

July 19, 2019

VIA EMAIL

Ms. Marisa Button
Director of Multifamily Allocations
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301

Re: RFA #2019-102 – CDBG-DR to be used in Conjunction with Tax-Exempt MMRB and Non-Competitive Housing Credits in Counties Deemed Hurricane Recovery Priorities

Dear Marisa:

Thank you and the rest of the staff for all of your hard work on a difficult task putting together a draft RFA for CDBG-DR for Hurricane Recovery in Priority Counties. After reading the RFA and participating in the July 9th Workshop, I have just a few comments/requests that I hope will aid the effort:

1. **Section 7. a. Readiness to Proceed/Site Control.** The June 26, 2019 draft RFA, as modified per the July 9, 2019 Workshop Agenda, requires that evidence of Site Control include:

(3) ... a lease between the Applicant and the Land Owner. The lease payments must equal \$10 a year or less. The lease must have an unexpired term of at least 50 years after the Application Deadline.

If a Local Government, Public Housing Authority, Land Authority, or Community Land Trust is purchasing the land (as is permitted), as a technical legal matter it is not yet able to lease the land to the Applicant. Please add language in the RFA expressly permitting the Local Government, Public Housing Authority, Land Authority or Community Land Trust that is purchasing the land to provide – in lieu of a lease – a lease option, the exercise of which would be automatic upon acquisition of title by the lessor, or a conditional lease, conditioned on acquiring title to the land, is permissible for purposes of establishing site control in the Applicant.

2. **Section Four A. 3.a.(2)(a)(iii) Information to be Provided in Application/Exhibit A Items/Applicant/Site Ownership.** The June 26, 2019 draft RFA requires that, in addition to meeting the definition set forth in Exhibit B to the RFA, if a Community Land Trust is to be the Land Owner it must demonstrate that it qualifies by providing the following as Attachment 2:

- *The Community Land Trust must provide its Articles of Incorporation [or Bylaws, per the Workshop Agenda] demonstrating it has existed since June 28, 2018 or earlier and that a purpose of the Community Land Trust is to preserve affordable housing; and*

Limiting the Community Land Trust’s affordable housing purpose to *preservation* as well as limiting the evidence of that purpose to the articles of incorporation or bylaws will exclude legitimate Community Land Trusts who work in affordable housing. Use of the term “preservation,” could be interpreted fairly to exclude entities that have been acquiring land for the purposes of maintaining the affordability of existing housing or provide newly-constructed affordable housing in areas where the existing stock is in poor condition and affordable only because no one who could afford to pay more would live there. In neighborhoods that are rapidly gentrifying, old housing is being demolished and new housing put in its place that is not affordable to existing residents. Community Land Trusts step in to acquire properties before market-rate developers can. These properties may have housing on them that is in need of rehabilitation, housing that is too dilapidated to save, or no housing at all (vacant land). In a sense these acquisition activities are all undertaken in the name of preservation, but they are not in the strictest sense of the word actual preservation. Please modify the requirement to allow for the acquisition of land for the purpose of preservation or creation of affordable housing.

With respect to evidence of the Community Land Trust’s purpose, as Jamie Ross has already commented, 501(c)(3)’s typically draft their articles of incorporation using the language from the Internal Revenue Code that will ensure they are granted tax-exempt status – not a word more or less. Thus, the language is broad as to charitable and educational purposes and not specific as to affordable housing. Bylaws may or may not contain this language. If the purpose of these criteria is to exclude entities created for the sole purpose of meeting the requirements of RFA 2019-102, the requirement that the Community Land Trust provide a list of at least two developments or units that total at least 50% of the units in the Proposed Development, coupled with the requirement that the entity be in existences since at least June 28, 2018, and be a 501(c)(3) (a status which cannot be quickly obtained), will all serve to protect against this.

- *The Community Land Trust must provide a list of at least two Developments and/or a list of units that equals at least 50 percent of the units in the proposed Development that the Community Land Trust has developed. If the list consists of Developments, at least one Development must consist of at least 50 percent of the units in the proposed Development.*

Requiring that the Community Land Trust have *developed* will also exclude Community Land Trusts who are providing an invaluable service in acquiring land for affordable housing purposes, but not developing it themselves. As Jamie Ross noted in her comment letter, Community Land Trusts frequently bring in developers to obtain funding for and rehabilitate or construct new affordable housing; they often do not undertake these activities themselves. The development criteria could be modified to both establish that affordable housing is a purpose of the Community Land Trust and reflect that fact that many Community Land Trust will not themselves have been the developer of the housing on the land they own. One possible way in which to modify the language is as follows:

- *The Community Land Trust must provide a list of at least two Developments and/or a list of units that equals at least 50 percent of the units in the proposed Development that the Community Land Trust has developed or acquired the land for such Developments or on which*

such units were developed as affordable housing. If the list consists of Developments, at least one Development must consist of at least 50 percent of the units in the proposed Development.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink that reads "Paula McDonald Rhodes". The signature is fluid and cursive, with the first name "Paula" being more prominent.

Paula McDonald Rhodes
President