ, such evidence to be provided no later than 5:00 p.m. on May 6, 2010; failure to provide the required evidence by that date and time shall result in its exclusion from the pool). A copy of the Scoring Grid is attached as [Exhibit B](#).

PROFESSIONAL SERVICES SELECTION (PSS)

Action

D. Affordable Housing Catalyst Program Services

1. Background

- a) The Affordable Housing Catalyst Program is funded through the State Housing Trust Fund and provides training and technical assistance mainly to local governments and community based organizations on state and federal housing programs. This includes administration and implementation of the State Housing Initiatives Partnership (SHIP) Program, the HOME Investment Partnerships (HOME) Program and other affordable housing programs. The Affordable Housing Catalyst Program has been outsourced since its inception, with great success.
- b) Florida Housing is authorized to administer the Affordable Housing Catalyst Program (Catalyst) under chapter 2004-243, Laws of Florida, amending Section 420.531, F.S.

2. Present Situation

- a) A Request for Proposals (RFP) process was initiated and RFP 2010-01 was issued on Friday, February 19, 2010. ([Exhibit C](#)). The deadline for receipt of responses was 2:00 p.m., Friday, March 19, 2010. One proposal from the Florida Housing Coalition was received by the deadline.
- b) The Review Committee members, designated by the Executive Director, were Rob Dearduff, Special Programs Administrator, Amanda Franklin, Special Programs Manager, Elizabeth O'Neill, Senior Policy Analyst and Matt Jugenheimer, Asset Management Manager.
- c) Each member of the Review Committee individually reviewed the Proposal prior to convening for the Review Committee meetings. The Review Committee meetings were held at 3:00 p.m. Tuesday, March 23, 2010 and the final meeting was held at 10:00 a.m. Thursday, April 1, 2010. At the April 1, 2010 meeting the Committee provided scores and a recommendation to the Board. Final scoring is provided as [Exhibit D](#).
- d) Because Florida Housing currently contracts with Florida Housing Coalition to carry out Catalyst Program services and is very satisfied with the quality of these services, the Review Committee was comfortable with recommending the one offeror for contract services.
- e) Funding for the Catalyst Program will be subject to funding availability either through the Florida Legislature or other sources.

3. Recommendation

The Committee recommends that Florida Housing enter into contract negotiations with Florida Housing Coalition to determine the scope of services and fees based on funding that is available through a legislative appropriation or other Florida Housing sources.

SINGLE FAMILY HOMEOWNERSHIP PROGRAM

Action

VIII. SINGLE FAMILY HOMEOWNERSHIP PROGRAM

A. Single Family Homeownership Program

1. Background

- a) 420.507 (6) Powers of the Corporation authorizes Florida Housing to borrow money through issuance of bonds or from the Federal Home Loan Bank. Under this authority, at the April 10, 1998 Board meeting, the Board approved utilizing the FHLB as a line of credit provider for the Single Family bond program to recycle volume cap for repayments and prepayments on mortgages.
- b) Florida Housing entered into an Advances and Securities Agreement on April 28, 1998 with the Federal Home Loan Bank Board.
- c) A liquidity advance line was established for \$50 million.
- d) At the December 11, 1998 board meeting, the Board approved increasing the advance line to \$75 million.
- e) At the February 12, 1999 board meeting, the Board approved increasing the advance line to \$100 million.
- f) At the April 26, 2002 board meeting, the Board approved increasing the advance line to \$125 million.
- g) Reinvestment rates for bond proceeds are extremely low resulting in significant negative arbitrage. Florida Housing can save Indenture resources by warehousing mortgage backed securities (MBS) prior to the issuance of bonds.
- h) Florida Housing Staff, Florida Housings' financial advisor and RBC Capital Markets evaluated multiple funding sources that may be used to warehouse Ginnie Mae MBS and recommends that Florida Housing utilize its existing Advances and Securities Agreement as a warehouse facility for MBS.

2. Present Situation

- a) On March 25, 2010, the FHLB authorized Florida Housing to warehouse Ginnie Mae MBS through the Advance and Securities Agreement. Total advances for both lines of credit, warehousing Ginnie Mae MBS and volume cap recycling, cannot exceed more than \$125 million.
- b) As of April 1, 2010, \$10,390,000 of volume cap has been captured in the liquidity advance line through prepayments on mortgages.

SINGLE FAMILY HOMEOWNERSHIP PROGRAM

Action

- c) For the MBS warehouse line, Florida Housing would access 6 month, 3 month, 1 month or daily loans. The following are the terms of the borrowing:
- (1) Loan Amount: Borrow up to \$125 million on a revolving basis.
 - (2) Loan Interest Rate: Loans will bear interest at a fixed rate for the term of borrowing. The rate will be established on the date of the applicable advance of funds to acquire MBS. As MBS will be delivered over time, there will be multiple advances and FHLB loans outstanding at varying rates.
 - (3) Loan Collateral: FHLB advances will be made in an amount equal to 96% of the MBS purchase price and 4% of the purchase price will be paid from Indenture resources. The MBS securities will be valued on a daily basis. To the extent the amount advanced under the line represents more than 96% of the value of the MBS, Florida Housing will be required to post additional collateral immediately. On the date of delivery of Single Family bonds, the MBS will be purchased by the Trustee using bond proceeds which will be used to repay the warehouse line. On such date, any collateral remaining in the Daily Investment Account will be returned to Florida Housing.

3. **Recommendation**

The FHLB Advances and Security Agreement is an existing agreement with Florida Housing. Florida Housing staff recommends that the Board authorize staff to take such action as may be necessary to borrow under the Agreement for the purpose of warehousing MBS securities, including but not limited to the transfer of collateral to the FHLB Daily Investment Account as needed and amend the existing FHLB agreement to incorporate NIBP and Homeowner Indenture provisions.

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Action Supplement

I. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

A. Request Approval of Credit Underwriting Update Letter for Palafox Landing (2009-065CTX)

Development Name: Palafox Landing (“Development”)	Location: Escambia County
Developer/Principal: Community Enterprise Investments, Inc. and Palafox Landing Development, LLC (“Developer”)	Set-Aside: 15% @ 35% AMI & 85% @ 60% AMI
Number of Units: 96	Tax Credit Assistance Program: \$2,880,000
Type: Garden Style	Tax Credit Exchange Amount: \$8,455,940
Demographics: Family	MMRB: N/A

1. Background/Present Situation

- a) On March 17, 2010, the Board approved a credit underwriting report with a positive recommendation for a 2009 Tax Credit Assistance Program loan in the amount of \$2,880,000, and a 2009 Tax Credit Exchange Program award in the amount of \$8,455,940, which is equivalent to an annual housing credit allocation of \$994,816, and directed staff to proceed with loan closing activities.
- b) On April 23, 2010, staff received a credit underwriting update letter recommending a change to the original site plan and specifications that were submitted during the underwriting process ([Exhibit A](#)). Staff has reviewed this update letter and finds that the development meets all of the requirements of Rule Chapter 67-48, F.A.C and RFP 2009-04.

2. Recommendation

Approve the credit underwriting update letter and direct staff to proceed with loan closing activities.

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Action Supplement

B. Request Approval of Credit Underwriting Update Letter for Villages at Delray (2009-037CT)

Development Name: Villages at Delray (“Development”)	Location: Palm Beach County
Developer/Principal: Auburn Development, LLC (“Developer”)	Set-Aside: 11% @ 28% AMI & 89% @ 60% AMI
Number of Units: 144	Tax Credit Assistance Program: \$7,500,000
Type: Garden Style	Housing Credit Allocation: \$2,110,000
Demographics: Family	MMRB: N/A

1. Background/Present Situation

- a) On February 26, 2010, the Board approved a credit underwriting report with a positive recommendation for a 2009 Tax Credit Assistance Program loan in the amount of \$7,500,000 and an annual Housing Credit Allocation of \$2,110,000, and directed staff to proceed with loan closing activities.
- b) On April 23, 2010, staff received a credit underwriting update letter recommending a reduction in the available cash flow to pay the TCAP debt service ([Exhibit B](#)). Staff has reviewed this update letter and finds that the development meets all of the requirements of Rule Chapter 67-48, F.A.C and RFP 2009-03.

2. Recommendation

Approve the credit underwriting update letter and direct staff to proceed with loan closing activities.

UNIVERSAL CYCLE

Action Supplement

I. UNIVERSAL CYCLE

A. 2009 Qualified Allocation Plan

1. Background

- a) On March 13, 2009 the Board approved the 2009 Qualified Allocation Plan (QAP). Section 20 of the QAP states in part the following: “As of the date the FHFC Board approves final ranking, FHFC may award Housing Credits from the 2010 Housing Credit Allocation Authority. Unless the FHFC Board approves a greater amount, the amount of the 2010 Housing Credit Allocation Authority to be awarded will be the amount of 2009 Housing Credits forward allocated in 2008 minus any returned Housing Credits. For any Application awarded Housing Credits from the 2010 Housing Credit Allocation Authority, the Carryover Allocation will reflect the same placed-in-service deadline requirements as the Applications awarded Housing Credits from the 2009 Housing Credit Allocation Authority.”
- b) For the 2009 Universal Application Cycle, the Notice of Credit Availability (NOCA) is \$41,478,492. The 2009 allocation and a portion of the anticipated 2010 allocation is being utilized to fund Developments awarded under RFP 2009-01, 2009-03 and 2009-04. In order to fund the successful applications in the 2009 Universal Cycle, the staff must utilize the remaining 2010 allocation and a portion of the 2011 allocation.
- c) On January 22, 2010 the Board approved to forward allocate the remaining 2010 and a portion of the 2011 Housing Credit Allocation Authority.

2. Present Situation

- a) In the January 22nd Board approval, staff did not clarify that it also needed the Board to waive the placed-in-service portion of Section 20 of the 2009 Qualified Allocation Plan (QAP) to allow the placed-in-service deadline to follow Section 42(h)(1)(E)(i)IRC to allow a development to place-in-service not later than the close of the second calendar year following the calendar year in which the allocation is made.
- b) Furthermore, due to the likelihood that the federal government may extend the Tax Credit Exchange program which would give Florida Housing the ability to exchange forty percent of its 2010 allocation, staff is requesting approval to forward allocate 2012 Housing Credit Allocation Authority as needed.

3. Recommendation

Approve and authorize staff to proceed with the forward allocation of a sufficient amount of 2012 Housing Credits as needed for the 2009 Universal Cycle and allow those developments to place-in-service by the close of the second calendar year following the calendar year the allocation is made.