

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. \_\_\_\_\_  
Application No. 2005-053C  
RFP 2006-04-10 SAIL Program Funds Request

BHG-79TH ST., LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION

Respondent.

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**PETITION FOR VARIANCES OF THE 2005 QUALIFIED ALLOCATION PLAN, AS APPLIED TO RFP 2006-04 SAIL PROGRAM FUNDS, TO ALLOW THE IMMEDIATE RETURN OF 2005 HOUSING CREDIT ALLOCATION, AND TO RECEIVE AN IMMEDIATE BINDING COMMITMENT FOR AN ALLOCATION OF 2007 HOUSING CREDITS**

Petitioner BHG-79th St., LLC, a Florida limited partnership (“BHG”) submits its Petition to Respondent Florida Housing Finance Corporation (“Florida Housing”) for variances of the 2005 Qualified Allocation Plan, as applied to BHG’s RFP 2006-04 SAIL Program Funds Request (“2006-04-10 SAIL Request”), to allow the immediate return of its 2005 Housing Credit Allocation and to receive a binding commitment for an allocation of 2007 Housing Credit Allocation. *See* Rules 67-48.002(83) and 67-48.025, F.A.C. (2005) (collectively the “Rules”), and 2005 Qualified Allocation Plan at ¶ 11.

1. Pursuant to Section 120.542, Fla. Stat. (2005) and Rules 28-104.001 through 28-104.006, F.A.C., BHG requests variances of the Rules and of Paragraph 11 of the Qualified Allocation Plan (“2005 QAP”), as applied to its 2006-04-10 SAIL Request.

2. The name, address, telephone and facsimile numbers for BHG and its qualified representative are:

BHG-79th St., LLC  
Attention: Lloyd J. Boggio, President  
2950 S.W. 27<sup>th</sup> Avenue, Suite 200  
Miami, Florida 33133  
Telephone: 305-476-8118  
Facsimile: 305-476-1557

3. The name, address, telephone and facsimile numbers of BHG's attorneys are:

Brian J. McDonough, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.  
150 West Flagler Street  
Miami, Florida 33130  
Telephone: 305-789-3200  
Facsimile: 305-789-3395  
E-mail: [bmcdonough@swwwas.com](mailto:bmcdonough@swwwas.com)

Mimi L. Sall, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF &  
SITTERSON, P.A.  
200 East Las Olas Blvd., Suite 2100  
Fort Lauderdale, Florida 33301  
Telephone: 954-462-9575  
Facsimile: 954-462-9524  
E-mail: [msall@swwwas.com](mailto:msall@swwwas.com)

4. Pursuant to the 2005 Combined Rental Cycle Program, BHG timely submitted its 2005 Universal Application ("Universal Application") for competitive Housing Credits under the Low Income Housing Tax Credit program. See Application No. 2005-053C. Equity raised from Housing Credits will be used for the development of 160 very-low and low-income individual and household tax credit units known as Villa Patricia (the "Development"), with 80% of the units reserved for the elderly.<sup>1</sup> The Development will serve individuals and elderly families in Miami, Miami-Dade County, Florida.

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<sup>1</sup>Simultaneously with the filing of this Petition, BHG is submitting its Petition for Waivers of Rules 67-48.004(14)(j) and 67-48.004(1)'s Restrictions on Changing the Number of Units and Funding for the Villa Patricia Development wherein BHG requests a reduction of housing units from 160 to 125, and a *pro rata* reduction of Housing Credits from \$2,368,500 to \$1,850,390, resulting in the return of \$518,110 in Housing Credits to Florida Housing.

5. Florida Housing issued its Preliminary Allocation of Housing Credits reserved in the amount of \$2,368,500.00 (“Preliminary Allocation”), and as permitted by Rule 67-48.028, F.A.C., BHG and Florida Housing entered into a Carryover Allocation Agreement (“Carryover Agreement”). Under the Carryover Agreement, the Development’s Placed-in-Service Date is December 31, 2007. Copies of the Certificate of Preliminary Allocation and the Carryover Agreement (without exhibits) are attached hereto as Exhibits 1 and 2.

6. Consequently, it is anticipated that there will be a Final 2005 Housing Credit Allocation granted to BHG in accordance with Florida Housing’s usual final allocation procedures.

7. On October 24, 2005, Hurricane Wilma struck the South Florida area. The impact of Hurricane Wilma contributed to substantial increases in construction costs for the Development and others in Miami-Dade County, and to substantial delays in the development process.

8. Recognizing the severity of Hurricane Wilma’s impact, Florida Housing has provided additional funds to offset increased construction costs and ensure that Housing Credit developments are completed in a timely manner through its Request for Proposals #2006-04 for 2005 Housing Credit Developments Located in Wilma GO Zone (“Wilma GO Zone Program”).

9. As a 2005 Housing Credit development located in the Wilma GO Zone, the Development was eligible for additional funds through the Wilma GO Zone Program. As a result, BHG submitted its 2006-04-10 SAIL Request for funding through the Wilma GO Zone Program. BHG received a total preliminary commitment of up to \$1,800,000.<sup>2</sup> True and correct copies of

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<sup>2</sup>Simultaneously with the filing of this Petition, BHG is submitting its Petition for Waivers of Rules 67-48.004(14)(j) and 67-48.004(1)'s Restrictions on Changing the Number of Units and Funding for the Villa Patricia Development, as Applied to RFP 2006-04 Sail Program Funds, that requests the reduction of total units, and the resulting *pro rata* reduction of the preliminary commitment \$1,800,000 to \$1,562,500.

BHG's (a) Exhibit A to RFP 2006-04, (b) Florida Housing's June 28, 2006 notice of "Preliminary SAIL Allocation \$557,000," and (c) August 7, 2006 notice of "Remaining Preliminary SAIL Allocation \$1,243,000," are attached hereto as Exhibits 3 through 5, respectively.

10. Because BHG's 2006-04-10 SAIL Request was "ranked based on its Development's Universal Application score," and additional factors related to the Universal Application, BHG requests variances of the 2005 QAP's restriction against returning housing credit allocations before the last calendar quarter of 2007, and to allow the immediate return of its 2005 Housing Credit Allocation.<sup>3</sup> BHG further requests that, upon the return of its 2005 Housing Credit Allocation, Florida Housing immediately provide a binding commitment for an allocation of 2007 Housing Credits, instead of an allocation reservation in 2008, the year after the current Placed-in-Service Date.

11. The requested variances will not adversely affect the Development. A denial of the Petition, however, would (a) result in substantial economic hardship to BHG; (b) deprive Miami of essential affordable rental units; and (c) violate principles of fairness.

12. One of the Rules subject to this Petition is Rule 67-48.025 that requires distributions of Housing Credits "in accordance with Florida Housing's Qualified Allocation Plan."

13. Also subject to BHG's Petition is Rule 67-48.002(83)'s definition of QAP:

"QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2005 Qualified Allocation Plan which is adopted and

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<sup>3</sup>Simultaneously with the filing of this Petition, BHG is submitting its Petition for variances of the 2005 Qualified Allocation Plan's Requirement for Returning its 2005 Housing Credit Allocations and to Immediately Receive a Binding Commitment for an Allocation of 2007 Housing Credits ("Petition for Variance of 2005 QAP").

incorporated herein by reference, effective upon approval by the Governor of the state of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits.

14. The QAP provides that Housing Credits may be returned **only** in the last calendar quarter of the year (October through December) in which a development is required to be placed in service, and an allocation may only be made for the year after the Placed-in-Service Date:

where a Development has not been placed in service by the date required or it is apparent that a Development will not be placed in service by the date required [December 31, 2007], such failure is due to circumstances beyond the Applicant's control, and the Applicant **has returned its Housing Credit Allocation in the last calendar quarter of the year** in which it was otherwise required to be placed in service, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may allocate such Housing Credits to the Applicant **for the year after the year** [2008] in which the Development was otherwise required to be placed in service, provided [certain] conditions have been met...

2005 QAP at ¶ 11 (emphasis added).

15. The applicable Rules and 2005 QAP for which variances are requested are implementing, among other sections of the Florida Housing Finance Corporation Act (the "Act"),<sup>4</sup> the statute that created the Housing Credits Program. *See* § 420.5099, Fla Stat. (2005). The Act designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits ("Allocation Procedures"). §§ 420.5099(1) and (2), Fla. Stat. (2005). Accordingly, the Rules and QAP that are subject to BHG's variance requests are

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<sup>4</sup>The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.516 of the Florida Statutes. (the "Act"). See also Rule 67-40.020(1), F.A.C.

implementing, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the HC Program. §§ 420.5099(1) and (2), Fla. Stat. (2005).

16. The requested variances will ensure the availability of both Housing Credits which might otherwise be lost as a consequence of development delays caused by factors outside BHG's control, and additional funds from the Wilma GO Zone Program to offset increased construction costs and ensure that Housing Credit developments are completed in a timely manner.

17. The following facts demonstrate the economic hardship and other circumstances which justify BHG's request for Rule variances:

- a. BHG timely submitted its 2005 Universal Application to Florida Housing for its Low Income Housing Tax Credit Program and received a 2005 Housing Credit Allocation of \$2,368,500.
- b. As a consequence of Hurricane Wilma, BHG applied for additional funding through the Wilma GO Zone Program, and received preliminary commitments of up to \$1,800,000, for crucial funds necessary to offset increased construction costs and ensure that the Development is completed in a timely manner.
- c. BHG's 2006-04-10 SAIL Request was "ranked based on its Development's Universal Application score."
- d. In light of the initial delays caused by the 2005 Hurricanes, and having entered the 2006 hurricane season, BHG's tax-credit investor has serious concerns about whether the Development will meet the Placed-in-Service Date.
- e. The Development has received final site plan approval. Provided that Florida Housing grants the requested Rule variances, BHG and its tax-credit investor should close on the tax-credit partnership and commence construction within a reasonable period of time.
- f. BHG has continued to proceed with the pre-development process and has met the 10% test under Paragraph 5.b. of the Carryover Agreement.

- g. A denial of the requested variances would result in a substantial economic hardship to BHG. Without the assurance of a 2007 Housing Credit Allocation from Florida Housing, and the additional funds provided through the 2006-04 SAIL Program, BHG's tax-credit investor has indicated its concerns about taking the risk of closing on the tax credit partnership, funding the initial capital contribution and commencing construction. This could result in the inability to obtain critical financing necessary to provide 160 apartment rental units needed for low-income individuals and the elderly in Miami, Miami-Dade County, Florida.

18. As demonstrated above, the requested variances serve the purposes of Section 420.5099 and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

the maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099(2), Fla. Stat. (2005).

19. Moreover, controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when they would not effect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage.

20. The requested variances will not adversely impact the Development or Florida Housing.

21. The variances being sought are permanent in nature.

22. Should Florida Housing require additional information, BHG is available to answer questions and to provide all information necessary for consideration of its Petition for Variances of the 2005 Qualified Allocation Plan, as Applied to RFP 2006-04 Sail Program Funds, to Allow the Immediate Return of 2005 Housing Credit Allocation, and to Receive an Immediate Binding Commitment for an Allocation of 2007 Housing Credits.

WHEREFORE, Petitioner BHG, LLC, respectfully requests that the Florida Housing Finance Corporation grant the Petition for the following relief:

A. As applied to the RFP 2006-04 Sail Program Funds, provide a variance of the 2005 Qualified Allocation Plan's prohibition from returning Housing Credit Allocations prior to the last quarter of 2007;

B. Allow the immediate return of BHG's 2005 Housing Credit Allocation;

C. As applied to the RFP 2006-04 Sail Program Funds, provide a variance of the 2005 Qualified Allocation Plan's requirement that a Housing Credit Allocation cannot be reserved until the year after the Development's Placed-in-Service Date;

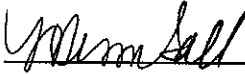
D. Immediately provide a binding commitment for an allocation of 2007 Housing Credits to BHG, in an amount not to exceed its \$2,368,500 2005 Housing Credit Allocation; and



E. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.  
Counsel for BHG-79th St., LLC  
200 East Las Olas Boulevard, Suite 2100  
Fort Lauderdale, Florida 33301  
Tel: (954) 462-9575  
Fax: (954) 462-9567

By:   
MIMI L. SALL  
E-mail: [msall@swmwas.com](mailto:msall@swmwas.com)

**CERTIFICATE OF SERVICE**

The Original Petition is being served by overnight delivery, with a copy served by electronic transmission, for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 N. Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 19<sup>th</sup> day of September, 2006.

By:   
Mimi L. Sall

we make housing affordable

**PRELIMINARY ALLOCATION CERTIFICATE**  
**HOUSING CREDIT PROGRAM**

The Florida Housing Finance Corporation ("Florida Housing") grants to  
BHG-79th St., LLC ("Applicant")

for

Villa Patricia (the "Development")

Miami-Dade County, Florida  
Application # 2005-053C

Preliminary Allocation of Housing Credits reserved in the amount of

\$2,368,500.00

November 29, 2005

1. Authority. This Preliminary Allocation is granted by Florida Housing under the Housing Credit Program as authorized by Section 420.507(12), Florida Statutes, and Section 42 of the Internal Revenue Code of 1986, as amended, ("IRC"), and as administered pursuant to Program guidelines outlined in Rule 67-48, Florida Administrative Code. Under such guidelines, Florida Housing may allocate housing credits only in an amount necessary to ensure the financial feasibility of the Development and its viability as a low-income rental housing project.
2. Effect. This Certificate represents a preliminary determination only and is not binding on either Florida Housing or the Applicant. Subject to the preceding sentence, this Certificate inures to the benefit of the Applicant named above and its grantees, transferees, and other successors in interest to the maximum extent allowed under IRC Section 42.
3. Duration. The Preliminary Allocation will be valid until December 31, 2005.

Jeb Bush, Governor

Board of Directors: Terry Santini, Chairman • Lynn M. Stultz, Vice Chairman • Thaddeus Cohen, Ex-Officio  
Cesar E. Colvet • David E. Oellerich • Zully Ruiz • Robert J. Taylor • Sandra Terry


Stephen R. Aüger, Executive Director

**EXHIBIT**

tabbles

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4. Contingencies. The Preliminary Allocation is contingent upon:
- a. The Applicant shall comply with all of the pertinent requirements of IRC Section 42 and the Treasury Regulations issued thereunder and the requirements of the State of Florida as set forth in Chapter 67-48, Florida Administrative Code.
  - b. A non-refundable administrative fee of \$189,480.00, which is based on 8% of the allocation amount (\$2,368,500.00) and a one time non-refundable compliance payment of \$2,972.00 in accordance with Rule 67-48 is payable by the Applicant to Florida Housing no later than December 6, 2005. Checks should be made payable to the Florida Housing Finance Corporation, and should be mailed to:  
  
Florida Housing Finance Corporation  
ATTN: Housing Credit Program  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329
  - c. Approval by Florida Housing of a positive credit underwriting recommendation that housing credits be allocated to this Development.
  - d. The receipt of an eligible market analysis for the property.
  - e. Verification from the Applicant and the Credit Underwriter that all contingency items as stated in the credit underwriting report and below have been met no later than nine (9) months from the date of execution of the Carryover Allocation Agreement.
  - f. Such other reasonable requests as made by Florida Housing during this time frame.
5. Final Determination. Florida Housing is required to make further tax credit determinations, with the final determination to be made at the time the Development is "placed in service" pursuant to IRC Section 42(m)(2)(C).
6. Carryover Allocation. A project may qualify for a carryover of the housing credit allocation if the guidelines set forth in Rule 67-48.028, Florida Administrative Code, are met.

  
Vicki A. Robinson  
Deputy Development Officer

Dated this 29th day of November, 2005

**FLORIDA HOUSING FINANCE CORPORATION  
2005 CARRYOVER ALLOCATION AGREEMENT**

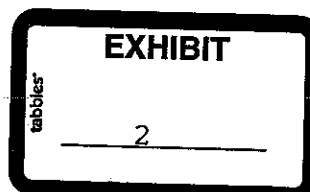
This 2005 Carryover Allocation Agreement (Agreement) by and between Florida Housing Finance Corporation (Florida Housing) and BHG-79th St., LLC (Owner) constitutes an allocation of the 2005 Housing Credit dollar amount meeting the requirements of Section 42(h)(1)(E) and (F) of the Internal Revenue Code of 1986 as amended (Code). Unless otherwise specifically provided, this Agreement and the terms used herein shall be interpreted in a manner consistent with the requirements of Section 42 of the Code.

In consideration of the conditions and obligations stated in this Agreement, Florida Housing and the Owner understand and agree as follows:

1. Florida Housing has reviewed the 2005 Application filed by the Owner of Villa Patricia (Development). Based on the evaluation of the Development identified in the 2005 Application, and the credit underwriting analysis, Florida Housing and the Owner incorporate, by reference, the 2005 Application into this Agreement.
2. The Owner acknowledges that all the terms, conditions, obligations, and deadlines set forth in this Agreement and the attached Exhibits, together with those that are incorporated by reference, constitute material and necessary conditions of this Agreement, and that the Owner's failure to comply with any of such terms and conditions shall entitle Florida Housing, at its sole discretion, to deem the credit allocation to be canceled by mutual consent of the parties. After any such cancellation, the Owner acknowledges that neither it, nor its successors in interest to the Development, shall have any right to claim Housing Credits pursuant to this allocation. Florida Housing reserves the right, at its sole discretion, to modify and/or waive any such failed condition precedent.
3. This 2005 Housing Credit allocation is not to exceed an annual amount of \$2,368,500.00 for the Development.

If the Development consists of more than one building, this Agreement constitutes an allocation of credit on a project basis to the Development in accordance with Section 42(h)(1)(F) of the Code. The "per building" Housing Credit amounts specified in **Exhibit A** are solely for purposes of determining the total housing credit allocation for the Development and do not constitute specific allocations made on a building by building basis.

This allocation is expressly conditioned upon satisfaction of the requirements of Section 42(h)(1)(E) of the Code and upon the terms and conditions of this Agreement.



4. The Owner certifies it is the legal owner of the Development and that the following information is true, accurate, and complete:

- a. Owner Name: BHG-79th St., LLC
- b. Taxpayer Federal ID#: 20-2097014
- c. Owner Address: 2950 SW 27th Avenue  
Suite 200  
Miami, FL 33133
- d. Development Name: Villa Patricia
- e. Development Address: 234-42 NE 79th St.  
Miami, FL 33138
- f. Florida Housing Development Number: 2005-053C
- g. Total Number of Units in Development: 160  
(Includes market rate units, set-aside units, and full-time employee units.)
- h. Total Number of Buildings: 1
- i. Total Number of Qualified Residential Buildings: 1  
(as defined at Section 42(h)(1)(E)(ii) of the Code)
- j. Type of Construction: New Construction
- k. Demographic/Designation: Elderly/Large County
- l. Anticipated Placed in Service Date: 12/31/2007  
of the last constructed/rehabilitated building (Month, Day and Year)
- m. Minimum Set-Aside: 40% of units at  
60% of area median income
- n. Total Set-Aside: 18% of the residential units at 30% of area median income  
82% of the residential units at 60% of area median income
- o. Extended Use Period: The Owner has irrevocably waived the "option to convert" to market rents after year 14 and FURTHER COMMITS to an additional compliance period of 35 years (fifteen years plus 35 additional years totaling 50 years).

- p. Development Features and Amenities: The Development will be constructed or rehabilitated in accordance with the 2005 Application and shall provide at a minimum the Features, Amenities and Programs described in **Exhibit B**.
5. a. Site Control:
- (i) The Owner shall demonstrate to Florida Housing that it has satisfied the requirement of site control by including a copy of the recorded deed and closing statements, or a copy of the executed long term lease agreement, together with such other evidence or documentation that Florida Housing shall deem necessary. These documents are to be incorporated into the Agreement as an attachment to the Development's Legal Description, **Exhibit C**.
- (ii) To meet the Site Control requirement, the Owner certifies to Florida Housing that it owns the land on which the Development is to be built, or that the Owner is the Lessee under a lease of the land on which the Development is to be built and which has a term that does not expire prior to the expiration of the Extended Use Period.

**Site Control Election:**

Owner shall initial only one of the following:

I elect to meet the Site Control requirement,

upon the initial submission of this Agreement

or

within six months of the execution of this Agreement

In choosing the six month election, the Owner agrees to provide evidence of meeting the requirement as a supplemental to the original Carryover Allocation Agreement without amending the original document.

- b. Cost Basis and Certification:

The Owner certifies that it shall incur at least 10 percent of the reasonably expected basis (10% test) of the Development no later than six months from the date of this Agreement. The Owner shall indicate below whether it chooses to provide evidence that the 10 % test has been met upon the initial submission of this Agreement or within six months of this Agreement's execution.

The Owner represents that its reasonably expected basis in the development (land and depreciable basis) as of December 31, 2007 is \$ 23,921,957, such that for purposes of the 10% test, it must have a basis in the Development (land and depreciable basis) of at least \$ 2,392,196 by no later than six months from the date of this Agreement.

**Cost Basis and Certification Election:**

Owner shall initial only one of the following:

I elect to meet the 10% test requirement,

\_\_\_\_\_ upon the initial submission of this Agreement

or

within six months of the execution of this Agreement

In choosing the six month election, the Owner agrees to provide an updated Exhibit D as evidence of meeting the 10% requirement. This will be a supplement to the original Carryover Allocation Agreement without amending the original document.

The Owner shall submit the properly completed and executed **Exhibit D** as evidence that it has or has not met the 10% test requirement.

Florida Housing's acceptance of any certification with respect to meeting the 10% test requirement, does not constitute a representation as to the satisfaction of the requirements under Section 42(h)(1)(E) of the Code as binding on the part of the Internal Revenue Service.

6. The Owner acknowledges that all qualified buildings within the Development shall be placed in service on or before December 31, 2007. The final tax credit determination by Florida Housing cannot be made until such time as all buildings are placed in-service and the required Final Cost Certification has been submitted and approved by Florida Housing. Florida Housing shall not issue any partial final allocations.
7. The Owner acknowledges and agrees to submit to Florida Housing, in accordance with Rule Chapter 67-48, Florida Administrative Code: (i) written progress reports evidencing the progress of the Development at least once each calendar quarter, and (ii) the completed and required Final Cost Certification documents by the date that is 75 calendar days after all the buildings in the Development have been placed in service.

In the event the Owner fails to comply with the above requirements or fails to commence construction within nine months from the effective date of this agreement, the Housing Credits allocated within this Agreement shall be deemed returned to Florida Housing pursuant to Section 42 (h)(3)(C) of the Code. Florida Housing, in its sole and absolute discretion, may extend the time for compliance with these requirements upon receipt of a written request from the Owner and if Florida Housing determines that the Owner is making a diligent effort to comply.

8. Pursuant to Rule Chapter 67-53, the Owner shall coordinate with the Development's assigned servicer, Seltzer Management Group, Inc., to have at least four on-site construction inspections at the Owner's expense. The Owner shall insure that these

inspections are conducted at different intervals during the construction period with one of the inspections conducted prior to the Development being 15% complete and one inspection conducted at construction completion.

9. The Owner acknowledges and agrees that Florida Housing shall further evaluate the Development, pursuant to Section 42(m)(2) of the Code for a final housing credit allocation determination upon Final Cost Certification, when all buildings in the Development are placed in service.

The Owner further acknowledges and agrees that, if the carryover housing credit allocation dollar amount, set forth in paragraph 3 of this Agreement, exceeds the amount for which the Development is determined by Florida Housing to be finally eligible, pursuant to Section 42(m)(2) of the Code, the amount of any such excess shall be returned to and recovered by Florida Housing pursuant to Section 42(h)(3)(C) of the Code for reallocation to other developments.

10. Upon the Owner's written notification to Florida Housing that the last building in the Development is placed in service, Florida Housing's receipt of evidence that all contingency items identified in **Exhibit E** of the Agreement have been satisfied, and acceptance by Florida Housing of the Final Cost Certification documents which include but are not limited to:

- the Final Cost Certification
- the monitoring fee
- copies of Certificates of Occupancy
- a copy of the Syndication Agreement
- an Independent Auditor's Report prepared by an independent Certified Public Accountant
- photographs of the completed property
- the original, executed Extended Low-Income Housing Agreement in accordance with the deadlines imposed above

Florida Housing shall issue an Internal Revenue Service Form 8609 for each building, in accordance with the applicable federal law governing Housing Credit allocation under Section 42 of the Code and Florida Housing program rules. The Extended Low-Income Housing Agreement, with respect to the Development, shall, incorporate the terms, conditions, and obligations undertaken by the Owner pursuant to paragraph 4 of this Agreement.

11. This Agreement does not in any way constitute a representation, warranty, guaranty, advice, or suggestion by Florida Housing as to the qualification of the Development for Housing Credits, or the financial feasibility, or viability of the Development. The Agreement shall not be relied on as such by any owner, developer, investor, tenant, lender or other person or entity for any reason.



If and to the extent that the allocation made pursuant to this Agreement is determined to be invalid, due to an error made by Florida Housing in determining its Housing Credit dollar amount for calendar year 2005, this Agreement shall be deemed to constitute a binding commitment on behalf of Florida Housing to allocate an equal amount of Housing Credits from its future Housing Credit Allocation Authority to the extent allowed by Section 42 of the Code. Such binding commitment shall, in all respects, be subject to the terms and conditions of this Agreement.

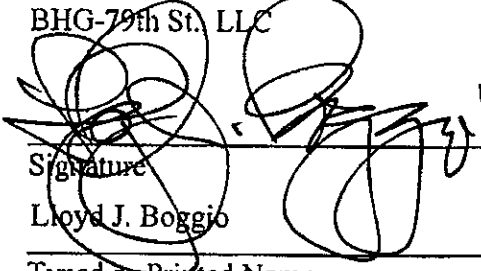
12. The Owner acknowledges and agrees to notify Florida Housing, in writing, in the event of a sale, transfer, or change in ownership of the Development in accordance with Rule Chapter 67-48, Florida Administrative Code.
13. Amendments to this document may be made by Florida Housing only upon written request from the Owner and as Florida Housing deems necessary.
14. The date of this Agreement is the date it is executed on behalf of Florida Housing as shown on the execution page hereto.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.)

--OWNER--

Acknowledged, agreed and accepted:

Owner: BHG-79th St. LLC

By:   
 Signature  
Lloyd J. Boggio  
 Typed or Printed Name

Title: President, TCG Villa Patricia, LLC

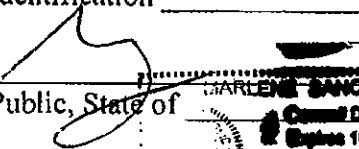
Address: 2950 SW 27th Avenue, Suite 200  
Miami, FL 33133

Date: November 30, 2005

STATE OF Florida  
COUNTY OF Miami - Dade

The foregoing instrument was acknowledged before me this 30th day of November,  
 2005, by Lloyd J. Boggio as President for  
BHG-79th St., LLC (Name) (Type of Authority)  
 (Name of party on behalf of whom instrument was executed)

Personally Known  or Produced Identification \_\_\_\_\_

  
 Notary Public, State of Florida  
 MARLENE SANCHEZ  
 Comm# DD0259833  
 Expires 10/19/2007  
 Bonded thru (800)432-4889  
 Florida Notary Assn., Inc.

MARLENE SANCHEZ  
 Comm# DD0259833  
 Expires 10/19/2007

Print, Type or Stamp Name  
MARLENE SANCHEZ  
 Notary Public  
 State of Florida

\_\_\_\_\_  
 Date Commission Expires

--FLORIDA HOUSING--

FLORIDA HOUSING FINANCE CORPORATION  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329

By its execution of this Agreement, and based on the foregoing representations and obligations, Florida Housing issues to the Owner a Carryover Allocation of 2005 housing credits pursuant to Section 42(h)(1)(E) and (F) of the Internal Revenue Code, as amended, subject to the conditions elsewhere in this Agreement. FLORIDA HOUSING HAS RELIED UPON INFORMATION SUBMITTED TO IT BY THE DEVELOPMENT OWNER IN ISSUING THIS CARRYOVER ALLOCATION. FLORIDA HOUSING MAKES NO REPRESENTATIONS OR GUARANTEES THAT THE OWNER IS ELIGIBLE TO RECEIVE THE CREDIT STATED HEREIN. THE INTERNAL REVENUE SERVICE DETERMINES TAXPAYER ELIGIBILITY.

Vicki A. Robinson Date: 12/29/05

Florida Housing Tax Identification Number: 59-3451366

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 29th day of December, 2005 by Vicki A. Robinson as Deputy Development Officer of the FLORIDA HOUSING FINANCE CORPORATION, a public corporation, the successor in interest to the Florida Housing Finance Agency, on behalf of said Corporation. She is personally known to me.

Jean Salmons  
Notary Public

\_\_\_\_\_  
Print or Stamp Name

\_\_\_\_\_  
Date Commission Expires



Jean Salmons  
MY COMMISSION # DD177690 EXPIRES  
January 15, 2007  
BONDED THRU TROY FAIN INSURANCE, INC

**EXHIBIT A TO RFP 2006-04**  
**RFP 2006-04 SAIL Program Funds Request**

Developments located in the counties damaged by Hurricane Wilma that were awarded an allocation of only Competitive Housing Credits (HC) in the 2005 Universal Application Cycle may request SAIL funds as follows:

- Eligible Counties: Brevard, Broward, Collier, Glades, Hendry, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie.
- Maximum Request: \$12,500 per set-aside unit
- Evaluation Criteria: Requests will be ranked based on the Development's 2005 Universal Application score and proximity tie-breaker points, as well as the leveraging of this SAIL request amount as a percentage of the Development Cost as stated on the Development's 2005 Universal Application Development Cost Pro Forma. The Applicant requesting the lower amount of SAIL funds as a percentage of Development Cost will receive preference.

Application No. 2005- 053 C was successful in receiving a tentative allocation of Competitive Housing Credits in the 2005 Universal Application Cycle for the following proposed Development:

Villa Patricia, consisting of 160 total units, with a total  
(Name of Proposed Development) (Part III.A.6 of the Application)

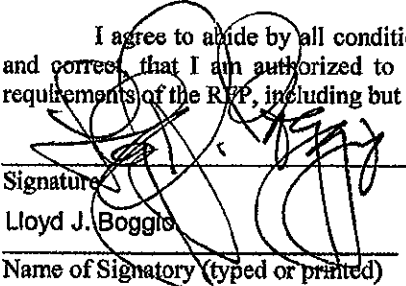
Set-aside percentage of 100 %.  
(Part III.E.1.b.(2)(a) of the Application)

BHG-79th St., LLC requests additional funding from the SAIL  
(Name of Applicant)

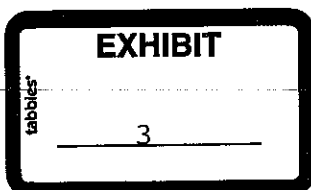
Program in the total amount of \$ 1,800,000 (based on 160 set-aside units) for the construction/rehabilitation of the above referenced Development.

I certify that the above information is true and correct; that I have the authority to make this request on behalf of the above-named Applicant; and that, if funded, at least 50 percent of the Developer fee will be utilized as a permanent source of financing to be paid from Development Cash Flow.

I agree to abide by all conditions of RFP 2006-04 and certify that all information provided in this Proposal is true and correct, that I am authorized to sign this Proposal for the Offeror and that the Offeror is in compliance with all requirements of the RFP, including but not limited to, the certification requirements stated in Section Five of this RFP.

 Signature	<u>4/19/2006</u> Date	<u>2950 SW 27th Avenue, Ste. 200</u> Mailing Address
<u>Lloyd J. Boggis</u> Name of Signatory (typed or printed)		<u>Miami, FL 33133</u>
<u>President, TCG Villa Patricia, LLC</u> Title of Signatory (typed or printed)		<u>305-476-8118</u>
<u>lwong@carlisledevelopmentgroup.com</u> E-Mail Address		<u>Telephone No. (Including Area Code)</u>
<u>Paola P Roman</u> Signature of Witness	<u>4/19/2006</u> Date	<u>305-476-1557</u> Facsimile No. (Including Area Code)
		<u>PAOLA ROMAN</u> Name of Witness (typed or printed)

Failure to provide a manual signature on this RFP 2006-04 SAIL Program Funds Request (Request) shall result in rejection of the Proposal. Signatures in blue ink are preferred. If the Request contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Request shall be rejected. The Request may be photocopied.





227 North Bronough Street, Suite 5000 • Tallahassee, Florida 32301  
850.488.4197 • Fax 850.488.9809 • www.floridahousing.org

we make housing affordable

Via E-Mail

June 28, 2006

Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
2950 SW 27<sup>th</sup> Avenue, Suite 200  
Miami, FL 33133

Re: Villa Patricia (2006-04-10/2005-53C)  
Preliminary SAIL Allocation \$557,000

Dear Mr. Boggio:

Congratulations! On June 9, 2006, Florida Housing's Board of Directors approved the proposals for the RFP 2006-04 Wilma Go Zone. Your development has been selected for participation in the State Apartment Incentive Loan (SAIL) Program's Wilma Go Zone RFP, pursuant to Rule Chapter 67-48, Florida Administrative Code (F.A.C.). This letter represents a preliminary commitment for a loan from the SAIL Program for up to \$557,000.

This funding is contingent upon:

1. Borrower and Development meeting all requirements of Rule Chapter 67-48, F.A.C. and all other applicable state and FHFC requirements; and
2. A positive credit underwriting recommendation; and
3. Final approval of the credit underwriting report by the Florida Housing Board of Directors.

By July 5, 2006, you must submit a check for \$4,627 payable to First Housing Development Corporation, the credit underwriter assigned to your development at the address listed below. Florida Housing will forward your SAIL Application to the credit underwriter.

Mr. Ed Busansky  
The Westshore Center  
1715 N. Westshore Blvd., Suite 700  
Tampa, FL 33607  
813-289-9410

---

Jeb Bush, Governor  
Board of Directors: Terry Santini, Chairman • Lynn M. Stultz, Vice Chairman • Thaddeus Cohen, Ex Officio  
Cesar E. Calvet • David E. Oellerich • Zully Ruiz • Robert J. Taylor • Sandra Terry

**EXHIBIT**

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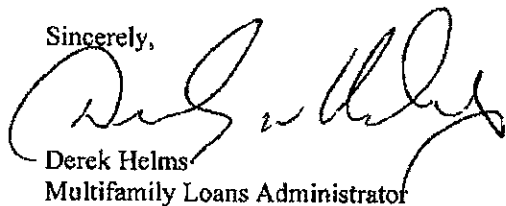
Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
June 28, 2006  
Page 2

Please indicate your acceptance to enter credit underwriting by returning the enclosed Acknowledgment along with a copy of the check submitted to the credit underwriter by July 5, 2006, to the attention of Melanie Jordan, Florida Housing. Pursuant to Rule Chapter 67-48.012, F.A.C., all items required by the Credit Underwriter must be provided to the Credit Underwriter within 35 calendar days of notification from the Credit Underwriter. You will have an additional 25 calendar days to submit the appraisal, survey and final plans.

Unless an extension is approved by Florida Housing, failure to submit the required materials to the Credit Underwriter within the appropriate timeframe shall result in the withdrawal of the preliminary commitment and the funds will be made available to the next eligible applicant.

Florida Housing looks forward to working with you and the development team to facilitate the need for affordable housing in Florida. If you have any questions, please do not hesitate to contact me or a member of the SAIL staff.

Sincerely,



Derek Helms  
Multifamily Loans Administrator

cc: Jan Rayboun, Loan Closing Coordinator  
Laura Cox, Director of Assets Management  
Diane Carr, Servicing Administrator  
Nicole Gibson, Loan Servicing Manager  
Ed Busansky, First Housing Development Corporation

Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
June 28, 2006  
Page 3

**OPPORTUNITY TO ENTER CREDIT UNDERWRITING  
2006 RFP 2006-04 Wilma Go Zone  
ACKNOWLEDGMENT**

The undersigned hereby acknowledges and agrees to enter credit underwriting in accordance with the terms and conditions of Florida Housing's subject letter dated June 28, 2006.

Accept   X  

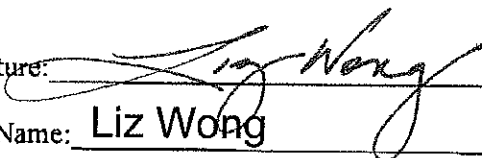
Decline \_\_\_\_\_

Villa Patricia

Development Name

2006-04 - 10/2005-53C

ID Number

Signature: 

Print Name: Liz Wong

Date: 7/3/2006



227 North Bronough Street, Suite 5000 • Tallahassee, Florida 32301  
850.488.4197 • Fax 850.488.9809 • www.floridahousing.org

we make housing affordable

Via E-Mail

August 7, 2006

Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
2950 SW 27<sup>th</sup> Avenue, Suite 200  
Miami, FL 33133

Re: Villa Patricia (2006-04-10/2005-53C)  
Remaining Preliminary SAIL Allocation \$1,243,000

Dear Mr. Boggio:

Congratulations! Your development has been selected for an additional preliminary commitment from the State Apartment Incentive Loan (SAIL) Program's Wilma Go Zone RFP, pursuant to Rule Chapter 67-48, Florida Administrative Code (F.A.C.). This letter represents an additional preliminary commitment for a loan from the SAIL Program for up to \$1,243,000.

This funding is contingent upon:

1. Borrower and Development meeting all requirements of Rule Chapter 67-48, F.A.C. and all other applicable state and FHFC requirements; and
2. A positive credit underwriting recommendation; and
3. Final approval of the credit underwriting report by the Florida Housing Board of Directors.

In regards to the preliminary commitment letter sent to you on June 28, 2006, it has come to our attention that the fees you were charged for credit underwriting were inaccurately calculated. The total fee should have been \$4813.

Please submit a check for an additional \$186, payable to Seltzer Management Group, Inc., at the address listed below.

Mr. Ben Johnson  
Seltzer Management Group, Inc.  
7500 McElvey Road  
Panama City Beach, FL 32408-4629  
850-233-3616

Jeb Bush, Governor

Board of Directors: Terry Santini, Chairman • Lynn M. Stultz, Vice Chairman • Thaddeus Cohen, Ex Officio  
Cesar E. Calvet • David E. Oellerich • Zully Ruiz • Robert J. Taylor • Sandra Terry

Stephen P. Auger, Executive Director

EXHIBIT

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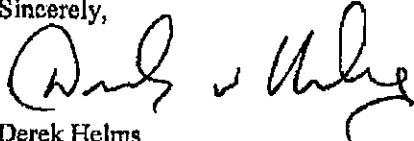
Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
August 7, 2006  
Page 2

Please indicate your acceptance to enter credit underwriting by returning the enclosed Acknowledgment along with a copy of the additional check submitted to the credit underwriter by August 14, 2006, to the attention of Melanie Jordan, Florida Housing. Pursuant to Rule Chapter 67-48.012, F.A.C., all items required by the Credit Underwriter must be provided to the Credit Underwriter within 35 calendar days of notification from the Credit Underwriter. You will have an additional 25 calendar days to submit the appraisal, survey and final plans.

Unless an extension is approved by Florida Housing, failure to submit the required materials to the Credit Underwriter within the appropriate timeframe shall result in the withdrawal of the preliminary commitment and the funds will be made available to the next eligible applicant.

Florida Housing looks forward to working with you and the development team to facilitate the need for affordable housing in Florida. If you have any questions, please do not hesitate to contact me or a member of the SAIL staff.

Sincerely,



Derek Helms  
Multifamily Loans Administrator

cc: Jan Rayboun, Loan Closing Coordinator  
Laura Cox, Director of Assets Management  
Diane Carr, Servicing Administrator  
Nicole Gibson, Loan Servicing Manager  
Ben Johnson, Seltzer Management Group, Inc.

Mr. Lloyd Boggio  
BHG-79<sup>th</sup> St., LLC  
August 7, 2006  
Page 3

**OPPORTUNITY TO ENTER CREDIT UNDERWRITING  
2006 RFP 2006-04 Wilma Go Zone  
ACKNOWLEDGMENT**


The undersigned hereby acknowledges and agrees to enter credit underwriting in accordance with the terms and conditions of Florida Housing's subject letter dated August 7, 2006.

Accept  \_\_\_\_\_

Decline \_\_\_\_\_

VILLA PATRICIA  
Development Name

(2006-04-10/2005-53C)  
ID Number

Signature: 

Print Name: LOD BOGGIO

Date: 8/16/2006