

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

BID-A-WEE APARTMENTS, LLC,

Petitioner,

FHFC Case No.: 2019-103BP
RFA No.: 2019-111

v.

FLORIDA HOUSING FINANCE
CORPORATION, MHP CANOPY COVE,
LLC, MHP MAGNOLIA OAKS, LLC, and
MHP NEW RIVER LANDING, LLC

Respondents.

SP BAY LLC and SP BLUFFS LLC,

Petitioner,

Case No. 2019-105BP
RFA No. 2019-111

vs.

FLORIDA HOUSING FINANCE
CORPORATION, MHP CANOPY COVE,
LLC, MHP MAGNOLIA OAKS, LLC, and
MHP NEW RIVER LANDING, LLC

Respondents.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (the "Board") for consideration and final agency action on March 6, 2020. On February 10, 2020, Bid-A-Wee Apartments, LLC ("Bid-A-Wee"), MHP

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas Blamery / DATE: 3/6/2020

Canopy Cove, LLC (“Canopy Cove”), MHP Magnolia Oaks, LLC, MHP New River Landing, LLC, SP Bay LLC, SP Bluffs LLC, and Florida Housing Finance Corporation executed a Consent Agreement, attached as Exhibit “A.”

Based on the Consent Agreement, Bid-A-Wee met all eligibility criteria in the RFA, loses five points from its Application score, and is selected for funding under the terms of RFA 2019-111. Canopy Cove has withdrawn its application and is no longer considered for funding in RFA 2019-111. The Consent Agreement is adopted and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED:

1. Canopy Cove (Application No. 2020-070RB) has withdrawn and is no longer considered for funding in RFA 2019-111;
2. Bid-A-Wee (Application No. 2020-076RB) met all eligibility criteria in the RFA and loses five points from its Application score; and
3. Bid-A-Wee, The Park at Palo Alto, LLC (Application No. 2020-068RB), Fletcher Black Redevelopment, LLC (Application No. 2020-069RB), SP Bluffs LLC (Application No. 2020-071RB), SP Bay LLC (Application No. 2020-072RB), MHP Magnolia Oaks, LLC (Application No. 2020-074RB), and MHP New River Landing, LLC (Application No. 2020-075R) are selected for funding, subject to credit underwriting.

DONE and ORDERED this 6th day of March, 2020.



FLORIDA HOUSING FINANCE
CORPORATION

By: 
Chair

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

BID-A-WEE APARTMENTS, LLC,

Petitioner,

vs.

Case No. 2019-103BP
RFA No. 2019-111

FLORIDA HOUSING FINANCE
CORPORATION, MHP CANOPY COVE,
LLC, MHP MAGNOLIA OAKS, LLC, and
MHP NEW RIVER LANDING, LLC

Respondents.

SP BAY LLC and SP BLUFFS LLC,

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vs.

Case No. 2019-105BP
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FLORIDA HOUSING FINANCE
CORPORATION, MHP CANOPY COVE,
LLC, MHP MAGNOLIA OAKS, LLC, and
MHP NEW RIVER LANDING, LLC

Respondents.

CONSENT AGREEMENT

Petitioners, Bid-A-Wee Apartments, LLC (“Bid-A-Wee”), SP Bay, LLC (“SP Bay”), and SP Bluffs, LLC (“SP Bluffs”), and Respondents Florida Housing Finance Corporation (“Florida Housing”) and MHP Canopy Cove, LLC (“Canopy Cove”), MHP Magnolia Oaks, LLC (“Magnolia Oaks”) and MHP New River Landing, LLC (“New River”), by and through undersigned counsel, hereby present the following Consent Agreement in accordance with Section 120.57(4), Florida Statutes.

PRELIMINARY STATEMENT

1. On August 1, 2019, Florida Housing issued RFA 2019-111 Rental Recovery Loan Program (“RRLP”) Financing to be Used for Rental Developments in Hurricane Michael Impacted Counties (the “RFA”).

2. Bid-A-Wee submitted Application No. 2020-076RB (the “Bid-A-Wee Application”) in response to the RFA. Bid-A-Wee requested an allocation of \$6,114,900 in RRLP funding, \$1,056,300 in Extremely Low Income (“ELI”) loan funding, \$16,500,000 in Multifamily Mortgage Revenue Bonds (“MMRB”), and \$1,186,730 in non-competitive housing credits for its proposed one hundred forty-four (144) unit affordable housing development in Bay County, Florida.

3. SP Bluffs submitted Application No. 2020-071RB (the “SP Bluffs Application”) in response to the RFA. SP Bluffs requested an allocation of \$9,660,000 in RRLP funding, \$934,300 in ELI loan funding, \$15,000,000 in MMRB, and \$1,050,000 in non-competitive housing credits for its proposed one hundred thirty-eight (138) unit affordable housing development in Bay County, Florida. The development name for SP Bluffs is Arbors at Lynn Haven Bluffs.

4. SP Bay submitted Application No. 2020-072RB (the “SP Bay Application”) in response to the RFA. SP Bay requested an allocation of \$7,100,000 in RRLP funding, \$763,600 in ELI loan funding, \$13,000,000 in MMRB, and \$920,000 in non-competitive housing credits for its proposed one hundred and two (102) unit affordable housing development in Bay County, Florida. The development name for SP Bay is Bridge Plaza Apartments.

5. Canopy Cove submitted Application No. 2020-070RB (the “Canopy Cove Application”) in response to the RFA. Canopy Cove requested an allocation of \$5,980,000 in

RRLP funding, \$732,400 in ELI loan funding, \$9,150,000 in MMRB, and \$498,477 in non-competitive housing credits for its proposed ninety-six (96) unit affordable housing development in Leon County, Florida.

6. Magnolia Oaks submitted Application No. 2020-074RB (the “Magnolia Oaks Application”) in response to the RFA. Magnolia Oaks requested an allocation of \$5,985,000 in RRLP funding, \$807,400 in ELI loan funding, \$11,200,000 in MMRB, and \$770,260 in non-competitive housing credits for its proposed one hundred ten (110) unit affordable housing development in Leon County, Florida.

7. New River submitted Application No. 2020-075R (the “New River Application”) in response to the RFA. New River requested an allocation of \$4,988,724 in RRLP funding and \$131,100 in ELI loan funding for its proposed thirty (30) unit affordable housing development in Franklin County, Florida.

8. Florida Housing received nine applications in response to the RFA.

9. The designated Review Committee recommended that Florida Housing’s Board of Directors (the “Board”) find the Bid-A-Wee Application and the Greyes Place, Phase 2 Application No. 2020-073RB ineligible for funding.

10. The Review Committee recommended that the Board select The Park at Palo Alto Application No. 2020-068RB, Fletcher Black Application No. 2020-069RB, New River, Magnolia Oaks, and Canopy Cove for funding.

11. At the December 13, 2019 Board meeting, staff recommended approving the review committee recommendations of application eligibility and funding selection. Staff also recommended selecting the remaining two eligible applications, SP Bay and SP Bluffs, for funding.

12. The Board approved the preliminarily funding recommendations from the Review Committee and the additional funding recommendations from staff.

13. Bid-A-Wee, SP Bay, and SP Bluffs timely filed Notices of Intent to Protest followed by Formal Written Protests and Petitions for Administrative Hearing (the “Petitions”) challenging the scoring and ranking of applications in the RFA.

14. Florida Housing issued a Notice to All Bidders on the RFA, including those bidders who had been preliminarily selected for funding. The Notice informed all bidders that their substantial interests might be affected by the disposition of Petitioners’ Petitions and advised the bidders of their opportunity to intervene.

15. Canopy Cove, Magnolia Oaks, and New River filed Notices of Appearance of a Specifically-Named Party in the Petitions.

16. Florida Housing has reviewed the Board’s preliminary RFA funding decision, the Applications, and the Petitions, and has determined that the Bid-A-Wee Application meets the eligibility criteria in the RFA. Therefore, Bid-A-Wee’s Application is eligible for funding.

17. Upon issuance of a Final Order adopting the terms of this Consent Agreement, Bid-A-Wee, SP Bluffs, and SP Bay agree to timely dismiss their Petitions with prejudice. The parties waive all rights to appeal this Consent Agreement and the Final Order to be issued in this case. Each party shall bear its own costs and attorney’s fees.

18. This Consent Agreement is subject to approval of Florida Housing’s Board. If the Board does not approve this Consent Agreement, no Final Order will be issued, and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

19. Florida Housing is a public corporation that is organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida.

20. Chapter 67-60, Florida Administrative Code, establishes the procedures by which Florida Housing administers the competitive solicitation funding process for the RRLP funding appropriated by the 2019 Florida Legislature.

21. The RFA was issued pursuant to and in accordance with Rule 67-60.003, Florida Administrative Code, and is adopted and incorporated herein by reference.

22. As an eligibility requirement in the RFA, applications must upload the Principals of the Applicant and Developer(s) Disclosure Form (“Principals Disclosure Form”) as part of the application. The Principals Disclosure Form must identify the Principals of the Applicant and Developer(s) as of the Application Deadline. The RFA requires that in applications for housing credits “the investor limited partner of an Applicant limited partnership, or the investor member of an Applicant limited liability company must be identified.”

23. According to the terms of the RFA, Applicants will receive five points if the Principals Disclosure Form was stamped “Approved” during the Advance Review Process.

24. Based on the Review Committee scorer’s notes the Bid-A-Wee Application was found ineligible because it did not expressly identify an “investor member” of the Applicant limited liability company in its Principal Disclosure Form, which was thus stamped “Approved” for non-housing credits only. The Bid-A-Wee application requested non-competitive housing credits.

25. In its Petition, Bid-A-Wee states that it accurately disclosed all of its Principals as of the Application Deadline as required by the terms of the RFA, as there were no investor members of the Applicant at that time. Additionally, within the four corners of the Bid-A-Wee Application, an investor member was disclosed. Specifically, the equity proposal letter from Hunt Capital Partners, LLC (“Hunt Capital”) identified Hunt Capital as the “Investor” for the Bid-A-Wee Apartments affordable housing development, and this letter was signed by the Applicant as “accepted and agreed.”

26. Accordingly, the necessary information was submitted within the four corners of Bid-A-Wee’s Application. Florida Housing can determine, based on Bid-A-Wee’s Application as a whole, that Bid-A-Wee disclosed an investor member within its application.

27. Bid-A-Wee agrees that it does not obtain five points for having the Principals Disclosure Form stamped “Approved” during the Advance Review Process because it had the incorrect version of the Principals Disclosure Form approved for the type of funding requested. Applicants that submit the wrong version of the Principals Disclosure Form are not entitled to the benefit of the five points regardless of whether the Principals Disclosure Form was stamped “Approved.”

28. In reviewing the Application, the Petition, and the requirements of the RFA, Florida Housing determined that Bid-A-Wee should be an eligible application, but it should lose the five points attributable to a pre-approved Principal Disclosure form.

29. Canopy Cove agrees to timely withdraw its application for consideration for funding in this RFA. Florida Housing agrees that this withdrawal is not subject to any withdrawal disincentive and that neither this Consent Agreement or the withdrawal will adversely affect the ability of Canopy Cove, its Developers, its Principals, or other affiliated

persons from applying for and obtaining funding in future solicitations or funding programs issued and operated by Florida Housing.

30. Given the withdrawal of Canopy Cove, according to the funding selection process outlined in the RFA, Bid-A-Wee should be selected for funding.

STIPULATED CONCLUSIONS OF LAW

31. In order to avoid the time, expense, and uncertainty of litigation, the parties agree that Bid-A-Wee is eligible for funding in RFA 2019-111 but loses five points from its Application score.

32. The undersigned attorneys represent that they have the authority to execute this Consent Agreement on behalf of their respective clients.

33. Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 67-60, Florida Administrative Code, the Florida Housing Board has jurisdiction over the parties to this proceeding.

34. Upon issuance of a Final Order adopting the terms of this Consent Agreement, Bid-A-Wee, SP Bluffs, and SP Bay agree to timely dismiss their Petitions with prejudice.

35. The Bid-A-Wee Application is eligible and is selected for funding.

STIPULATED DISPOSITION

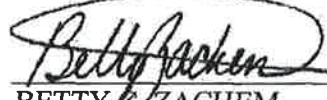
36. Bid-A-Wee met all eligibility criteria in the RFA, loses five points from its Application score, and is selected for funding under the terms of RFA 2019-111.

37. Canopy Cove has withdrawn its application and is no longer considered for funding in RFA 2019-111.

38. The Board's decision on December 13, 2019, with respect to the other applications, remains unaffected.

Respectfully signed this 10th day of February 2020.


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