

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
June 8, 2012  
Action Items



# SINGLE FAMILY BONDS – FINANCE

## *Action*

### I. SINGLE FAMILY BONDS – FINANCE

#### A. Request Approval to Sell MBS in the Secondary Market

##### 1. Background

- a) Due to a combination of factors including dislocation in the tax exempt bond market and unusually high prices of mortgage backed securities (“MBS”) in the secondary market, it has been economically advantageous in the recent past to sell MBS as a means of funding Florida Housing’s pipeline rather than bond proceeds. This authorization was provided to Florida Housing on March 3, 2009 when the Board adopted Resolution No. 2009-02 which approved the use of the To Be Announced (“TBA”) market for selling newly originated MBS.
- b) Since the approval, Florida Housing has sold over \$91mm of MBS in the market. In 2012 alone, Florida Housing has sold approximately \$59mm of newly originated MBS at a weighted average price of 107.68%. This pricing represents a significant economic benefit over what would be received in a bond transaction.
- c) In light of the current market, Florida Housing has identified other opportunities to sell selected MBS for which additional authorization would be required.

##### 2. Present Situation

- a) Florida Housing seeks to enhance the economic benefit of an opportunity to optionally redeem approximately \$71 million of bonds issued under Florida Housing’s Homeowner Mortgage Revenue Bond Resolution and, to the extent similar opportunities arise on or prior to July 1, 2014, to redeem other bonds issued by Florida Housing subject to optional redemption in accordance with the underlying bond documents. Current market indications show that after the redemption of \$71 million of bonds, Florida Housing could retain approximately \$22.5 million of MBS to be used as allowed by the indenture. In the past, Florida Housing has issued bonds to refund previously issued bonds on or after the optional redemption date if there was an economic advantage in doing so. Based on current market conditions, it would be economically more advantageous for Florida Housing to sell the underlying MBS and use the proceeds to redeem the related bonds on the optional redemption date than issue refunding bonds. This opportunity was substantiated by Florida Housing’s cash flow provider in a break-even analysis based on current collateral prepayment speeds. Under current market conditions, it is expected that the price of the portfolio achieved in a MBS sale would be well above the breakeven price calculated.

## SINGLE FAMILY BONDS – FINANCE

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- b) In order to take advantage of continuing market opportunities, Florida Housing is seeking approval to execute the above referenced MBS sales as well as (i) the sale of MBS that are purchased and not yet allocated to a bond issue and (ii) other MBS currently securing bonds issued by Florida Housing to the extent such sales are permitted by the applicable general indenture and supplemental indenture and provided that there is an economic benefit associated with the sale as confirmed by Florida Housing staff and the Financial Advisor. The authorization for such MBS sales granted by the Board under the resolution would expire on July 1, 2014 unless, pursuant to future approval of the Board, such authorization is extended.
- c) [Exhibit A](#) – Resolution

### 3. **Recommendation**

Staff recommends the Board approve the necessary staff actions and the resolution to permit the sale of MBS to optionally redeem bonds as well as to take advantage of current pricing on newly originated MBS.

## SPECIAL ASSETS

### *Action*

## II. SPECIAL ASSETS

### A. Request Approval to Loan Workout and Accept Bankruptcy Compromise for Bear Creek Apartments (93S-045/93L-071/94L-005)

<b>Development Name: Bear Creek Apartments (“Development”)</b>	<b>Location: Collier County</b>
<b>Developer/Principal: Mannausa Development Company (“Developer”); Bear Creek of Naples, Ltd. (“Borrower”)</b>	<b>Set-Aside: SAIL &amp; HC: 100% @ 60% AMI; LURA &amp; EUA: 50 years</b>
<b>Number of Units: 120</b>	<b>Allocated Amount: SAIL \$1,225,000; HC \$700,077</b>
<b>Demographics: Family</b>	<b>Servicer: Seltzer Management Group</b>

#### 1. Background

During the 1993 funding cycle, Florida Housing awarded \$1,225,000 in SAIL (State Apartment Incentive Loan) funds to Bear Creek of Naples, Ltd., a Florida limited partnership (Borrower), for the development of a 120-unit property in Collier County, Florida. The loan was closed on February 11, 1994, and will mature on August 23, 2013. The Development also received a 1994 allocation of low-income housing tax credits of \$700,077.

#### 2. Present Situation

- a) On September 21, 2010, the first mortgagee, Wells Fargo Bank, N.A. served a lawsuit on Florida Housing. Wells Fargo filed the lawsuit in the Circuit Court in Collier County seeking to foreclose the mortgage on the development known as Bear Creek Apartments. On June 6, 2011, Bear Creek filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code, in the Fort Myers division of the Bankruptcy Court of the Middle District of Florida, case number 09:11-bk-10856-JPH.
- b) Through the bankruptcy proceeding, Bear Creek sought to strip off Florida Housing's 2nd lien position SAIL Mortgage and treat the amount owed under the SAIL Note as wholly unsecured. Bear Creek sought to remove the Land Use Restriction Agreement (“LURA”) restrictions as well.
- c) The appraisals submitted to the Bankruptcy Court for valuation of the apartment complex property range from a low of \$3,032,000 from Bear Creek's appraiser to a high of \$5,210,000 from Value Tech on behalf of Florida Housing. Wells Fargo's appraisal came in at \$4,600,000. Wells Fargo has reached a settlement agreement with Bear Creek where Wells Fargo's 1st lien position mortgage claim of \$4,222,281.12 will be treated as fully secured under Bear Creek's Amended Plan. The evidentiary hearing to value the property was started in December 2011 but was not completed in the hearing time allotted and was continued to May 23, 2012. Through a series of offers and counteroffers, Florida Housing and Bear Creek have tentatively reached an agreement in principal, subject to final Board approval as follows: Florida Housing will have a secured claim for \$275,000 with a 3% interest rate and a maturity date of three years. The remaining balance of the loan will be treated as an allowed general

## SPECIAL ASSETS

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unsecured claim and will receive a pro-rata share of the monies available for unsecured creditors. Bear Creek will not attempt to either extinguish or modify the existing LURA or EUA (Extended Use Agreement) through bankruptcy. The Borrower agrees to pay all future loan servicing and compliance monitoring fees as stated in the loan documents.

- d) Florida Housing's outside counsel recommends acceptance of the foregoing terms.

### 3. **Recommendation**

Approve the loan workout as described in the bankruptcy compromise subject to further approvals and verifications by legal counsel and appropriate Florida Housing staff, and direct staff to proceed with loan document modification activities as necessary.

## UNIVERSAL CYCLE

### *Action*

### III. UNIVERSAL CYCLE

#### A. 2011 Universal Cycle Ranking

##### 1. Background/Present Situation

Upon the Board's approval of the final orders regarding the 2011 Universal Application Cycle informal hearings, staff will present the final ranking of the Applications for the Board's consideration and approval. Staff will provide supplemental materials at the Board meeting.

##### 2. Recommendation

Approve the final ranking per staff's recommendation and the final orders (as approved by the Board) and direct staff to proceed with the issuing of invitations to credit underwriting and preliminary commitment letters to those Applicants that are in the funding range.

## MULTIFAMILY BONDS

### *Action*

#### IV. MULTIFAMILY BONDS

##### A. Request Approval to Amend the Bond Documents to allow for the Remarketing of \$48,500,000 of Tax Exempt Bonds and \$20,065,000 of Taxable Bonds

<b>DEVELOPMENT NAME</b> ("Development"):	NorthBridge Apartments
<b>DEVELOPER/PRINCIPAL</b> ("Developer"/"Borrower"):	NorthBridge at Millenia Partners, Ltd/ NorthBridge at Millenia Partners II, Ltd/ CED Capital Holdings 2002 RR, LLC/ CED Capital Holdings 2003 E, LLC/CED Capital Holdings XVI, Ltd/Michael J. Sciarrino Revocable Trust/Alan H. Ginsburg Revocable Trust/Edward J. Kleiman Revocable Trust/Susan H. Kleiman Revocable Trust/Alan H. Ginsburg
<b>NUMBER OF UNITS:</b>	607
<b>LOCATION ("County"):</b>	Orange
<b>TYPE (Rental, Homeownership):</b>	Rental/Family (MMRB)(SAIL)
<b>SET ASIDE:</b>	20% @ 50% (MMRB and SAIL)
<b>ALLOCATED AMOUNT:</b>	\$48,500,000 of Tax Exempt Bonds and \$21,500,000 of Taxable Bonds
<b>ADDITIONAL COMMENTS: Amend Bond Documents</b>	

##### 1. Background

- a) In June 2007, Florida Housing issued its Florida Housing Finance Corporation Multifamily Mortgage Revenue Bonds 2007 Series G-1 (NorthBridge Apartments) in the aggregate principal amount of \$48,500,000 (the "Tax-Exempt Bonds") and Florida Housing Finance Corporation Taxable Multifamily Mortgage Revenue Bonds 2007 Series G-2 (NorthBridge Apartments) in the aggregate principal amount of \$21,500,000 (the "Taxable Bonds" and together with the Tax-Exempt Bonds, the "Bonds") to refinance the Development (NorthBridge Phase I and NorthBridge Phase II) and refund prior bonds.
- b) The Bonds are currently credit enhanced by a letter of credit (the "Letter of Credit") issued by KeyBank National Association (the "Bank").

##### 2. Present Situation

- a) The Letter of Credit will expire on June 30, 2012. The Borrower has advised Florida Housing that the Bank is unwilling to extend the term of the Letter of Credit. The termination will cause a mandatory tender of the Bonds on June 25, 2012. The purchase of the Bonds from the tendering bondholders will be paid for by the remarketing of the Bonds to a new purchaser or purchasers. If there are not sufficient funds from the remarketing to pay the purchase price of the Bonds, the Trustee will draw on the Letter of Credit. The Borrower has advised Florida Housing that they intend to remarket the Bonds to a Qualified Institutional Investor (the "Purchaser") at a fixed rate for a minimum period of seven years (referred to as a "Reset Rate"). The Indenture requires that the Bonds while in a Reset Rate mode be credit enhanced.

## MULTIFAMILY BONDS

### *Action*

- b) The Borrower, by way of the attached letter ([Exhibit A](#)), is requesting that the requirement for credit enhancement for the Bonds in a Reset Rate mode be modified to provide that credit enhancement would be required only when the reset rate period is less than seven years. Principal and interest will be due for a period of seven years after which the Purchaser's obligation will end. Following year seven, the Bondholder can either require that the Bonds be purchased by another Qualified Institutional Investor or reset the rate for the remaining term of the bonds. If this amendment to the bond documents is approved, Florida Housing's requirements for unrated bonds, as outlined in Rule 67-21.013, will be incorporated into the Indenture along with other bond documents that may need to be amended, as necessary, to incorporate this amendment.
- c) Florida Housing's Financial Advisor has reviewed and approved the terms outlined above.

### **3. Recommendation**

That the Board approve the amending of the bond documents to allow for the remarketing of the outstanding Bonds subject to further approvals and verifications by Bond Counsel, Special Counsel, Financial Advisor and the appropriate Florida Housing staff.



## LEGAL

### *Action*

#### V. LEGAL

##### A. SP Seminole Gardens LP vs. Florida Housing Finance Corporation, Case No. 2012-025UC; Application No. 2011-144C

<b>Development Name: (“Development”):</b>	<b>Seminole Garden Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Southport Financial Services, Inc.</b>
<b>Number of Units: 108</b>	<b>Location: Seminole County</b>
<b>Type: Garden</b>	<b>Set Aside: 40% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>HC: \$1,025,000</b>

#### 1. Background

- a) During the 2011 Universal Cycle, SP Seminole Gardens LP (“Petitioner”), applied for an allocation of Housing Credits to construct Seminole Garden Apartments (the “Development”) in Seminole County, Florida. Florida Housing scored Petitioner’s application and determined that it did not achieve maximum points.
- b) On or about March 27, 2012, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) On or about April 24, 2012, Petitioner filed an “Amended Petition for Informal Hearing” challenging Florida Housing’s scoring decision of its application.
- d) The sole issue raised was the determination by Florida Housing during the Universal Cycle scoring process that Petitioner failed to provide evidence of an expedited permitting process for affordable housing. Upon further review, Florida Housing determined that the ordinance number cited on the Expedited Permitting Form provided by Petitioner did pertain to an established expedited permitting process for affordable housing.
- e) On May 30, 2012, Florida Housing and Petitioner entered into a Consent Agreement which stipulated Petitioner met all threshold requirements and is entitled to 79 total points, 6 ability to proceed tie-breaker points and 30 proximity tie-breaker points.
- f) In lieu of an informal hearing, the parties entered into a Consent Agreement, attached as [Exhibit A](#).

#### 2. Present Situation

The Board must enter a Final Order in this matter.

#### 3. Recommendation

Staff recommends the Board adopt as its own, the Stipulated Findings of Fact and the Stipulated Conclusions of Law set forth in the Consent Agreement, and enter its Final Order consistent with the Stipulated Disposition set forth in the Consent Agreement.

## LEGAL

### *Action*

**B. W 76 Street, LLC vs. Florida Housing Finance Corporation, Case No. 2012-022UC;  
Application No. 2011-081C**

<b>Development Name: (“Development”):</b>	<b>Lake Point Plaza Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>RS Development Corp; Lewis V. Swezy</b>
<b>Number of Units: 76</b>	<b>Location: Miami, Dade-County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside: 40% at 60%</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$305,670</b>

**1. Background**

- a) W 76 Street, LLC, (the “Applicant”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development (“Application”).
- b) On March 27, 2012, Florida Housing notified the Applicant of its final score, and provided the Applicant with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Applicant’s application, Florida Housing determined that the Applicant had a construction and permanent financing shortfall due to a non-corporation funding commitment threshold failure, requiring Florida Housing to reject the Application.
- c) The Applicant timely filed a petition (“Petition”) challenging Florida Housing’s scoring determination with respect to the scoring determination noted above.
- d) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed a Recommended Order, which upheld Florida Housing’s score. The Recommended Order is attached as [Exhibit B](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board enter a Final Order finding adopting the Findings of Fact and the Conclusions of Law in the Recommended Order.

## LEGAL

### *Action*

C. **Twin Lakes at Lakeland, LLLP vs. Florida Housing Finance Corporation, Case No. 2012-005UC; Application No. 2011-107C**

<b>Development Name: (“Development”):</b>	<b>Twin Lakes at Lakeland</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Polk County Housing Developers, Inc.</b>
<b>Number of Units: 88</b>	<b>Location: Polk County</b>
<b>Type: Mid-Rise with Elevator</b>	<b>Set Aside: 40% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>HC: \$1,155,000</b>

1. **Background**

- a) During the 2011 Universal Cycle, Twin Lakes at Lakeland, LLLP (“Petitioner”), applied for an allocation of Housing Credits to construct Twin Lakes at Lakeland (the “Development”) in Polk County, Florida. Florida Housing scored Petitioner’s application and determined that it failed threshold requirements pertaining to non-corporation funding commitments.
- b) On or about March 27, 2012, Florida Housing notified all applicants of its score, provided all applicants with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes, and an Election of Rights form.
- c) Petitioner timely filed its Petition contesting Florida Housing’s scoring of its application.
- d) An informal hearing was held before Florida Housing’s contract Hearing Officer on May 10, 2012.
- e) The sole issue for determination at the informal hearing was whether Petitioner demonstrated evidence of non-corporation funding commitments for its proposed development as required by Part V.D.1. of the 2011 Universal Application Instructions.
- f) Petitioner stated in its application that the Development would be comprised of 88 units. During the cure period, Petitioner provided as Exhibit 49 to its application, a letter from The Housing Authority of the City of Lakeland, Florida as evidence of non-corporation funding commitment, stating that the Development would be comprised of 144 units. Florida Housing rejected the cure at final scoring because the number of units stated in the non-corporation funding commitment was inconsistent with the number of units stated in the application. According to Florida Housing’s rules at Part V. D.1., this inconsistency created a threshold failure under the applicable rule, causing Petitioner to have a permanent financing shortfall.
- g) Following the informal hearing, Petitioner and Florida Housing submitted proposed recommended orders.
- h) On May 23, 2012, the Hearing Officer issued a Recommended Order, a copy of which is attached hereto as [Exhibit C](#), which recommended that Florida Housing enter a Final Order finding that the Petitioner achieved threshold for non-corporation funding commitment, and reversing Florida Housing’s rejection of Petitioner’s application.

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### *Action*

- i) Florida Housing's Argument in Opposition to Recommended Order:

It is the position of Florida Housing staff that the conclusion of law at p. 9 of the Recommended Order is without basis under Florida Housing's rules, and is contrary to case precedent and another Recommended Order in this same Universal Cycle, in that the conclusion would require staff to evaluate and consider the materiality of applicants' inconsistencies on Universal Cycle Applications.

- j) Florida Housing staff timely filed its Argument in Opposition to Recommended Order as provided in Rule 67-48.005(6), F.A.C. A copy is attached hereto as [Exhibit D](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that that the Board: (i) adopt the findings of fact in the Recommended Order; (ii) reject the conclusions of law of the Recommended Order; (iii) adopt conclusions of law consistent with its own rules and case precedent as provided in the Argument in Opposition to Recommended Order; (iv) reject the recommendation in the Recommended Order; (v) find that Petitioner failed to meet threshold requirements relating to non-corporation funding commitments due to an inconsistency created by Petitioner's cure; and (vi) enter a Final Order accordingly.

## LEGAL

### *Action*

**D. Green Turnkey Plaza, LTD. v. Florida Housing Finance Corporation - FHFC Case No. 2012-016UC; Application No. 2011-208C**

<b>Development Name: (“Development”):</b>	<b>Washington Square Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Green Turnkey Development, LLC</b>
<b>Number of Units: 88</b>	<b>Location: Miami-Dade County</b>
<b>Type: High Rise (New Construction and Rehabilitation)</b>	<b>Set Aside: 10% @ 28% AMI 90% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$2,561,000</b>

**1. Background**

- a) Green Turnkey Plaza, Ltd., (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle tax seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its final scoring of the Petitioner’s application, Florida Housing determined that Petitioner was not eligible for 5 automatic points for a submitted Local Government Contribution (Fee Waiver), in that the amount of the fee waiver was incorrectly calculated, and that Petitioner was entitled to only 1.75 of a possible 2.0 tie-breaker points for proximity to a public park.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determinations noted above.
- d) After further review of the scoring process, Florida Housing has determined that Petitioner’s application was scored in error regarding both aspects described above. In regards to the Local Government Contribution, staff overlooked an alternative Cure (a Fee Deferral) that was submitted by Petitioner that would have been accepted had it been reviewed. Additionally, the distance to the public park submitted by Petitioner was incorrectly calculated, resulting in .25 fewer tie-breaker points awarded.
- e) Based on the above, Petitioner and Florida Housing executed a proposed Consent Agreement which provides for a stipulated disposition of this matter. The terms of the Consent Agreement provide for reinstatement of the 5 automatic points for a Local Government Contribution, and an award of 2.0 tie-breaker measurement points based on the corrected distance between the proposed development and the public park. A copy of the executed proposed Consent Agreement is attached hereto as [Exhibit E](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board adopt the proposed Consent Agreement as its Final Order in this matter.

## LEGAL

### *Action*

E. **New Tidewater Apartments, LLC v. Florida Housing Finance Corporation - FHFC Case No. 2012-001UC; Application No. 2011-056C**

<b>Development Name: (“Development”):</b>	<b>Perrytowne Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>AMCS Development, LLC; SGC Development Co., LLC</b>
<b>Number of Units: 100</b>	<b>Location: Taylor County</b>
<b>Type: Garden Apartments (Acquisition and Preservation)</b>	<b>Set Aside: 20% @ 45% AMI 80% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$694,170</b>

1. **Background**

- a) New Tidewater Apartments, LLC, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its final scoring of the Petitioner’s application, Florida Housing determined that Petitioner’s application failed to meet threshold requirements for site control, in that Petitioner submitted as a Cure an addendum to a contract referenced by date, where the date did not match the date of the contract.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The matter was then noticed for an informal hearing.
- d) An informal administrative hearing was held in this matter on May 7, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed a Recommended Order, which affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that the Petitioner’s application fails threshold requirements for site control. The Recommended Order is attached as [Exhibit F](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

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### *Action*

F. **New Madison Apartments, LLC v. Florida Housing Finance Corporation - FHFC Case No. 2012-002UC; Application No. 2011-057C**

<b>Development Name: (“Development”):</b>	<b>Springhill Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>AMCS Development, LLC; SGC Development Co., LLC</b>
<b>Number of Units: 76</b>	<b>Location: Madison County</b>
<b>Type: Garden Apartments (Acquisition and Preservation)</b>	<b>Set Aside: 20% @ 45% AMI 80% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$694,170</b>

1. **Background**

- a) New Madison Apartments, LLC, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its final scoring of the Petitioner’s application, Florida Housing determined that Petitioner’s application failed to meet threshold requirements in two aspects. First, for failure to demonstrate site control, in that Petitioner submitted as a Cure an addendum to a contract referenced by date, where the date did not match the date of the contract. Secondly, that the application failed threshold requirements for site plan approval, where the site plan approval form did not include the title of the signatory.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determinations noted above. The matter was then noticed for an informal hearing.
- d) An informal administrative hearing was held in this matter on May 7, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed a Recommended Order, which affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that the Petitioner’s application fails threshold requirements for site control and for site plan approval. The Recommended Order is attached as [Exhibit G](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

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### Action

G. **Culmer Place Phase 2, LLC v. Florida Housing Finance Corporation – FHFC Case No. 2012-003UC; Application No. 2011-243C**

<b>Development Name: (“Development”):</b>	<b>Culmer Place Phase 2</b>
<b>Developer/Principal: (“Developer”):</b>	<b>The Michaels Development Company 1, L.P.</b>
<b>Number of Units: 120</b>	<b>Location: Miami, Dade-County</b>
<b>Type: Mid-Rise with Elevator</b>	<b>Set Aside: 40% at 60% AMI or lower</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$2,561,000</b>

1. **Background**

- a) Culmer Place Phase 2, LLC, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing determined that the Petitioner failed to provide the calculation worksheet required as an attachment to the Local Government Verification of Contribution Fee Waiver form, and as a result, Petitioner’s application was not entitled to any points, out of a possible 5, for a Local Government Contribution.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The matter was then noticed for an informal hearing.
- d) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed her Recommended Order, in which she affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that the Petitioner’s application is entitled to no points for the Local Government Contribution. The Recommended Order is attached as [Exhibit H](#).
- e) On May 29, 2012, pursuant to Rule 67-48.005(3), F.A.C., the Petitioner filed its Written Argument challenging the Recommended Order on the grounds that in reaching her conclusion the Hearing Officer failed to consider the purpose of the requirement for including a calculation of the fee waiver. The Petitioner’s Written Argument is attached as [Exhibit I](#).
- f) On May 31, 2012, Florida Housing filed its response to the Petitioner’s Written Argument. Florida Housing’s response is attached as [Exhibit J](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.



## **LEGAL**

### ***Action***

#### **3. Recommendation**

Staff recommends that the Board reject the Petitioner's Written Argument, adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

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### *Action*

**H. Heritage Village Commons, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-013UC; Application No. 2011-055C**

<b>Development Name: (“Development”):</b>	<b>Heritage Village Commons</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Heritage Village Developer, Inc.</b>
<b>Number of Units: 120</b>	<b>Location: Longwood, Seminole County</b>
<b>Type: Other – 3 Story Bldg. with Elevator</b>	<b>Set Aside: 40% at 60% AMI or lower</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$1,510,000</b>

**1. Background**

- a) Heritage Village Commons, Ltd., (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 28, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing determined that the Petitioner failed threshold because it did not correctly identify the Developer as of application deadline as required by Florida Housing’s rules (the entity listed in the application as Developer was not incorporated as of application deadline).
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The matter was then noticed for an informal hearing.
- d) An informal administrative hearing was held in this matter on May 9, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed her Recommended Order, in which she concluded that the Petitioner properly identified the Developer in its application, and recommended that the Petitioner’s application be found to meet threshold requirements regarding its Developer for the proposed project. The Recommended Order is attached as [Exhibit K](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

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### *Action*

- I. **College Arms Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-006UC; Application No. 2011-178C;**
- Dixie Grove Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-007UC; Application No. 2011-170C;**
- Mission Hills Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-008UC; Application No. 2011-168C;**
- Hilltop Point Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-009UC; Application No. 2011-180C;**
- Holly Point Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-0010UC; Application No. 2011-179C; and**
- Century Woods Redevelopment, Ltd. v. Florida Housing Finance Corporation – FHFC Case No. 2012-011UC; Application No. 2011-169C**

<b>Development Names: (“Development”):</b>	<b>College Arms Garden Apartments, Dixie Grove Apartments, Mission Hills Apartments, Hilltop Apartments, Holly Point Apartments, and Century Woods Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Royal American/Southern Coastal Mortgage</b>
<b>Number of Units: Various</b>	<b>Location: Palatka, Putnam County; Orlando, Orange County; Tallahassee, Leon County; Madison, Madison County; Holly Hills, Volusia County; and Century, Escambia County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside:</b>
<b>Demographics: Family</b>	<b>Housing Credits: Various</b>

#### 1. Background

- a) The Petitioners listed above timely submitted applications in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund their proposed developments.
- b) On March 27- 28, 2012, Florida Housing notified the Petitioners of their final score, and provided them with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioners’ applications, Florida Housing determined that each Petitioner failed threshold as the result of a construction financing shortfall. The Petitioners timely filed petitions challenging Florida Housing’s scoring of their applications regarding the threshold failure. The matters were then noticed for informal hearings.
- c) The scoring issue is the same for all Petitioners. Each Petitioner was issued a loan commitment letter by JPMorgan Chase Bank. Except for the loan amounts involved, the Chase Bank letter issued to each Petitioner was identical in its terms. The construction financing shortfall in all cases can be traced to the Chase Bank letter and the manner in which the Petitioners treated the loan amounts represented by that letter in the pro forma in their applications. Because the scoring issue is the same for all applications, the Petitions were consolidated for this proceeding.

## LEGAL

### *Action*

- d) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing's designated informal hearing officer. On May 23, 2012, the hearing officer filed her Recommended Order, in which she concluded that Florida Housing was precluded by its so-called "gotcha" rule from assessing the Petitioners with the financing threshold failure at issue under the facts involved, and recommended that a Final Order be entered concluding that the applications submitted on behalf of each of the Petitioners in this consolidated proceeding meet the threshold requirements regarding the financing of their proposed projects. The Recommended Order is attached as [Exhibit L](#).

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

## LEGAL

### Action

**J. Trinity Towers Preservation Associates, LLLP v. Florida Housing Finance Corporation – FHFC Case No. 2012-024UC; Application No. 2011-205C**

<b>Development Name: (“Development”):</b>	<b>Trinity Towers South</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Preservation of Affordable Housing LLC</b>
<b>Number of Units: 162</b>	<b>Location: Melbourne, Brevard County</b>
<b>Type: SRO</b>	<b>Set Aside:</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$1,197,727</b>

**1. Background**

- a) Trinity Towers Preservation Associates, LLLP, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing determined (based on information provided in NOADs) that the seller of the property under the purchase and sale agreement submitted by Petitioner as evidence of site control did not own the property but instead leased it from the County. In such cases, Florida Housing’s Qualified Contract instructions require submission of underlying documentation linking the owner of the property to the sale of the property. The Petitioner failed to provide that documentation, and as a result, Petitioner’s application failed to meet the threshold requirement for demonstrating site control.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The Petitioner elected to submit a written statement in lieu of attending an informal hearing, and Florida Housing submitted a response.
- d) The matter was submitted to Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed her Recommended Order, in which she affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that the Petitioner’s application failed to demonstrate the threshold requirement of site control. The Recommended Order is attached as [Exhibit M](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

**LEGAL**

*Action*

**K. HTG La Margarita v. Florida Housing Finance Corporation – FHFC Case No. 2012-023UC; Application No. 2011-094C**

<b>Development Name: (“Development”):</b>	<b>HTG La Margarita</b>
<b>Developer/Principal: (“Developer”):</b>	<b>HTG Affordable Partners LLC</b>
<b>Number of Units: 100</b>	<b>Location: Miami, Dade-County</b>
<b>Type: High-rise</b>	<b>Set Aside: 90% @ 60%; 10% @ 28%</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$2,561,000</b>

**1. Background**

- a) HTG La Margarita, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified Petitioner of its final score, and provided Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of Petitioner’s application, Florida Housing determined that Petitioner was entitled to no points, out of a possible 5, for a “Local Government Verification That Development Is Consistent With Zoning and Land Use Regulations,” as it did not indicate the city or county having jurisdiction. On cure, Petitioner argued that Florida Housing erred, and did not otherwise attempt to cure the error.
- c) Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. Petitioner elected to file a written statement in lieu of an informal administrative hearing, and Florida Housing filed a Response.
- d) On May 8, 2012, the documents were submitted to Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed a Recommended Order, which affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that the Petitioner’s application is entitled to no points for the Local Government Contribution. The Recommended Order is attached as [Exhibit N](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

## LEGAL

### Action

- L. **DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd., Petitioner, v. Florida Housing Finance Corporation, – FHFC Case No. 2012-015UC; Application No. 2011-136C**

<b>Development Name: (“Development”):</b>	<b>Merritt Grand</b>
<b>Developer/Principal: (“Developer”):</b>	<b>DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd</b>
<b>Number of Units: 100</b>	<b>Location: Pinellas County</b>
<b>Type: Mid-rise with elevator</b>	<b>Set Aside: 90% @ 60%; 10% @ 33%</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$ 1,641,545</b>

#### 1. Background

- a) DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd. (the “Petitioner”), timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development, “Merritt Grand.”
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing determined that the Petitioner was not entitled to any points, out of a possible 5, for its Exhibit 38, “Verification of Local Government Contribution - Loan,” and was entitled to no points for its Exhibit 26, “Local Government Verification of Status of Site Plan Approval for Multifamily Developments.”
- c) The Verification of Local Government Contribution form was signed by the Chair of the board of St. Petersburg Housing Authority, a public housing authority created under Chapter 421, Florida Statutes, which was not a unit of local government. As a cure, Petitioner provided the same form executed by the Executive Director. Florida Housing determined that neither form complied with the rule, as the PHA is not a “local government,” and that there was no evidence that the funds “were initiated or obtained by,” a local government.
- d) Petitioner’s Site Plan Approval form provided an individual’s name where the form required the “body” having site plan approval authority. Petitioner corrected the error in its cure, and was accordingly awarded ½ point, rather than the maximum one full point.
- e) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determinations noted above. The matter was then noticed for an informal hearing.
- f) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing’s designated Hearing Officer. On May 23, 2012, the hearing officer filed a Recommended Order, affirming Florida Housing’s scoring regarding the challenged issues and recommending that a Final Order be entered concluding that the Petitioner’s application is entitled to no points for the Local Government Contribution, and no points for Verification of Zoning Approval. The Recommended Order is attached as [Exhibit O](#).

## **LEGAL**

### *Action*

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.



## LEGAL

### Action

- M. **DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd., Petitioner, v. Florida Housing Finance Corporation, – FHFC Case No. 2012-014UC; Application No. 2011-137C**

<b>Development Name: (“Development”):</b>	<b>Merritt at Highland Park</b>
<b>Developer/Principal: (“Developer”):</b>	<b>DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd</b>
<b>Number of Units: 100</b>	<b>Location: Pinellas County</b>
<b>Type: Mid-rise with elevator</b>	<b>Set Aside: 90% @ 60%; 10% @ 33%</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$ 1,625,842</b>

#### 1. Background

- a) DDC Developments, Ltd., d/b/a Denison Development Florida, Ltd. (the “Petitioner”), timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development, “Merritt at Highland Park.”
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing determined that the Petitioner was entitled to no points, out of a possible 5, for its Exhibit 38, “Verification of Local Government Contribution - Loan,” and was entitled to 3.5 points out of a possible 4.0 for its “Substitute Exhibit 25,” Proximity to Medical Facility.
- c) The Verification of Local Government Contribution form was signed by the Chair of the board of St. Petersburg Housing Authority, a public housing authority created under chapter 421, Florida Statutes, which was not a unit of local government. As a cure, Petitioner provided the same form executed by the Executive Director. Florida Housing determined that neither form complied with the rule, as the PHA is not a “local government,” and that there was no evidence that the funds “were initiated or obtained by,” a local government.
- d) After Florida Housing decided that the medical facility proffered by Petitioner in its Exhibit 25 did not meet the definition and awarded no points, Petitioner as its cure filed a response to the decision on the original facility, along with a “Substitute Exhibit 25” which put forth another medical facility slightly farther from the project, and which Petitioner asked Florida Housing to consider the substitute exhibit if it did not accept the cure for the original facility. Florida Housing accepted the substitute and awarded Petitioner’s application 3.5 points.
- e) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determinations noted above. The matter was then noticed for an informal hearing.
- f) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing’s designated Hearing Officer. On May 23, 2012, the hearing officer filed a Recommended Order, recommending that a Final Order be entered concluding that the Petitioner’s application is entitled to no points for the its Exhibit 38 “Local Government Verification of Contribution – Loan,” and 4.0 points for its Exhibit 25, Proximity to Medical Facility. The Recommended Order is attached as [Exhibit P](#).

## **LEGAL**

### *Action*

2. **Present Situation**

The Board must enter a Final Order in this matter.

3. **Recommendation**

Staff recommends that the Board adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

## LEGAL

### Action

- N. **Renaissance Preserve IV, LLLP v. Florida Housing Finance Corporation - FHFC Case No. 2012-028UC; Application No. 2011-174C**

<b>Development Name: (“Development”):</b>	<b>Renaissance Preserve Phase III</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Norstar Development USA, LP Renaissance Preserve Developers, LLC</b>
<b>Number of Units: 88</b>	<b>Location: Lee County</b>
<b>Type: Townhouses (New Construction)</b>	<b>Set Aside: 20% @ 33% AMI 80% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Housing Credits: \$1,355,087</b>

#### 1. Background

- a) Renaissance Preserve IV, LLLP, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified the Petitioner of its final score, and provided the Petitioner with a Notice of Rights pursuant to Sections 120.569, F.S., and an Election of Rights form. In its scoring of the Petitioner’s application, Florida Housing rejected a syndication letter provided by Petitioner (causing the application to fail threshold requirements) based on an inconsistency between the percentage of ownership of the interest in the requested tax credits between the letter and Exhibit 9 to the application.
- c) The Petitioner timely filed a petition challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The matter was then noticed for an informal hearing.
- d) An informal administrative hearing was held in this matter on May 8, 2012, before Florida Housing’s designated informal hearing officer. On May 23, 2012, the hearing officer filed a Recommended Order, which affirmed Florida Housing’s scoring regarding the issue challenged and recommended that a Final Order be entered concluding that Petitioner’s application failed threshold as a result of the rejection of the equity commitment letter. The Recommended Order is attached as [Exhibit Q](#).
- e) On May 29, 2012, pursuant to Rule 67-48.005(3), F.A.C., the Petitioner filed its Written Argument challenging the Recommended Order. The Petitioner’s Written Argument is attached as [Exhibit R](#).
- f) On May 31, 2012, Florida Housing filed its response to the Petitioner’s Written Argument. Florida Housing’s response is attached as [Exhibit S](#).

#### 2. Present Situation

The Board must enter a Final Order in this matter.

## **LEGAL**

### *Action*

3. **Recommendation**

Staff recommends that the Board reject the Petitioner's Written Argument, adopt the Findings of Fact, Conclusions of Law and Recommendation of the Recommended Order as its own, and issue a Final Order consistent with same in this matter.

**LEGAL**

*Action Supplement*

**I. LEGAL**

**A. In Re: Nova Oaks Housing Limited Partnership v. Florida Housing Finance Corporation – FHFC Case No. 2012-004UC; DOAH Case No. 12-1614; Application No. 2011-094C**

<b>Development Name: (“Development”):</b>	<b>Magnolia Place</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Nova Oaks Housing Limited Partnership</b>
<b>Number of Units: 80</b>	<b>Location: Pasco County</b>
<b>Type: Garden</b>	<b>Set Aside: 90% @ 60%; 10% @ 33%</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$1,250,000</b>

**1. Background**

- a) Nova Oaks Housing Limited Partnership, (the “Petitioner”) timely submitted an application in the 2011 Universal Cycle seeking an allocation of low income housing tax credits to help fund its proposed development.
- b) On March 27, 2012, Florida Housing notified Petitioner of its final score, and provided Petitioner with a Notice of Rights pursuant to Sections 120.569, Florida Statutes, and an Election of Rights form. In its scoring of Petitioner’s application, Florida Housing determined in preliminary and NOPSE scoring that Petitioner was entitled to 1.75 tie-breaker points, out of a possible 2, for a the project’s proximity to a public library. As a cure, Petitioner provided a revised Tie-Breaker Measurement Point (“TBMP”) and addressed the library location.
- c) Subsequently, a Notice of Alleged Deficiency (“NOAD”) was filed, containing an affidavit from a licensed surveyor alleging that the new TBMP was not on the development site. Florida Housing accepted the NOAD, and gave Petitioner’s application zero proximity tie-breaker points for proximity to services.
- d) Petitioner timely filed its Petition for Review, challenging Florida Housing’s scoring of its application with respect to the scoring determination noted above. The matter was then referred to the Division of Administrative Hearings (“DOAH”) for a formal hearing under Section 1205.57(1), Florida Statutes. A formal hearing was scheduled at DOAH for June 6, 2012, in Tallahassee.
- e) During preparation for hearing, it quickly became clear that Petitioner would prevail at hearing, based on testimony from two licensed surveyors who independently confirmed that the new TBMP was on the development.
- f) To resolve this matter Florida Housing and Nova Oaks reached a Consent Agreement, providing that the TBMP is on the development site, finding that the application meets threshold, and awarding all applicable tie-breaker points to Nova Oaks. A copy of the Consent Agreement is attached as [Exhibit A](#).

**2. Present Situation**

The Board must enter a Final Order in this matter.

**3. Recommendation**

Staff recommends that the Board approve and accept the Consent Agreement and issue a Final Order adopting and incorporating the Consent Agreement.