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

FLORIDA HOUSING
FINANCE CORPORATION

BLUE TRINITY 1, LLC,

Petitioner,

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FHFC Case # 2024-054BP

RFA No. 2024-201

Application No. 2025-030C

**FORMAL WRITTEN PROTEST AND
PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, BLUE TRINITY 1, LLC (“Blue Trinity ”), pursuant to sections 120.57(3), Florida Statutes (“F.S.”), and Rules 28-110 and 67-60, Florida Administrative Code (“FAC”) hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the review, ranking, scoring and eligibility decisions of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) in awarding funding pursuant to Request for Application 2024-201 Housing Credit Financing For Affordable Housing Developments Located In Small And Medium Counties (the “RFA”). In support Blue Trinity provides as follows:

1. Blue Trinity is a Florida limited liability company in the business of providing affordable housing. Blue Trinity’s address is 180 Fountain Parkway N., Suite 100, St. Petersburg, Florida 33716.

2. Florida Housing is the allocating agency for the State of Florida that was granted the authority to issue the RFA for the purpose of incentivizing construction, redevelopment, rehabilitation or preservation of much needed affordable housing. Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

3. On June 18, 2024, Florida Housing issued the RFA which in relevant part offered funding as follows:

SECTION ONE INTRODUCTION

This Request for Applications (RFA) is open to Applicants proposing the development of affordable, multifamily housing located in the Small and Medium Counties listed in Section Four A.5.a. of the RFA.

Under this RFA, Florida Housing Finance Corporation (the Corporation) expects to have (i) an estimated \$21,042,000 of Housing Credits available for award to proposed Developments that are located in Medium Counties and (ii) an estimated \$1,676,520 of Housing Credits available for award to proposed Developments that are located in Small Counties.

The Corporation is soliciting applications from qualified Applicants that commit to provide housing in accordance with the terms and conditions of this RFA, inclusive of all Exhibits, applicable laws, rules and regulations, and the Corporation's generally applicable construction and financial standards.

4. Through the issuance of the RFA, Florida Housing sought to solicit proposals from qualified applicants that would provide affordable housing consistent with the terms and conditions of the RFA, applicable laws, rules, and regulations.

5. On July 9, 2024, Blue Trinity submitted its Application in response to the RFA. Blue Trinity submitted its Application requesting \$3,200,000 in tax credits to construct a 106 unit affordable housing complex in Winter Haven, Polk County, Florida. In this proposed project the Blue Trinity Applicant is working with a faith based organization to address the affordable housing need in Winter Haven City. Florida Housing received 63 Applications in response to the RFA

6. On August 7, 2024, the designated Review Committee, as required by the RFA, met and considered the Applications submitted in response to the RFA. The Review Committee

was made up of Florida Housing staff. At the meeting the Review Committee members read into the record individual scores for each Application and determined if each Application satisfied all threshold requirements.

7. The Review Committee also made eligibility determinations concerning each submitted Application. Based on the threshold and eligibility determinations and scores, the Review Committee, following the selection criteria of the RFA, recommended allocating funding to selected Applicants. The Review Committee recommended that the Blue Trinity Application be deemed eligible for funding however ineligible for purposes of meeting the criteria for the Local Government Area of Opportunity (“LGAO”) Designation provided by the RFA.

8. On August 23, 2024, the Florida Housing's Board of Directors considered and accepted the Review Committee’s ranking, scoring and eligibility determinations.

9. As an Applicant seeking funding through the RFA, Blue Trinity is substantially affected by Florida Housing’s review, scoring, ranking and eligibility determination. The results of this proceeding affects Blue Trinity’s ability to obtain the LGAO Designation in this RFA and will impact how future applications submitted by Blue Trinity or its Principals and Affiliates in future RFAs are reviewed, scored, and ranked.

10. Consistent with the primary mission and goal of the RFA, Blue Trinity seeks to construct much needed affordable housing in Winter Haven, Polk County, Florida. Without the LGAO Designation in this RFA, Blue Trinity may be negatively impacted in how future applications are ranked. Accordingly, Blue Trinity’s substantial interests are affected by the actions taken by Florida Housing.

11. As an unsuccessful Applicant, Blue Trinity on August 28, 2024, timely filed a Notice of Intent to Protest. (See Exhibit A) This Written Protest is being timely filed to challenge the eligibility determination made by Florida Housing.

12. As disclosed in the notes of the Review Committee and as discussed orally during the Review Committee meeting, Blue Trinity passed threshold, was deemed eligible for funding, received the maximum points allowed but was not selected for funding. While deemed eligible for funding Blue Trinity was deemed not eligible for purposes of receiving the LGAO Designation. This determination appears to be based on the inclusion of two executed Florida Housing Finance Corporation Local Government Verification of Contribution Loan Forms (“LGAO Form”) from the City of Winter Haven each identifying the City of Winter Haven City as the funding commitments source.

13. Florida Housing’s LGAO Designation eligibility determination is erroneous in that only one LGAO Form was issued by the City of Winter Haven for submittal in this RFA and that was the LGAO Form submitted by Blue Trinity.

14. In addressing the review and scoring issues in the instant case the RFA at Section Four, page 69 of 132, provides as follows:

Local Government Areas of Opportunity Designation and Goal

a. Qualifications for the Local Government Areas of Opportunity Designation

To qualify for the Local Government Areas of Opportunity Designation, demonstrate a high level of Local Government interest in the project via an increased amount of Local Government contributions in the form of cash loans and/or cash grants, as outlined below.

Limit on the number of Applications within the same Local Government

A proposed Development may only qualify where a Local Government has contributed Local Government Areas of Opportunity Funding in the form of cash loans and/or cash grants for any proposed Development applying in this

RFA in an amount sufficient to qualify for the Local Government Areas of Opportunity Designation. A Local Government can only contribute Local Government Areas of Opportunity Funding to one Application that qualifies for the Local Government Areas of Opportunity Designation, regardless of how the contribution is characterized. Any single Local Government may not contribute Local Government Areas of Opportunity Funding in the form of cash loans and/or cash grants to more than one proposed Development applying for the Local Government Areas of Opportunity Designation. If multiple Applications demonstrate Local Government Areas of Opportunity Funding from the same Local Government, then all such Applications will be deemed ineligible for the Local Government Areas of Opportunity Designation, regardless of the amount of Local Government Areas of Opportunity Funding or how the contribution is characterized. However, Local Governments may pool contributions to support one Application if the proposed Development is in the jurisdiction of both Local Governments (i.e., the county and city may provide contribution to the same Development and each Local Government will submit its own form as an Attachment to the Application).

Local Governments that contribute Local Government Areas of Opportunity Funding to a proposed Development for this Goal and are awarded funding under this RFA may receive a lower funding preference for this same funding Goal in a subsequent Housing Credit RFA cycle.

Note: If a contribution from one Local Government allows a proposed Development to qualify for the Local Government Area of Opportunity Designation AND a second Local Government is also providing a contribution to the same proposed Development, but the second Local Government does not want their contribution to be considered an LGAO contribution, enter the name of the first Local Government that has provided the funding in the “Local Government Area of Opportunity Contributors” table on the Local Gov’t Contributions tab in Exhibit A, but do NOT list the second Local Government entity. The second Local Government may contribute Local Government Areas of Opportunity Funding to another proposed Development that can then qualify for the Local Government Areas of Opportunity Designation.

Local Government Areas of Opportunity Funding

The total amount of permanent funding resources, in the form of cash loans and/or cash grants from Local Government(s) stated in the “Local Government Area of Opportunity Contributors” table on the Local Gov’t Contributions tab in Exhibit A will, for purposes of this provision, be considered to be “Local Government Areas of Opportunity Funding.”

This funding shall be used for the construction and/or rehabilitation of the proposed Development and shall be paid in full by the Local Government no later than 90 days following the date the proposed Development is placed in-service.

The following will not be considered Local Government Areas of Opportunity Sources of Funding:

- In-kind donations or any other donation of property or assets;
- Waiver or deferral of any fees;
- Contributions from an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer;
- A contribution from a PHA; or
- Donation of land.

Documentation required to demonstrate Local Government Areas of Opportunity Funding

In order to be eligible to be considered Local Government Areas of Opportunity Funding, (i) the cash loans and/or cash grants must be demonstrated via one or both of the Florida Housing Local Government Verification of Contribution forms (Form Rev. 07-2022), called “Local Government Verification of Contribution – Loan” form and/or the “Local Government Verification of Contribution – Grant” form; and (ii) the Local Government(s) must be stated in the “Local Government Area of Opportunity Contributors” table on the Local Gov’t Contributions tab in Exhibit A. The forms must meet the Non-Corporation Funding Proposal requirements outlined in 10.b.(2)(a) above, with one addition. The Non-Corporation Funding Proposal requirements state that the Local Government Verification of Contribution form must be dated within 12 months of the Application Deadline; however, to meet the Local Government Area of Opportunity Designation, the Local Government Verification of Contribution form must be dated within **NINE** months of the Application Deadline. Additionally, to qualify for this Designation, the qualifying funding must be reflected as a source on the Development Cost Pro Forma, and the applicable form(s) must be provided as **Attachment 11** to the Application. Applications are not required to reflect the value (difference between the face amount and the net present value of the payment streams) on any Local Government Verification forms.

If the Applicant qualifies for the Local Government Areas of Opportunity Designation and is awarded funding under this RFA, regardless of whether the Applicant is awarded under the Local Government Areas of Opportunity Funding Goal or at a different point of the funding selection process, the Applicant must provide and maintain an amount equal to or greater than the minimum qualifying amounts listed in the table below within the permanent sources of financing.

To qualify for the Local Government Areas of Opportunity Designation, the face amounts of any cash loans and/or cash grants shown on the aforementioned Local Government Verification of Contribution form(s) and as reflected in the

Local Government Area of Opportunity Contributors table on the Local Gov't Contributions tab in Exhibit A shall be totaled and the total of these amounts must equal or be greater than the amounts listed in the table below. Applications of proposed Developments are not required to reflect the value (difference between the face amount and the net present value of the payment streams) on any Local Government Verification forms.

If the total face amounts of any cash loans and/or cash grants shown on the Local Government Verification of Contribution form(s) and as reflected in the Local Government Area of Opportunity Contributors table on the Local Gov't Contributions tab in Exhibit A total less than the amounts listed in the table below, the Application will not qualify for the Local Government Areas of Opportunity Designation.

County Contribution List

Minimum Local Government Areas of Opportunity Designation Funding Amounts	
County Size	Total Amount of Loan(s)/Grant(s)
Medium Large Counties* - Alachua, Brevard, Collier, Escambia, Lake, Lee, Leon, Manatee, Marion, Osceola, Pasco, Polk, Saint Johns, Saint Lucie, Sarasota, Seminole, Volusia	\$460,000
Medium Small Counties** - Bay, Charlotte, Citrus, Clay, Flagler, Hernando, Highlands, Indian River, Martin, Nassau, Okaloosa, Santa Rosa, Sumter	\$340,000

*Medium Large Counties have populations between 250,001 to 824,999

**Medium Small Counties have populations between 100,001 to 250,000

15. The determination of whether an application achieves the LGAO Designation impacts whether the applicant meets an established Goal or Preference as mandated by the RFA. The LGAO Designation also is considered during the application sorting order conducted by the Review Committee.

16. Specifically, the RFA includes the following Goal:

The Corporation has a goal to fund four Applications that qualify for the Local Government Areas of Opportunity Funding Goal outlined in Section Four A.11. of the RFA, with the following preferences:

- (1) There is a goal to fund two Applications that demonstrate continuous Local Government Areas of Opportunity support since 2022 or earlier
- (2) There is a goal to fund one Application that demonstrates continuous Local Government Areas of Opportunity support since 2023 or earlier

- (3) There is a goal to fund one additional Application that qualifies for the goal, regardless of whether the Application also demonstrates prior continuous Local Government Areas of Opportunity support.

17. The LGAO Designation is a funding Goal in the current RFA and the LGAO Designation in this RFA can be used by Blue Trinity to demonstrate continuous LGAO support for applications submitted in response to future RFAs.

18. At the Review Committee Meeting, Ms. Tracy Willis, the Review Committee member responsible for reviewing and scoring the sections of the Application responding to the LGAO requirements, announced that while both Blue Trinity and Application #2024-024C, Hillcrest Reserve indicated that they qualified for the LGAO Designation and Goal they did not so qualify and accordingly were not eligible for that funding Goal.

19. Specifically in her comments and the Review Committee notes, Ms. Willis indicated:

“Application 024 & 030 both provided a local government contribution form from the same local government entity. According to the RFA, any single Local Government may not contribute LGAO funding to more than one proposed Development. If multiple Applications demonstrate LGAO funding from the same Local Government, then all such Applications will be deemed ineligible for the LGAO Designation. As a result, the funding source was removed and both applications did not qualify for the LGAO designation and Goal. The LGAO basis boost was also removed.”

20. On August 23, 2024, the Board accepted and approved the Review Committee’s ranking and funding recommendation resulting in 8 Applications being tentatively awarded funding.

21. In its Exhibit A to the RFA at page 11 of 33 Blue Trinity provided the following response:

Does the documentation provided at Attachment 11 indicate that the Application qualifies for the Local Government Areas of Opportunity Designation.

Yes

22. Additionally, as required by the RFA to support the above responses Blue Trinity submitted with its Application at Attachment 11 a LGAO Form in the amount of \$460,000 executed by Mr. T. Michael Stavres, as Manager of Winer Haven. (See Exhibit B)

23. Blue Trinity obtained its executed LGAO Form submitted at Attachment 11 by requesting the signature of the LGAO Form and submitting supporting documentation. Blue Trinity advised the City that it would be submitting the LGAO Form with its Application in this RFA.

24. The City's review process included Staff Review of the request and proposed project and ultimately the execution of the LGAO Form by the City Manager. The approval and executed LGAO Form was obtained on June 10, 2024.

25. Hillcrest Reserve, a Development also proposed within the City limits of Winter Haven, submitted with its Application at Attachment 11 an LGAO Form also executed by the Manager. The Hillcrest Reserve LGAO Form also identifies the City of Winter Haven as the committing local government. (See Exhibit C)

26. The City of Winter Haven has indicated that it was not aware that Hillcrest Reserve intended to submit its LGAO Form in the current RFA but instead believed the Hillcrest Reserve LGAO Form was intended for submittal in a future RFA. It is anticipated that the City will take steps to explain the 2 Forms and will withdraw or resend the Hillcrest LGAO Form for the current RFA.

27. Upon knowledge and belief as of the filing of this Petition and consistent with the requirements of the RFA, the facts indicate that only one LGAO Form was issued by the City of Winter Haven and committing City funds in the amount of \$460,000 to the Blue Trinity proposed

Development. Accordingly, the Blue Trinity Application should be deemed eligible for the LGAO Designation.

28. Blue Trinity reserves the right to amend this Petition as necessary.
29. Material Issues in Dispute
 - a. Whether Florida Housing's review and actions taken concerning the Blue Trinity Application in response to the RFA was arbitrary or capricious, clearly erroneous or contrary to competition.
 - b. Whether Blue Trinity qualifies for the LGAO Designation.
 - c. Whether Blue Trinity's Application has been appropriately reviewed, ranked, and scored.

WHEREFORE, Blue Trinity requests that a settlement meeting be scheduled and to the extent no settlement is reached a hearing scheduled and ultimately the entry of a Recommended and Final Order determining that Florida Housing's review and scoring of the Blue Trinity Application was contrary to the RFA specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to be arbitrary, capricious, contrary to competition, and clearly erroneous and finding Blue Trinity's Application eligible for the LGAO Designation.

Respectfully submitted,

CARLTON, FIELDS

/s/ Michael P. Donaldson

MICHAEL P. DONALDSON

Florida Bar No. 0802761

Post Office Drawer 190

215 S. Monroe St., Suite 500

Tallahassee, Florida 32302

Email: mdonaldson@carltonfields.com

Counsel for Blue Trinity I, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Formal Written Protest and Petition for Administrative Proceedings has been filed by e-mail with the Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301, this 9th day of September 2024.

/s/ Michael P. Donaldson
MICHAEL P. DONALDSON

Michael Donaldson
850 513-3613 Direct Dial
mdonaldson@carltonfields.com

Atlanta
Florham Park
Hartford
Los Angeles
Miami
New York
Orlando
Tallahassee
Tampa
Washington, DC
West Palm Beach

August 28, 2024

Florida Housing Finance Corporation
Ana McGlamory, CP, FCP, FRP
Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

ELECTRONIC TRANSMISSION

Re: RFA 2024-201 – Housing Credit Financing For Affordable Housing
Developments Located In Small And Medium Counties

Dear Ms. McGlamory:

On behalf of Blue Trinity 1, LLC (“Blue Trinity”) (2025-030C) this letter constitutes a Notice of Intent to Protest (“Notice”) filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Rules 28-110.003 and 67.60.009, Florida Administrative Code, and the RFA.

This Notice is being filed within 72 hours (not including weekends and holidays) of the posting of the RFA on the Florida Housing’s website on August 23, 2024, at 9:58 a.m. Blue Trinity reserves the right to file a formal written protest within (10) days of the filing of this Notice pursuant to section 120.57(3), Florida Statutes.

Sincerely,

Michael P. Donaldson
Michael P. Donaldson

MPD/rb

cc: Shawn Wilson

**FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – LOAN FORM**

Name of Development: Destiny Place
21st St. at the intersection of Recker Hwy, Winter Haven

Development Location: Parcel ID 26-28-30-000000-024020
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county). If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)

The City/County of Winter Haven, commits \$ 460,000.00 at face value, (which may be used as an FHFC Non-Corporation Funding Proposal in an Application for FHFC funding if it meets the required criteria) in the form of a reduced interest rate loan to the Applicant for its use solely for assisting the proposed Development referenced above.

Please note: In some competitive processes, Florida Housing will use the face value of the commitment minus the net present value of the commitment for scoring purposes. The net present value of the above-referenced loan, based on its payment stream, inclusive of a reduced interest rate and the designated discount rate (as stated in the applicable RFA) is: \$460,000.00.

No consideration or promise of consideration has been given with respect to the loan. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this loan must be effective as of the Application Deadline for the applicable RFA, and is provided specifically with respect to the proposed Development.

CERTIFICATION

I certify that the foregoing information is true and correct and that this commitment is effective at least through the date required in the applicable RFA.


Signature

T MICHAEL STAVRES
Print or Type Name

CITY MANAGER
Print or Type Title

JUNE 10, 2024
Date Signed

NOTE TO LOCAL GOVERNMENT OFFICIAL: Additional information is set forth in the applicable Request for Application under which the Applicant is applying for funding for the above referenced Development.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. The amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

If there are alterations made to this form that change the meaning of the form, the form will not be accepted.

**FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – LOAN FORM**

Name of Development: Hillcrest Reserve
On Avenue Y NE, northeast of the intersection of Avenue Y NE and 6th Street NE
Development Location: Winter Haven, FL
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county) If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)


The City/County of Winter Haven, FL, commits \$ 1,000,000.00 at face value, (which may be used as an FHFC Non-Corporation Funding Proposal in an Application for FHFC funding if it meets the required criteria) in the form of a reduced interest rate loan to the Applicant for its use solely for assisting the proposed Development referenced above.

Please note: In some competitive processes, Florida Housing will use the face value of the commitment minus the net present value of the commitment for scoring purposes. The net present value of the above-referenced loan, based on its payment stream, inclusive of a reduced interest rate and the designated discount rate (as stated in the applicable RFA) is: \$ _____.

No consideration or promise of consideration has been given with respect to the loan. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this loan must be effective as of the Application Deadline for the applicable RFA, and is provided specifically with respect to the proposed Development.

CERTIFICATION

I certify that the foregoing information is true and correct and that this commitment is effective at least through the date required in the applicable RFA.

 _____ Signature	T. Michael Stavres _____ Print or Type Name
City Manager _____ Print or Type Title	<u>6 24 2024</u> _____ Date Signed

NOTE TO LOCAL GOVERNMENT OFFICIAL: Additional information is set forth in the applicable Request for Application under which the Applicant is applying for funding for the above referenced Development.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. The amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

If there are alterations made to this form that change the meaning of the form, the form will not be accepted.

(Form Rev. 07-2022)

Date Submitted: 2024-07-09 13:25:10.900 | Form Key: 10087

EXHIBIT C