

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
October 22, 2010  
Action Items



# LEGAL

## Action

### I. LEGAL

#### A. NOAH Development Corporation Petition for Waiver – FHFC Case No. 2010-027VW

<b>Development Name: (“Development”):</b>	<b>Doveland Villas</b>
<b>Developer/Principal: (“Developer”):</b>	<b>NOAH Development Corp.</b>
<b>Number of Units: 88</b>	<b>Location: Palm Beach County</b>
<b>Type: multifamily apartments</b>	<b>Set Aside: 80% @ 50 % 20% @ 50%</b>
<b>Demographics: Farmworker</b>	<b>SAIL: \$1,118,000</b>
<b>MMRB: n/a</b>	<b>Housing Credits: n/a</b>

#### 1. Background

- a) During SAIL Cycle II (1990), Florida Housing awarded a State Apartment Incentive Loan (SAIL) loan in the amount of \$1,118,000 to NOAH Development Corporation to finance the construction of Doveland Villas in Palm Beach County, Florida to serve the demographic of the extremely low and farmworkers.
- b) On August 5, 2010, Florida Housing received a “Petition for the of Waiver Rule 67-48.0092(2) F.A.C. and the application of Rule 67-48.0105(4) F.A.C. and the Waiver of Interest charged and accumulated under SAIL Loan 90S-001” (“Petition”). A copy of the Petition is attached as [Exhibit A](#).
- c) On August 20, 2010, Notice of the Petitions was published in Volume 36, Number 33, of the [Florida Administrative Weekly](#).
- d) To date, Florida Housing has received no comments concerning the Petition.
- e) Petitioner’s SAIL loan has matured and Petitioner is in default on the repayment of the accumulated interest owed under the loan. Although Petitioner requests a waiver of Rule 67-48.009(2), F.A.C., in the heading of its Petition, it is apparent from the pleadings that Petitioner is actually requesting that Florida Housing apply rules 67-48.0105(4), 67-48.010(3)(a) and 67-48.009(2)(b), F.A.C., to its SAIL loan. Petitioner is seeking relief from repayment.

#### 2. Present Situation

Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

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### ***Action***

#### **3. Recommendation**

Staff recommends the Board dismiss the Petition. Section 120.542(2), Florida Statutes is not applicable in this situation where Petitioner is seeking to have rules applied to its SAIL loan in order to seek relief from the terms of the loan. Section 120.542(2), Florida Statutes is applied only in circumstances where a petitioner is seeking relief from the application of rules to its particular circumstances. The rules from which Petitioner is seeking a waiver were not in effect at the time Petitioner's SAIL loan was awarded and do not apply to Petitioner's SAIL Loan, thus cannot be waived.

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### *Action Supplement*

#### I. LEGAL

##### A. In Re: SAS Fountains at Pershing Park, Ltd. v. Florida Housing Finance Corporation, DOAH Case No. 10-8219

###### 1. Background

- a) Petitioner, SAS Fountains at Pershing Park, Ltd., (“Pershing Park”) timely filed an application in the 2009 Universal Cycle seeking an award of Tax Credits and a supplemental loan to construct a 92 unit affordable rental housing development in Orlando, Orange County, Florida. At the conclusion of the application scoring and ranking processes, Pershing Park was allocated \$1,502,550 in annual Tax Credits.
- b) On February 26, 2010, Florida Housing issued RFP 2010-04 (the “RFP”) setting forth criteria and qualifications for Applicants to seek financing for affordable housing projects from funds that Florida has received through the American Recovery and Reinvestment Act of 2009, PL 111-5 (“ARRA”). ARRA was enacted in 2009 by Congress as part of federal economic stimulus efforts. To be eligible for this funding, Applicants were required to have an active award of tax credits. The award process was governed by Florida Housing’s Qualified Allocation Plan (“QAP”) and Rule 67-48, F.A.C.
- c) Pershing Park and 29 other Applicants submitted proposals in response to the RFP, seeking awards ranging from \$1.8 million to \$5.0 million. Pershing Park and 28 of the 29 other Proposals met the threshold requirements of the RFP. Pershing Park was preliminary awarded \$4.1 million in Exchange funding, and was invited into the credit underwriting process for both its 2009 award of tax credits and its 2010 award of Exchange funding.
- d) The credit underwriting process resulted in a negative recommendation, based primarily on the “Developer Experience,” contained in Exhibit 11 of Pershing Park’s Application No. 2009-240C. On the Developer Experience Chart attached to Application Exhibit 11, Larry White, manager for the developer, Southern Affordable Development, LLC, offered as evidence of this affordable housing development experience two apartment developments: Holly Creek Apartments in The Woodlands, Texas, a section 8 financed 180-unit project; and The Woodbridge Apartments project, a 168-unit apartment project in Orlando Florida, financed with tax-exempt bonds issued in 1985 by the Florida Housing Finance Agency. Mr. White’s development experience was at issue because Southern affordable development was a new entity, with no track record as a company.
- e) The credit underwriter issued a negative recommendation, based on two elements in Mr. White’s experience: First, that the Woodbridge project was foreclosed in November, 1987, shortly after completion; and second, that Mr. White and his development company, Whitemark Homes, Inc., were subjects of a Securities and Exchange Commission (“SEC”) enforcement action that resulted in a cease-and-desist order in 2006,, that required Mr. White to disgorge \$ 31,180 and pay interest of \$5,374. On July 30, 2010, the Florida Housing Board of Directors, rescinded funding to Pershing Park based on the credit underwriting recommendation. On August 9, 2010, Pershing Park filed its

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petition challenging Florida Housing's decision. The petition was referred to the Division of Administrative Hearings on August 23, 2010.

- f) A formal hearing was held at the Division of Administrative Hearings on September 13-14, 2010, before Administrative Law Judge W. David Watkins (the "ALJ"). The hearing, and the schedule for proposed orders and the recommended order, were expedited to allow for consideration of the case at the October 22, 2010, meeting of Florida Housing's Board of Directors. This would allow Pershing Park, if it prevailed, to have time to close and meet the Exchange program's expenditure timelines.
- g) The ALJ examined the case on the basis of "creditworthiness," which is the term used in R. 67-48.0072, F.A.C. The ALJ, based on the evidence and testimony presented at hearing, found, in sum, that: (1) the SEC action involved a dispute over the accounting methodology used by Whitemark and approved by its internal and external accountants, and was settled based on the cost of litigation with no admission of wrongdoing; (2) that based on the testimony of Mr. White and a partner in the Woodbridge project, that the decision to cease making payments on Woodbridge was made by the other partners, and was beyond Mr. White's control; (3) that Mr. White has successfully developed a number of single-family ownership projects since Woodbridge; and (4) that Mr. White has been able to obtain credit to develop those projects. Thus, the ALJ found as a fact and concluded as a matter of law, Mr. White is creditworthy within the meaning of the rule, and Florida Housing could not refuse to accept his developer experience on that basis.
- h) The credit underwriting report presented to the Board on July 30, 2010, contained a negative funding recommendation based primarily on Mr. White's developer experience, and also contained in "Other Considerations," at page A-6, a finding that "the [SAS] Guarantors have insufficient net worth for the purpose of collateralizing the FHFC Guarantees." In response to this statement, the Applicant suggested *inter alia*, "replacing the SAS guaranty with that of Florida Capital Holdings Fountains at Pershing Park I, L.L.C and its principal Michael J. Sciarrino, which have both the financial strength and wealth of experience to serve as guarantors."

#### 2. Present Situation

- a) A Recommended Order as described above was entered on September 30, 2010. A copy is attached as [Exhibit A](#). A copy of the Credit Underwriting Report is attached as [Exhibit B](#), and Volumes 1, 2 and 3 of the transcript of hearing are attached as [Exhibit C](#). The Hearing Officer has recommended that "Florida Housing Finance Corporation enter a Final Order directing SAS Fountains at Pershing Park, Ltd; proceed to closing on its requested tax credit and Exchange Program financing."
- b) No objections to the Recommended Order have been filed.

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#### 3. **Recommendation**

- a) Staff recommends that the Board adopt the findings of fact and conclusions of law contained in the recommended Order as its own, and that the Board adopt the Recommended disposition in these cases as its own, and issue a Final Order accordingly.
- b) Staff further recommends that the Final Order approve staff proceeding to closing based on the Credit Underwriting Report as presented to the Board on July 30, 2010, being amended to replace the SAS guaranty with that of Florida Capital Holdings Fountains at Pershing Park I, L.L.C and its principal Michael J. Sciarrino, with the other terms and conditions of the Credit Underwriting Report amended only as necessary to reflect the reserves and guarantees required of other 2009 Tax Credit projects with Exchange funding.

## MISCELLANEOUS

### *Action*

## II. MISCELLANEOUS

### A. Tax Credit Exchange Program (Exchange) Funding for Applicants that Received Exchange Funding Under RFP 2010-04, dated February 26, 2010, Who Commit to Provide Additional Set-Aside Units for Extremely Low Income (ELI) Households

#### 1. Background

- a) At its September 16, 2010 meeting, the Board approved the issuance of an RFP to award 2009 Exchange funding, when available, to any RFP 2010-04 awardee to buy down some of the Development's units which are currently restricted to families earning up to 60 percent of Area Median Income (AMI) so that they will instead be restricted to families earning an income equal to or less than that area's designated Extremely Low Income (ELI) in the 2009 Universal Application for up to a total of 20 percent of the Development's total units to be restricted as ELI units.
- b) On October 8, 2010, Florida Housing staff issued RFP 2010-14 to award Tax Credit Exchange Program (Exchange) Funding for Applicants that Received Exchange Funding Under RFP 2010-04, dated February 26, 2010, Who Commit to Provide Additional Set-Aside Units for Extremely Low Income (ELI) Households. The deadline for receipt of Responses is 2:00 p.m., Eastern Time, Friday, October 15, 2010. A copy of the RFP is attached as [Exhibit A](#).
- c) This RFP is open to Applicants that received Exchange funding under RFP 2010-04 who commit to provide additional ELI Set-Aside units.

#### 2. Present Situation

- a) The Review Committee members, designated by the Executive Director, are Candice Allbaugh, Housing Credits Administrator (Chair), Amy Garmon, Housing Credits Manager, and Jean Salmonsens, Housing Development Manager. Each member of the Review Committee will individually review the responses prior to convening for the Review Committee meeting on October 20, 2010.
- b) Results of the Review Committee's evaluation of the scored items will be provided as Exhibit F in the supplemental write-up.

#### 3. Recommendation

The Review Committee's recommendation will be provided in the supplemental write-up.

# MISCELLANEOUS

## *Action Supplement*

### I. MISCELLANEOUS

#### A. Tax Credit Exchange Program (Exchange) Funding for Applicants that Received Exchange Funding Under RFP 2010-04, dated February 26, 2010, Who Commit to Provide Additional Set-Aside Units for Extremely Low Income (ELI) Households

##### 1. Background

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- c) This RFP was open to Applicants that received Exchange funding related to RFP 2010-04, or by Board authority related to the April 30, 2010 action plan who commit to provide additional ELI Set-Aside units.

##### 2. Present Situation

- a) 26 Responses were received from the following:

<b>Original Application No.</b>	<b>Name of Proposed Development</b>
2009-132C	Arbours at Fort King
2009-148C	Brownsville Transit Village III
2009-149C	Brownsville Transit Village IV
2009-144C	Dr. Kennedy Homes
2009-231C	Edgewood Apartments
2009-199C	Esmeralda Bay
2009-261C	Fort King Colony Apartments
2009-240C	Fountains at Pershing Park
2009-246C	Fountains at San Remo Court Phase I
2009-163C	Heritage Place
2009-233C	Johnson-Kenneth Court
2009-211C	Journet Place
2009-228C	Laurel Villas
2009-207C	Marcis Pointe Apartments



**MISCELLANEOUS**

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<b>Original Application No.</b>	<b>Name of Proposed Development</b>
2009-092C	Mildred & Claude Pepper Towers
2009-145C	Northwest Gardens III
2009-191C	Olive Grove Apartments
2009-139C	Pinnacle at Avery Glen
2009-140C	Pinnacle at Hammock Square
2009-123C/	Progresso Point
2009-244C	Town Park Apartments-Phase I
2009-227C	Veranda Senior Apartments
2009-219C	Villa Capri, Phase III
2009-208C	Vista Grand at Spring Hill
2009-180C	Woodside Oaks

- b) The Review Committee members, designated by the Executive Director, were Candice Allbaugh, Housing Credits Administrator (Chair), Amy Garmon, Housing Credits Manager and Jean Salmonsens, Housing Development Manager. Each member of the Review Committee independently reviewed the responses prior to convening for the Review Committee meeting on October 20, 2010.
- c) The Review Committee considered the following two motions:
- (1) The Committee determined that Laurel Villas and Mildred & Claude Pepper Towers did not meet the requirements of Section Four, Item 3 relating to eligibility of the RFP.
  - (2) The Committee determined the remaining Proposals met the threshold requirements of the RFP and recommended that the Board approve said Proposals, in the following ranked order, to be invited into credit underwriting subject to available funding so that any credit underwriting report previously approved by the Board or to be approved by the Board on October 22, 2010 can be updated to reflect the full Exchange amount inclusive of any award from this RFP and the revised set-aside commitments. Any credit underwriting report prepared after October 22, 2010 must reflect the full Exchange amount and all set-aside commitments. The motion was passed unanimously.

<b>Original Application No.</b>	<b>Name of Proposed Development</b>	<b>Leveraging†</b>	<b>Lottery No.</b>
2009-233C	Johnson-Kenneth Court	24,750.00	23
2009-208C	Vista Grand at Spring Hill	30,000.00	5
2009-146C	Ehlinger Apartments	32,258.06	24
2009-145C	Northwest Gardens III	33,333.33	9
2009-139C	Pinnacle at Avery Glen	35,714.29	20
2009-144C	Dr. Kennedy Homes	37,878.79	13
2009-207C	Marcis Pointe Apartments	41,666.67	12
2009-163C	Heritage Place	41,666.67	19
2009-191C	Olive Grove Apartments	48,295.45	1
2009-244C	Town Park Apartments – Phase I	48,453.61	6
2009-148C	Brownsville Transit Village – III	48,543.69	14

## MISCELLANEOUS

### *Action Supplement*

<b>Original Application No.</b>	<b>Name of Proposed Development</b>	<b>Leveraging†</b>	<b>Lottery No.</b>
2009-180C	Woodside Oaks	48,543.69	16
2009-149C	Brownsville Transit Village IV	49,019.61	2
2009-231C	Edgewood Apartments	50,000.00	4
2009-123C	Progresso Point	50,000.00	10
2009-140C	Pinnacle at Hammock Square	50,000.00	11
2009-199C	Esmeralda Bay	50,000.00	15
2009-132C	Arbours at Fort King	50,000.00	26
2009-246C	The Fountains at San Remo Court Phase I	54,945.05	25
2009-240C	The Fountains at Pershing Park	56,097.56	17
2009-227C	Veranda Senior Apartments	84,098.34	21
2009-261C	Fort King Colony Apartments	91,449.63	3
2009-211C	Journet Place	98,780.69	22
2009-219C	Villa Capri, Phase III	103,554.11	7

†(Exchange Funding Stated in the Original Credit Underwriting Report Approved by the Board or to be Approved by the Board on October 22, 2010)

### 3. **Recommendation**

Approve the Committee's recommendation for the RFP 2010-14 ranking list and authorize staff to proceed to issue the invitations to enter credit underwriting, subject to funding availability, with award amounts as provided in Section Five C.1.a. of the RFP.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

### III. PROFESSIONAL SERVICES SELECTION (PSS)

#### A. Guaranteed Investment Contract (GIC) Broker Services Request for Qualifications (RFQ)

##### 1. Background

At its June 18, 2010, meeting Florida Housing's Board of Directors authorized staff to begin the solicitation process for GIC Broker services and establish a review committee to make recommendations to the Board.

##### 2. Present Situation

- a) An RFQ process was initiated and RFQ 2010-09 was issued on Friday, July 30, 2010. Proposals were due on or before 2:00 p.m., Thursday, September 2, 2010 and is attached as [Exhibit A](#).
- b) Three (3) responses were received. They are as follows:
  - (1) BLX, LLC
  - (2) Grant Street Group
  - (3) PK Securities, Inc.
- c) The Review Committee members, designated by the Executive Director, were Len Stirrat, Multifamily Bond Administrator, Sandy Gaver, Single Family Manager, Edny Sanchez, Bond Administration Manager and Melanie Weathers, Bond Administrator.
- d) Each member of the Review Committee individually reviewed, scored, and ranked the proposals prior to convening for the Review Committee meetings. The Review Committee met at 10:00 a.m., on Tuesday, September 14, 2010 and at 10:00 a.m., on Thursday, September 23, 2010. Results of the Review Committee's actions are provided as [Exhibit B](#).

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### 3. **Recommendation**

The Review Committee recommends that the Board direct staff to enter into contract negotiations with the top two Offerors, BLX, LLC and PK Securities, Inc. to provide GIC Broker services. This recommendation is contingent upon (1) BLX, LLC providing proof of errors & omissions liability insurance and evidence that it is registered with the Securities and Exchange Commission as a municipal adviser pursuant to requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and (2) PK Securities, Inc., providing proof of errors & omissions liability insurance, evidence that such entity (not an affiliate of such entity) is licensed by FINRA, and that it is registered with the Securities and Exchange Commission as a municipal adviser pursuant to the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act. If, after meeting the contingencies described above, contract negotiations fail with either of BLX, Inc., or PK Securities, Inc., the committee recommends that Florida Housing enter into contract negotiations with Grant Street Group. Prior to entering into contract negotiations with Grant Street Group, it must provide evidence of errors & omissions insurance and evidence that it is registered with the Securities and Exchange Commission as a municipal adviser pursuant to the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **B. Special Counsel Services Request for Qualifications (RFQ)**

##### **1. Background**

At its June 18, 2010, meeting Florida Housing's Board of Directors authorized staff to begin the solicitation process for Special Counsel Services and establish a review committee to make recommendations to the Board.

##### **2. Present Situation**

- a) An RFQ process was initiated and RFQ 2010-10 was issued on Friday, July 30, 2010. Proposals were due on or before 2:00 p.m., Friday, October 1, 2010 and is attached as [Exhibit C](#).
- b) Four responses were received. They are as follows:
  - (1) Adorno & Yoss
  - (2) Bryant Miller Olive P.A.
  - (3) Lathum, Shukar, Eden & Beaudine, LLP
  - (4) Nabors, Giblin, & Nickerson, LLP
- c) The Review Committee members, designated by the Executive Director, were Wayne Conner, Director of Multifamily Bonds, Kevin Pichard, Assistant Director of Guarantee Program, Todd Fowler, Special Assets Director, Jan Rayboun, Loan Closing Coordinator and Melanie Weathers, Bond Administrator.
- d) Each member of the Review Committee will individually review, score, and rank the proposals prior to convening for the Review Committee meetings. The Review Committee will meet at 10:00 a.m., on Monday, October 11, 2010 and at 10:00 a.m., on Monday, October 18, 2010.
- e) Results of the Review Committee's evaluation of the scored items will be provided as Exhibit D in the supplemental write-up.

##### **3. Recommendation**

The Review Committee's recommendation will be provided in the supplemental write-up.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### C. **Approval of Housing Counseling Agencies for the Hardest Hit Fund for Unemployment Mortgage Assistance and Mortgage Loan Reinstatement Programs**

##### 1. **Background**

- a) On February 19, 2010, President Obama announced \$1.5 billion in funding called the Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets (HFA Hardest-Hit Fund) to help families in the five states that have been hit the hardest by the combination of housing price declines and unemployment. There are now 18 states and the District of Columbia participating in this \$7.6 billion program. Florida's share of these funds now totals over \$1 billion.
- b) As a result of the September 21, 2010 meeting between Treasury, ten state HFA's including Florida Housing, Fannie Mae, Freddie Mac, the Federal Housing Finance Administration and six major loan servicers throughout the country, standardized plans for Unemployment Mortgage Assistance and Mortgage Loan Reinstatement programs were finalized.

##### 2. **Present Situation**

- a) A Request for Qualifications (RFQ) process was initiated and RFQ 2010-07 was issued on Friday, June 18, 2010. The RFQ allows for additional counseling agencies to be included in this program. Florida Housing will hold additional review committee meetings before each scheduled Board meeting in order to include these additional counseling agencies. The responses received in time for the October board meeting were:
  - (1) Broward County Housing Authority
  - (2) Lee County Housing Development Corporation
  - (3) Solstice Consumer Services
- b) The Review Committee members designated by the Executive Director, are David Westcott, Director of Homeownership Programs, Nicole Gibson, Federal Loan Programs Administrator, Rob Dearduff, Special Programs Administrator & Local Government Liaison and Susan Parks, Chief Information Officer.
- c) Review Committee member Susan Parks was absent from this meeting due to a death in her family. The remaining three members of the Review Committee individually reviewed the Proposals prior to convening for the Review Committee meeting. The Review Committee meeting was held at 2:00 p.m. on Thursday, October 7, 2010.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### 3. **Recommendation**

- a) The Committee recommends that Florida Housing enter into contract negotiations with the following Offerors upon receipt of the documentation specified for each Offeror as follows:
  - (1) Broward County Housing Authority – No further documentation is necessary
  - (2) Lee County Housing Development Corporation – Provide evidence of 2010 Certification from the Florida Department of State.
  - (3) Solstice Consumer Services – No further documentation is necessary.
- b) The Review Committee also recommends that the following requirements of the RFQ be waived for all previous Offerors and Offerors who may respond in the future due to changes to the Florida Housing program guidelines that came about as a result of the standardization of the Unemployment Mortgage Assistance and Mortgage Loan Reinstatement programs as approved by the Department of Treasury:
  - (1) Evidence of adoption of National Education Industry Standards.
  - (2) The requirement that evidence of certification by the counselors is provided. Resumes of all certified counselors are required; however, the applicable proof of certification is hereby waived.
- c) The Committee also recommends that Offerors that were previously required to submit this documentation as a condition of contract negotiations be informed that this information is no longer required.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action Supplement*

### III. PROFESSIONAL SERVICES SELECTION (PSS)

#### B. Special Counsel Services Request for Qualifications (RFQ)

##### 1. Background

At its June 18, 2010, meeting Florida Housing's Board of Directors authorized staff to begin the solicitation process for Special Counsel Services and establish a review committee to make recommendations to the Board.

##### 2. Present Situation

- a) An RFQ process was initiated and RFQ 2010-10 was issued on Friday, July 30, 2010. Proposals were due on or before 2:00 p.m., Friday, October 1, 2010 and was attached to the original write up in the Board Package as Exhibit C.
- b) Four responses were received. They are as follows:
  - (1) Adorno & Yoss
  - (2) Bryant Miller Olive P.A.
  - (3) Latham, Shukar, Eden & Beaudine, LLP
  - (4) Nabors, Giblin & Nickerson, LLP
- c) The Review Committee members, designated by the Executive Director, were Wayne Conner, Director of Multifamily Bonds, Kevin Pichard, Assistant Director of Guarantee Program, Todd Fowler, Special Assets Director, Jan Rayboun, Loan Closing Coordinator and Melanie Weathers, Bond Administrator.
- d) Each member of the Review Committee will individually review, score, and rank the proposals prior to convening for the Review Committee meetings. The Review Committee met at 10:00 a.m., on Monday, October 11, 2010 and at 10:00 a.m., on Monday, October 18, 2010.

##### 3. Recommendation

The Review Committee made the following recommendations based on their scores ([Exhibit D](#)):

- (1) Florida Housing enter into contract negotiations with all four firms for the Special and Disclosure Counsel for the multifamily programs.
- (2) Florida Housing enter into contract negotiations with Nabors Giblin & Nickerson, PA and Latham, Shukar, Eden & Beaudine for single-family programs for both Special and Disclosure Counsel. If contract negotiations fail with either firm, then Florida Housing would enter into contract negotiations with the third ranked firm, Adorno & Yoss.



## **PROFESSIONAL SERVICES SELECTION (PSS)**

### *Action Supplement*

- (3) Florida Housing enter into contract negotiations with Nabors Giblin & Nickerson PA as the primary Special Counsel for the Guarantee Fund and Latham, Shukar, Eden & Beaudine will be the designated as the alternate Special Counsel for the Guarantee Fund. If contract negotiations fail with Nabors Giblin & Nickerson PA then Latham, Shukar, Eden & Beaudine would be designated as the primary counsel for the Guarantee Fund.

# SUPPLEMENTAL LOAN PROGRAM

## *Action Supplement*

### I. SUPPLEMENTAL LOAN PROGRAM

#### A. Request Approval of Supplemental Loan Closing Extension for Village Carver II, Cycle XIX (2007-124C)

<b>Development Name: Village Carver II (“Development”)</b>	<b>Location: Miami-Dade County</b>
<b>Developer/Principal: BHG Carver Development, LLC (“Developer”)</b>	<b>Set-Aside: 20% @ 33% AMI &amp; 80% @ 60% AMI</b>
<b>Number of Units: 100</b>	<b>Supplemental Loan: \$765,000</b>
<b>Type: High Rise</b>	<b>Tax Credit Exchange Amount: \$21,768,500</b>
<b>Demographics: Elderly</b>	<b>MMRB: N/A</b>

#### 1. Background/Present Situation

- a) On April 30, 2010, the Board approved the final credit underwriting report and directed staff to proceed with issuance of a firm loan commitment and loan closing activities.
- b) On May 17, 2010, staff issued a firm commitment letter with a closing deadline of July 16, 2010.
- c) On September 16, 2010, the Board approved an extension of the Supplemental loan closing deadline until October 18, 2010.
- d) On October 15, 2010, staff received a letter from the Developer requesting an additional extension of the loan closing deadline ([Exhibit A](#)).

#### 2. Recommendation

Approve the extension request and extend the Supplemental loan closing deadline until December 10, 2010, pursuant to Rule Chapter 67-48, F.A.C.

# UNIVERSAL CYCLE

## *Action Supplement*

### I. UNIVERSAL CYCLE

#### A. 2011 Universal Application Cycle – Review Committee

##### 1. Background/Present Situation

Chapter 420, Florida Statutes, and Rule Chapter 67-48, F.A.C., provide for a review committee to be comprised of FHFC staff and at least one DCA staff person. The review committee will make recommendations to the Board regarding program participation.

##### 2. Recommendation

Staff recommends and requests Board approval for a review committee for the 2011 Universal Application cycle to be comprised of the following FHFC staff: Kevin Tatreau, Wayne Conner, Barb Goltz, and Laura Cox, with Jack Gaskins as the DCA representative.

# UNIVERSAL CYCLE

## *Action Supplement*

### **B. 2011 Universal Application Cycle – Approval of the 2011 Qualified Allocation Plan**

#### **1. Background/Present Situation**

- a) The Stafford Act designated areas as Difficult Development Areas (DDAs) by reason of Hurricanes Katrina, Rita, or Wilma (the GO Zone Designation), and "... the designation is effective: (1) For housing credit dollar amounts allocated and buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010; or (2) For purposes of Section 42(h)(4) of the Internal Revenue Code, for buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010, but only with respect to bonds issued after December 31, 2005."
- b) The Housing and Economic Recovery Act of 2008 (HERA) authorized states to establish criteria for the designation of a project as a DDA if the area in which the project is located is not already so designated by the Department of Housing and Urban Development (HUD). During 2009 and 2010, Florida Housing has awarded funding to developments that are located in areas with the GO Zone DDA status through the 2009 Universal Application Cycle, MMRB/HOME RFP No. 2009-06, under the American Recovery and Reinvestment Act of 2009, and the New Issue Bond Program (NIBP). Since these developments will not be in a position to place in service by December 31, 2010 and the loss of the GO Zone DDA status will negatively affect the financial viability of these developments, staff has determined that one of the best uses of this HERA authority would be to extend the DDA status of these GO Zone Developments.
- c) Staff is continuing to receive comments on the Universal Application and Rule Chapters 67-48 and 67-21, F.A.C., and these documents are not yet completed and ready for submission for the Board's approval. However, in view of the upcoming GO Zone expiration, the provision for this DDA GO Zone extension has been included in the 2011 Qualified Allocation Plan (QAP) and staff is submitting the QAP for the Board's approval at this time ([Exhibit A](#)). Upon approval by the Board, staff will submit the 2011 QAP for the Governor's approval.
- d) In addition to the DDA designations for the expiring GO Zone areas and for any Homeless development funded in the 2011 Universal Application Cycle, the other major policy change outlined in the QAP is the split of competitive Low Income Housing Tax Credits (LIHTC) which currently commits fifty percent to Preservation and fifty percent to new construction.
- e) Staff expects to submit the 2011 Universal Application and Rule Chapters 67-48 and 67-21, F.A.C., for approval at the December 10, 2010 Board Meeting.

#### **2. Recommendation**

Approve the 2011 QAP and authorize staff to submit the QAP for to the Governor for his approval.