

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
October 20, 2006  
Consent Items



# HOMEOWNERSHIP LOAN PROGRAM

## *Consent*

### I. HOMEOWNERSHIP LOAN PROGRAM

- A. Authorize Staff to De-obligate HOME Funds for Florida Low Income Housing Associates, Inc. (Non-Profit) for Wildwood Scattered Sites / HH02-002

Applicant Name (“Applicant”):	Florida Low Income Housing Associates, Inc. (Non-Profit)
Development Name (“Development”):	Wildwood Scattered Sites
Developer/Principal (“Developer”):	Pat Kenney
Number of Units: 27	Location: Sumter County, Florida
Type: HOME Purchase Assistance Loan	Allocated Amount: \$600,000

#### 1. Background

- a) The Applicant submitted an application during 2002 Homeownership Loan Program Application Cycle. The Applicant scored within the funding range and was invited into credit underwriting on October 30, 2002.
- b) On December 3, 2004 the Board approved the Developer’s request to increase the HOME Down Payment Assistance available to Eligible Homebuyers to the maximum of 25% of the sales price, while maintaining the HOME allocation amount, and reducing the number of units accordingly.
- c) On March 3, 2006, the Board approved the Developer's request for a one-year extension of the completion date from March 17, 2006 to March 17, 2007, citing delays due to increased costs and an insufficient supply of qualified sub-contractor labor.
- d) To date, 3 homes have been completed with a total of \$72,025 in HOME funds drawn.

#### 2. Present Situation

On October 4, 2006, the Developer requested that the remaining \$532,375 in HOME funds be de-obligated due to current market conditions and the lack of local Sumter County SHIP Down Payment Assistance funding. The letter is attached as [Exhibit A](#).

#### 3. Recommendation

Staff recommends that the remaining \$527,975 in HOME funds be de-obligated and made available for future use in other homeownership programs.

# HOME RENTAL

## Consent

### II. HOME RENTAL

#### A. Request Approval for a Subordinate Loan for Green Gables Apartments f/k/a Alhambra Trace (97HR-005)

<b>Development Name: Green Gables Apartments f/k/a Alhambra Trace (“Development”)</b>	<b>Location: Orange County</b>
<b>Developer/Principal: Housing and Neighborhood Development Services (HANDS) of Central Florida, Inc. (“Developer”)</b>	<b>Set-Aside: 20% @ 50% AMI / 80% @ 60% AMI</b>
<b>Number of Units: 95</b>	<b>Allocated Amount: \$1,179,728</b>
<b>Type: Garden Style</b>	
<b>Demographics: Family</b>	<b>Servicer: AmeriNational Community Services, Inc.</b>

#### 1. Background/Present Situation

- a) On February 24, 1998, a 1997 HOME Rental loan in the amount of \$1,179,728 for this 95-unit family development in Orange County closed.
- b) On September 19, 2006, staff received a letter ([Exhibit A](#)) from HANDS of Central Florida, Inc. requesting consent to further encumber the property with a third and fourth mortgage in order to rehabilitate the exterior of Green Gables Apartments. Rehabilitation will include replacement of deteriorated wood siding, repair of hurricane damage and elimination of storm water runoff. The mortgages will be from Orange County’s SHIP and Hurricane Housing Recovery Program in the amount of \$1,026,664.
- c) Pursuant to Rule Chapter 67-48.020 (13) F.A.C, the Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the HOME mortgage without prior approval of the Corporation’ Board of Directors.
- d) On September 29, 2006, staff received a credit underwriting review with a positive recommendation for an additional \$1,026,664 in loans consisting of a third mortgage State Housing Incentive Partnership (SHIP) loan of \$226,664 and fourth mortgage Hurricane Housing Recovery Program (HHRP) loan of \$800,000. from Orange County ([Exhibit B](#)).

#### 2. Recommendation

Approve the Developer’s request for two subordinate mortgages and direct staff to proceed with loan documentation modification activities.

# HOME RENTAL

## Consent

### B. Request Approval to Remove an Amenity for Magnolia Village (2003-006H)

<b>Development Name: Magnolia Village</b>	<b>Location: Citrus County</b>
<b>Developer/Principal: Florida Low Income Housing Associates, Inc.</b>	<b>Set-Aside: 20% @ 50% AMI 80% @ 60% AMI</b>
<b>Number of Units: 40</b>	<b>Allocated Amount: \$2,931,000</b>
<b>Type: NC/Duplex/Single Family Units</b>	
<b>Demographics: Family</b>	<b>Servicer: Seltzer Management Group, Inc.</b>

#### 1. Background/Present Situation

- a) On December 23, 2003 a HOME loan closed in the amount of \$2,931,000 for this 40 unit development in Citrus County.
- b) On September 21, 2006, staff received a letter ([Exhibit C](#)) from the Developer requesting removal of the "Car care area" from the LURA. The Developer is providing car care facilities at each individual housing unit adjacent to each driveway in the Development. The amenity was selected in the Application as one of the optional features. The Development consists of less than 50 units, which entitles the application to double the points in this section. The exclusion of the amenity would not affect the total points awarded in this section as the remaining selections have a higher cumulative point value than the maximum points allowed. Staff has reviewed this proposal and finds that the Development meets all of the requirements of HOME Rule Chapter 67-48.F.A.C.

#### 2. Recommendation

Approve the request to remove the amenity in this Development and direct staff to amend the Land Use Restriction Agreement.

## LEGAL

### *Consent*

### III. LEGAL

#### A. In Re: Johnson Lakes Escambia Limited Partnership

FHFC Case No. 2006-055VW

<b>Development Name: (“Development”):</b>	<b>Johnson Lakes Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Johnson Lakes Development, LLC</b>
<b>Number of Units: 160</b>	<b>Location: Charlotte County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside: 100% @ or below 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Allocated Amount: \$4,141,214</b>
<b>MMRB: N/A</b>	<b>Housing Credits: N/A</b>

#### 1. Background

- a) During the 2005 Rental Recovery Loan Program (“RRLP”), Petitioner was awarded an allocation of RRLP funds in the amount of \$4,141,214 for the construction of Johnson Lake Apartments, a 160-unit apartment development intended to serve the Elderly demographic to be located in Escambia County, Florida (the “Development”).
- b) On September 18, 2006, Florida Housing received a “Petition for Variance of Rule 67ER-05(17), Florida Administrative Code (2005),” (“Petition”) from Johnson Lakes Escambia Limited Partnership (“Petitioner”). A copy of the Petition is attached as [Exhibit A](#).
- c) The 2005 RRLP Emergency Rule 67ER05-17, F.A.C. (2005), states in pertinent part:

“(3) The base loan shall be non-amortizing and shall have interest rates as follows:

  - (a) 0% simple interest per annum on the pro-rata portion of the base loan attributable to ELI units over the life of the loan; and
  - (b) 3% simple interest per annum on the pro-rata portion of the base loan attributable to non-ELI units.

. . . .”
- d) The 2006 RRLP Emergency Rule 67ER06-34, F.A.C. (2006), provides the following:

“(3) The base loan shall be non-amortizing and shall have interest rates as follows:

  - (a) 0% simple interest per annum on the pro-rata portion of the base loan attributable to ELI units over the life of the loan; and
  - (b) 1% simple interest per annum on the pro-rata portion of the base loan attributable to non-ELI units.”

## LEGAL

### *Consent*

- e) Escambia County was one of the Florida counties impacted by the 2004 hurricane season. Petitioner was awarded 2005 RRLP financing for the Development under emergency rule 67ER05-17, F.A.C, which provided funding to assist in hurricane recovery resulting from the 2004 hurricane season. The interest rate on the 2005 RRLP loan awarded the Petitioner was three percent (3%).
- f) Subsequent to Petitioner's award of the 2005 RRLP financing, Florida Housing adopted emergency rule 67ER06-34, F.A.C., to allocate funds to assist in hurricane recovery efforts resulting from both the 2004 and 2005 hurricane seasons. The Corporation increased the subsidy limits and decreased the interest rate for the 2006 RRLP loans from 3% to 1% under Emergency Rule 67ER06-34(3)(b), F.A.C.
- g) As a result of the change in interest rate from the 2005 to the 2006 RRLP rules, the Petitioner is subject to the higher 3% interest rate, whereas, those who applied for RRLP funds in the 2006 cycle for recovery assistance for the same 2004 storms received the lower 1% interest rate.
- h) Petitioner requests a variance of the foregoing rule to allow Petitioner to receive the 1% interest rate on the pro-rata portion of the base loan attributable to the non-ELI units, as permissible under the 2006 RRLP rule, rather than the 3% under the 2005 RRLP rule.
- i) On September 29, 2006, the Notice of Petition was published in the Florida Administrative Weekly.
- j) To date, Florida Housing has not received any comments concerning the Petition.
- k) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- l) Strict application of the Emergency Rules will lead to unreasonable, unfair and unintended consequences, and create a substantial hardship for Petitioner since it is subject to the same increased construction and insurance costs as those who received assistance in the 2006 RRLP cycle, yet pay a higher interest rate. The variance will mitigate some of the financial stress resulting from these increased costs. The granting of this request for variance will serve the purpose of the underlying statute by ensuring the viability of this affordable housing development by allowing Petitioner the benefit of the lower interest rate making it more likely that the project will be completed on time and in budget, and, in turn, will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

## **LEGAL**

### ***Consent***

#### **2. Recommendation**

Staff recommends the Board grant the Petitioner's request for a variance of Emergency Rule 67ER05-17(3)(b), F.A.C. (2005), and allow Petitioner to receive the 1% interest rate on the pro-rata portion of the base loan attributable to the non-ELI units, as permissible under the 2006 RRLP rule, rather than the 3% under the 2005 RRLP rule.

**LEGAL**

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**B. In Re: Old Orchard Village Associates, Ltd.**

**FHFC Case No. 2006-056VW**

<b>Development Name: (“Development”):</b>	<b>Old Orchard Village</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Old Orchard Village Associates, Ltd</b>
<b>Number of Units: 50</b>	<b>Location: Hardee County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside: 25% @ 40% AMI 60% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Allocated Amount: N/A</b>
<b>MMRB: \$6,000,000</b>	<b>Housing Credits: N/A</b>

**1. Background**

- a) During the 2006 Supplemental Multifamily Mortgage Revenue Bonds (“MMRB”) Application Cycle, Petitioner was awarded an allocation of bond funds in the amount of \$6,000,000 for the construction of Old Orchard Village, a 50-unit apartment development intended to serve the Family demographic to be located in Hardee County, Florida (the “Development”).
- b) On September 18, 2006, Florida Housing received a “Petition for Waiver or Variance From Rules 67-21.003(1)-(3), (13) and 67-21.006(2)” (“Petition”) from Old Orchard Village Associates, Ltd. (“Petitioner”). A copy of the Petition is attached as [Exhibit B](#).
- c) Rules 67-21.003(1)-(3), F.A.C. (2006), adopt and incorporate the 2006 Universal Application Package used to apply for Supplemental MMRB funding. Part III.A.3.a.4. of the 2006 Universal Application Instructions states that applications requesting funding under the MMRB program “must be for a proposed Development consisting of 5 or more dwelling units in each residential building” (the “5-unit requirement”). Rule 67-21.006(2) repeats the 5-unit requirement in the above stated instructions.
- d) Rule 67-21.003(13), F.A.C. (2006) allows the Board to reject an application, after submission of cure materials, where the application does not conform to the application requirements or fails to meet threshold criteria and states in pertinent part:

“The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate . . . :

(a) The Development is inconsistent with the purpose of the MMRB Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application and Application instructions;

. . . .”



## LEGAL

### *Consent*

- e) Old Orchard Village was designed with duplex units consisting of 2 units per building, as opposed to the 5 units per building requirement. The design was selected at the urging of local government and civil leaders to allow the units to integrate more successfully with the surrounding neighborhood of existing single-family homes.
- f) Petitioner requests a variance from the foregoing rules and the 5-unit requirement rule to allow for the application and possible funding of the proposed development with Supplemental MMRB funding.
- g) On September 29, 2006, the Notice of Petition was published in the Florida Administrative Weekly.
- h) To date, Florida Housing has not received any comments concerning the Petition.
- i) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- j) Strict application of the Emergency Rules will lead to unreasonable, unfair and unintended consequences, and create a substantial hardship for Petitioner since it would make it impossible for Old Orchard to construct the residential dwelling units desired by the local community. Denial of the variance would violate principles of fairness in that the 5-unit requirement affects Old Orchard and the city's citizens in a significantly different manner than it affects other developers and communities where the construction of more dense housing (of 5 or more dwelling units per building) is appropriate for the community in question.
- k) The granting of this request for variance will serve the purpose of the underlying statute by encouraging private investment in the creation of affordable housing for low-income and very-low-income families, and in turn, FHFC will continue to realize this goal and ensure the development of new affordable housing for the residents of Hardee County and citizens of Florida.

## 2. **Recommendation**

Staff recommends the Board **GRANT** the Petitioner's request for a variance from Rules 67-21.003(1)-(3), (13) and 67-21.006(2), F.A.C. (2006), to allow Petitioner to develop duplex-style town home units (2 per building) rather than garden-style apartment of 5-units or more per building.

# LEGAL

## Consent

### C. In Re: Palmetto Ridge Estates, Limited Partnership

FHFC Case No. 2006-054VW

<b>Development Name: (“Development”):</b>	<b>Palmetto Ridge Estates</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Gandolf Group, LLC</b>
<b>Number of Units: 192</b>	<b>Location: Brevard County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside: 100% @ or below 60% AMI</b>
<b>Demographics: Family</b>	<b>Allocated Amount: \$7,400,000</b>
<b>MMRB: N/A</b>	<b>Housing Credits: N/A</b>

#### 1. Background

- a) During the 2005 Rental Recovery Loan Program (“RRLP”), Petitioner was awarded an allocation of RRLP funds in the amount of \$7,400,000 for the construction of Palmetto Ridge Estates, a 192-unit apartment development intended to serve the Family demographic to be located in Brevard County, Florida (the “Development”).
- b) On September 18, 2006, Florida Housing received a “Petition for Variance of Rule 67ER-05(17), Florida Administrative Code (2005),” (“Petition”) from Palmetto Ridge Estates, Limited Partnership (“Petitioner”). A copy of the Petition is attached as [Exhibit C](#).
- c) The 2005 RRLP Emergency Rule 67ER05-17, F.A.C. (2005), states in pertinent part:
- “(3) The base loan shall be non-amortizing and shall have interest rates as follows:
- (a) 0% simple interest per annum on the pro-rata portion of the base loan attributable to ELI units over the life of the loan; and
- (b) 3% simple interest per annum on the pro-rata portion of the base loan attributable to non-ELI units.
- . . . .”
- d) The 2006 RRLP Emergency Rule 67ER06-34, F.A.C. (2006), provides the following:
- “(3) The base loan shall be non-amortizing and shall have interest rates as follows:
- (a) 0% simple interest per annum on the pro-rata portion of the base loan attributable to ELI units over the life of the loan; and
- (b) 1% simple interest per annum on the pro-rata portion of the base loan attributable to non-ELI units.”

## LEGAL

### *Consent*

- e) Brevard County was one of the Florida counties impacted by the 2004 hurricane season. Petitioner was awarded 2005 RRLP financing for the Development under Emergency Rule 67ER05-17, F.A.C., which provided funding to assist in hurricane recovery resulting from the 2004 hurricane season. The interest rate on the 2005 RRLP loan awarded the Petitioner was three percent (3%).
- f) Subsequent to Petitioner's award of the 2005 RRLP financing, Florida Housing adopted emergency rule 67ER06-34, F.A.C., to allocate funds to assist in hurricane recovery efforts resulting from both the 2004 and 2005 hurricane seasons. The Corporation increased the subsidy limits and decreased the interest rate for the 2006 RRLP loans from 3% to 1% under Emergency Rule 67ER06-34(3)(b), F.A.C.
- g) As a result of the change in interest rate from the 2005 to the 2006 RRLP rules, the Petitioner is subject to the higher 3% interest rate, whereas, those who applied for RRLP funds in the 2006 cycle for recovery assistance for the same 2004 storms received the lower 1% interest rate.
- h) Petitioner requests a variance of the foregoing rule to allow Petitioner to receive the 1% interest rate on the pro-rata portion of the base loan attributable to the non-ELI units, as permissible under the 2006 RRLP rule, rather than the 3% under the 2005 RRLP rule.
- i) On September 29, 2006, the Notice of Petition was published in the Florida Administrative Weekly.
- j) To date, Florida Housing has not received any comments concerning the Petition.
- k) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- l) Strict application of the Emergency Rules will lead to unreasonable, unfair and unintended consequences, and create a substantial hardship for Petitioner since it is subject to the same increased construction and insurance costs as those who received assistance in the 2006 RRLP cycle, yet will pay a higher interest rate. The variance will mitigate some of the financial stress resulting from these increased costs. The granting of this request for variance will serve the purpose of the underlying statute by ensuring the viability of this affordable housing development by allowing Petitioner the benefit of the lower interest rate making it more likely that the project will be completed on time and in budget, and, in turn, will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

## **LEGAL**

### *Consent*

2. **Recommendation**

Staff recommends the Board grant the Petitioner's request for a variance of Emergency Rule 67ER05-17(3)(b), F.A.C. (2005), and allow Petitioner to receive the 1% interest rate on the pro-rata portion of the base loan attributable to the non-ELI units, as permissible under the 2006 RRLP rule, rather than the 3% under the 2005 RRLP rule.

**LEGAL**

**Consent**

**D. In Re: Amber Garden, LLC**

**FHFC Case No.: 2006-051VW; 2006-052VW**

<b>Development Name: (“Development”):</b>	<b>Amber Garden Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Carlisle Development Group, LLC</b>
<b>Number of Units: 110</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-Rise</b>	<b>Set Aside: 13% @ 30% AMI 87% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Allocated Amount: N/A</b>
<b>MMRB: N/A</b>	<b>Housing Credits: \$1,694,617</b>

**1. Background**

- a) During the 2005 Universal Cycle, Florida Housing awarded an allocation of Housing Credits to Amber Garden LLC. (“Petitioner”). On September 15, 2006, Florida Housing received a “Petition for a Variance of the 2005 Qualified Allocation Plan’s Requirement for Returning Housing Credit Allocations, and to Immediately Receive a Binding Commitment for an Allocation of 2007 Housing Credits” and “Petition for a Variance of the 2006 Qualified Allocation Plan’s Requirement for Returning Housing Credit Allocations, and to Immediately Receive a Binding Commitment for an Allocation of 2007 Housing Credits” (the “Petitions<sup>1</sup>”), from Petitioner. A copy of the Petitions are attached as [Exhibit D](#) and [Exhibit E](#).
- b) Rule 67-48.025, Fla. Admin. Code (2005) requires that Florida Housing’s allocation of Housing Credits “shall be in accordance with the Corporation’s Qualified Allocation Plan.”
- c) Rule 67-48.002(83), Fla. Admin. Code (2005) defines the QAP as follows:

“QAP” of “Qualified Allocation Plan” means, with respect to the HC program, the 2005 Qualified Allocation Plan which is adopted and 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.

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<sup>1</sup> Petitioner submitted one application in the 2005 Universal Cycle and due to partial funding requirements of the Universal Application, section B.7.b.(1)(b) at p. 96, received a 2005 credit allocation and a 2006 Binding Commitment. Petitioner’s two Petitions reflect these two different allocations, but as the relief requested pertains to the one underlying application, the Petitions are consolidated for the purposes of the Order.

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### *Consent*

- d) The 2005 QAP provides, in pertinent part:
- [W]here 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 credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service provided [certain] conditions have been met.
- e) Specifically, Petitioner requests a variance of the above QAP provision (as incorporated by reference into Chapter 67-48, Fla. Admin. Code) to permit the return of its allocated credits at this time instead of within the last quarter of 2007, and to permit the immediate allocation of 2007 housing credits in exchange for its 2005 allocation.
- f) On September 29, 2006, Notice of the Petitions was published in the Florida Administrative Weekly.
- g) To date, Florida Housing has not received any comments concerning the Petition.

## 2. Present Situation

- a) Petitioner cites substantial hardship and circumstances beyond its control to justify the granting of this variance, including the effects of Hurricane Wilma (October 24, 2005) on Miami-Dade County, which was declared as major disaster area. Petitioner states that due to the effects of Hurricanes Dennis, Katrina and Wilma and the increased costs of in crude oil prices has resulted in a unforeseen increase construction costs in the past 12 months. Petitioner has been unable to secure additional funding necessary to cover the increased development costs, in order to meet its construction completion date of December 31, 2007. Additionally, Petitioner demonstrated that a denial of its requested variance would result in its tax credit syndicator being unwilling to provide equity financing for the Development.
- b) IRS Revenue Procedure 95-28 allows extensions of time for the placed-in-service date of a development only after a major disaster area has been declared, for which a carryover allocation for the development is already in place prior to the disaster area being declared. Hurricane Wilma struck shortly before this Development received its carryover allocation and Petitioner is not eligible for relief under IRS Procedure 95-28. Absent a waiver from Florida Housing, Petitioner will not receive a one-year extension of the placed in service date. It would violate the principles of fairness to not allow Petitioner to have an extension of time for the placed-in-service date because it did not timely receive its carryover allocation. Petitioner also demonstrated that it is necessary to waive the QAP requirement that such returns be made only in the last quarter of the year the project is to be placed in service, to allow sufficient lead time to complete construction of the project.

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

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

### **3. Recommendation**

Staff recommends that the Board GRANT Petitioner's requested variance from the requirements of the 2005 QAP, as follows: Petitioner shall be permitted to return its 2005 Housing Credit allocation and its 2006 Binding Commitment, and receive a Binding Commitment for an allocation of 2007 Housing Credits in an amount not to exceed its 2005 allocation and 2006 Binding Commitment, with a Placed-in Service Date of December 31, 2008.

**LEGAL**

*Consent*

**E. In Re: Gulf Breeze Apartments Partners, Ltd.**

**FHFC Case No. 2006-041VW**

<b>Development Name: (“Development”):</b>	<b>Gulf Breeze Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Sandspur Housing Group, Ltd.</b>
<b>Number of Units: 184</b>	<b>Location: Charlotte County</b>
<b>Type: Garden</b>	<b>Set Aside: 15% @ 40% AMI 83% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Allocated Amount: \$1,000,000</b>
<b>MMRB: N/A</b>	<b>Housing Credits: N/A</b>

**1. Background**

- a) During the 2005 Rental Recovery Loan Program (“RRLP”) Petitioner was awarded an allocation of RRLP funds in the amount of \$1,00,000.00 for the construction of Gulf Breeze Apartments, a 184-unit apartment development intended to serve the Family demographic to be located in Charlotte County, Florida (the “Development”).
- b) On July 28, 2006, Florida Housing received a “Petition for Waiver of Rule 67ER05-10(14) and Part II.A.2.b. and part II.B.1. of the Rental Recovery Loan (RRLP) Application Instructions for a Change in the Identity of the Petitioner’s Developer and Petitioner’s Ownership Structure,” (“Petition”) from Gulf Breeze Apartments Partners, Ltd. (“Petitioner”). A copy of the Petition is attached as [Exhibit F](#).
- c) Emergency Rule 67ER05-10(14), Florida Administrative Code, states in pertinent part:

“(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

.....

(b) Identity of each Developer, including all co-Developers...”
- d) Emergency Rule 67ER05-10(1)(a), Florida Administrative Code, adopts and incorporates by reference the RRLP Application Instructions (the “Application Instructions”). The Application Instructions include the instructions discussed below (the “Applicable Instructions”).



## LEGAL

### *Consent*

- e) Part II.B.1. of the Application Instructions provides that:
- “1. Developer or principal of Developer (Threshold)
- The identity of the Developer(s) listed in this Application may not change until construction or Rehabilitation/Substantial Rehabilitation of the Development is complete.”
- f) Part II.A.2.a(1) of the Application Instructions provides as follows:
- “The Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing require Board approval.”
- g) The Petitioner’s application identified the Developer as Sandspur Housing Group, Ltd. Petitioner’s application identified its co-General Partners as Gulf Breeze Sandspur Partners, L.L.C. (“the Sandspur GP Entity”) and Gulf Breeze Apartments Partners, L.L.C. (“the Authority GP Entity”). The Authority GP Entity is an instrumentality of the Punta Gorda Housing Authority (“the Authority”). The Sandspur GP Entity is affiliated with the Sandspur Developer Entity.
- h) Subsequent to Petitioner’s submittal of its application, the Authority and its affiliates and the Sandspur Developer Entity and its affiliates terminated their relations pursuant to a mediated settlement agreement, dated January 27, 2006. As a result, Sandspur Developer Entity and Sandspur GP Entity are no longer involved with the Development. Sandspur GP Entity assigned all of its interest in Petitioner to the Authority GP Entity.
- i) On May 18, 2006, the Authority and Norstar Development USA, L.P., a Texas limited partnership (the “Norstar Developer Entity”), entered into a Master Development Agreement, which provides for the Authority and the Norstar Developer Entity to serve as co-developers of the Development, and for Norstar’s affiliate, Norstar Gulf Breeze, Inc., a Florida corporation (the “Norstar GP Entity”), to serve as the managing general partner of Petitioner. Thereafter, the Authority intends to assign its role as a co-developer of the Development to a wholly-owned affiliated entity (the “Authority Developer Entity”).
- j) As a result of the withdrawal of the Sandspur GP Entity and the admission of the Norstar GP Entity, the Norstar GP Entity will own a 0.0051% general partner interest, and the Authority GP will own a 0.0049% general partner interest; in other words, the Norstar GP Entity will succeed to the 0.0051% general partner interest formerly held by the Sandspur GP Entity. Further, the Norstar GP Entity will serve as the managing general partner of Petitioner.

## LEGAL

### *Consent*

- k) Petitioner requests a waiver of the foregoing rules and instructions to (1) allow the removal of the Sandspur Developer Entity, as the sole Developer, and substitution of the Authority Developer Entity and the Norstar Developer Entity for purposes of the Application and all other purposes as Petitioner's co-Developers; and (2) allow the removal of the Sandspur GP Entity, as a co-General Partner, as identified in the Application, and the admission of the Norstar GP Entity as a co-General Partner, and substituting the Authority GP Entity and the Norstar GP Entity for purposes of the Application and all other purposes as Petitioner's co-General Partners.
- l) On August 11, 2006, the Notice of Petition was published in the Florida Administrative Weekly.
- m) To date, Florida Housing has not received any comments concerning the Petition.
- n) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- o) The granting of this request for waiver will serve the purpose of the underlying statute by enhancing the likelihood that the Development will be timely and successfully completed and, in turn, will further Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. Strict application of the Emergency Rules and the Applicable Instructions will create a substantial hardship for Petitioner in that it will result in unnecessary delay and expense and make it impossible to complete the Development on time and within budget.

### 2. **Recommendation**

Staff recommends the Board grant the Petitioner's request for a waiver of Emergency Rule 67ER05-10(14), F.A.C., and the Applicable Instructions incorporated by Emergency Rule 67ER05-10(1)(a), F.A.C., to (1) allow the removal of the Sandspur Developer Entity, as the sole Developer, and substitution of the Authority Developer Entity and the Norstar Developer Entity for purposes of the Application and all other purposes as Petitioner's co-Developers; and (2) allow the removal of the Sandspur GP Entity, as a co-General Partner, as identified in the Application, and the admission of the Norstar GP Entity as a co-General Partner, and substituting the Authority GP Entity and the Norstar GP Entity for purposes of the Application and all other purposes as Petitioner's co-General Partners.

## LEGAL

### *Consent*

#### F. In Re: Lafayette Square, Ltd.

FHFC Case No. 2006-040VW

<b>Development Name: (“Development”):</b>	<b>Lafayette Square Apartments</b>
<b>Developer/Principal: (“Developer”):</b>	<b>The Gatehouse Group, LLC</b>
<b>Number of Units: 160</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-Rise</b>	<b>Set Aside: 47% @ 50% AMI 53% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>Allocated Amount: N/A</b>
<b>MMRB: N/A</b>	<b>Housing Credits: \$2,320,500</b>

#### 1. Background

a) During the 2005 Universal Cycle, Florida Housing awarded an allocation of Housing Credits to Lafayette Square, Ltd. (“Petitioner”). On June 29, 2006, Florida Housing received a “Petition for Waiver of Section 11 of the 2005 Qualified Allocation Plan” (the “Petition”), from Petitioner. On August 14, 2006, Petitioner submitted an Amended Petition which requests relief from the same rules and Qualified Allocation Plan (QAP) requirements, but which clarified the relief requested. A copy of the Amended Petition is attached as [Exhibit G](#).

b) Rule 67-48.025, Fla. Admin. Code (2005) requires that Florida Housing’s allocation of Housing Credits “shall be in accordance with the Corporation’s Qualified Allocation Plan.”

c) Rule 67-48.002(83), Fla. Admin. Code (2005) defines the QAP as follows:

“QAP” of “Qualified Allocation Plan” means, with respect to the HC program, the 2005 Qualified Allocation Plan which is adopted and 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.

d) The 2005 QAP provides, in pertinent part:

[W]here 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 credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service provided [certain] conditions have been met.

## LEGAL

### *Consent*

- e) Specifically, Petitioner requests a variance of the above QAP provision (as incorporated by reference into Chapter 67-48, Fla. Admin. Code) to permit the return of its allocated credits at this time instead of within the last quarter of 2007, and to permit the immediate allocation of 2007 housing credits in exchange for its 2005 allocation.
- f) On July 21, 2006 the Notice of the original Petition was published in the Florida Administrative Weekly. Republication of the Amended Petition was deemed unnecessary as Petitioner did not alter the rules from which relief was sought.
- g) To date, Florida Housing has not received any comments concerning the Petition.

## 2. Present Situation

- a) Petitioner cites substantial hardship and circumstances beyond its control to justify the granting of this variance, including the effects of Hurricane Wilma (October 24, 2005) on Miami-Dade County, which was declared as major disaster area. Petitioner states that the effects of Hurricanes Dennis, Katrina and Wilma and the increased costs of crude oil prices have resulted in a unforeseen increase construction costs of 20-35% in the past 12 months. Petitioner has been unable to secure additional funding necessary to cover the increased development costs, in order to meet its construction completion date of December 31, 2007. Additionally, Petitioner demonstrated that a denial of its requested variance would result in its tax credit syndicator being unwilling to provide equity financing for the Development.
- b) IRS Revenue Procedure 95-28 allows extensions of time for the placed-in-service date of a development only after a major disaster area has been declared, for which a carryover allocation for the development is already in place prior to the disaster area being declared. Hurricane Wilma struck shortly before this Development received its carryover allocation and Petitioner is not eligible for relief under IRS Procedure 95-28. Absent a waiver from Florida Housing, Petitioner will not receive a one-year extension of the placed in service date. It would violate the principles of fairness to not allow Petitioner to have an extension of time for the placed-in-service date because it did not have its carryover allocation at the time the area had been declared a major disaster area. Petitioner also demonstrated that it is necessary to waive the QAP requirement that such returns be made only in the last quarter of the year the project is to be placed in service, to allow sufficient lead time to complete construction of the project.
- c) Section 120.542(2), Florida Statutes provides in pertinent part:

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

## **LEGAL**

### *Consent*

#### **3. Recommendation**

Staff recommends that the Board GRANT Petitioner's requested variance to the above-cited provision of the 2005 QAP, to permit Petitioner to immediately return its 2005 tax credit allocation, and to immediately receive an allocation of 2007 housing tax credits in an amount not to exceed its 2005 allocation.

**LEGAL**

*Consent*

- G. In Re: Pinnacle Park, Ltd.**  
**FHFC Case No. 2006-047VW**  
**FHFC Case No. 2006-048VW**

<b>Development Name: (“Development”):</b>	<b>Pinnacle Park</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Pinnacle Park Housing Group, LLC</b>
<b>Number of Units: 128</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-rise</b>	<b>Set Asides: 13% @ 30% AMI 87% @ 60% AMI</b>
<b>Demographics: Family</b>	<b>SAIL: \$1,040,000</b>
<b>MMRB:</b>	<b>Housing Credits: \$2,320,500</b>

**1. Background**

- a) During the 2005 Universal Cycle, Florida Housing awarded an allocation of \$2,320,500 in housing credits under the Low-Income Housing Tax Credits program to Pinnacle Park, Ltd., (“Petitioner”) to construct a 128-unit high rise complex to serve the family demographic in Miami-Dade County, Florida. This development will have a total set-aside percentage of 100%. (“The Development”).
- b) On April 18, 2006, Petitioner submitted its sealed 2006-04 Request to Florida Housing for funding through the Wilma GO Zone Program, requesting \$1,040,000 in SAIL funds through the RFP #2006-04 SAIL Funds Program.
- c) On August 23, 2006, Florida Housing received a “Petition for Waivers of Rules 67-48.004(14)(j) and 67-48.004(14)(k) as Applied to RFP 2006-04 SAIL Program Funds Request” and a “Petition for Waivers of Rules 67-48.004(14)(j) and 67-004(14)(k), Fla. Admin. Code (the “Petitions<sup>2</sup>”), from Petitioner. A copy of the Petitions are attached as [Exhibit H](#) and [Exhibit I](#).
- d) Rule 67-48.004(14), Florida Administrative Code (2005), states in pertinent part:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline....those items are as follows

(j) Total Number of Units;

(k) With regard to the SAIL and HC Programs, the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application...

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<sup>2</sup> As Petitioner’s two Petitions pertain to one Development, the Petitions are consolidated for the purposes of the Order.

## LEGAL

### *Consent*

- e) Petitioner's 2006-04 Request "will be ranked based on its Development's Universal Application score," and additional factors related to the Universal Application. Petitioner requests a waiver of Rules 67-48.004(14)(j) and 67-48.004(14)(k) to permit a change in the Development. Specifically, Petitioner wishes to increase the number of residential units from 128 to 135 with the additional seven units available for non-income restricted work-force housing; and decrease the total set-aside percentage from 100% to approximately 95% (94.8%).

## 2. **Present Situation**

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

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

- b) Petitioner timely submitted its sealed 2006-04 Request for additional funds, and this request was based on the 128 low income housing units with a total set-aside of 100%, as identified in its 2005 Universal Application. Petitioner demonstrated that seven additional units can be added to the Development and that the local government has urged Petitioner to provide the maximum number of units, and that by increasing the number of units, Petitioner will be able to provide both affordable and work-force housing. The corresponding decrease in the total set-aside percentage will increase the costs over the seven additional units, without the granting of the waiver.

## 3. **Recommendation**

Staff recommends the Board GRANT the Petitioner's request for a waiver of Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2005), as it applies to Petitioner's 2005 Universal Application and its RFP 2006-04 SAIL Program Funds Request, to increase the number of residential units from 128 to 135 with the additional seven units available for non-income restricted work-force housing; and decrease the total set-aside percentage from 100% to approximately 95% (94.8%).

## LEGAL

### *Consent*

- H. **In Re: BHG-79<sup>th</sup> ST., LLC**  
**FHFC Case No.: 2006-060VW**  
**FHFC Case No.: 2006-62VW**  
**FHFC Case No.: 2006-63VW**

<b>Development Name: (“Development”):</b>	<b>Villa Patricia</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Carlisle Development Group, LLC</b>
<b>Number of Units: 160</b>	<b>Location: Miami-Dade County</b>
<b>Type: High-Rise</b>	<b>Set Aside: 18% @ 30% AMI 82% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Allocated Amount: N/A</b>
<b>MMRB: N/A</b>	<b>Housing Credits: \$2,368,500</b>

#### 1. Background

- a) During the 2005 Universal Cycle, Florida Housing awarded an allocation of Housing Credits to BHG-79<sup>th</sup> St., LLC. (“Petitioner”). On April 7, 2005, Florida Housing issued Request for Proposals #2006-04 (“RFP #2006-04”). Petitioner timely submitted its 2006-04-10 SAIL Request for funding and received a total preliminary commitment of up to \$1,800,000. On September 19, 2006, Florida Housing received a “Petition for Variances of the 2005 Qualified Allocation Plan’s Requirement for Returning Housing Credit Allocations, and to Immediately Receive a Binding Commitment for an Allocation of 2007 Housing Credits,” a “Petition for Waivers of Rules 67-48.004(14)(j) and 67-48.004(1)<sup>3</sup>’s Restrictions on Changing the Number of Units and Funding for The Villa Patricia Development” and a “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 (the “Petitions<sup>4</sup>”), from Petitioner. Copies of the Petitions are attached as [Exhibit J](#), [Exhibit K](#) and [Exhibit L](#).
- b) Rule 67-48.025, Fla. Admin. Code (2005) requires that Florida Housing’s allocation of Housing Credits “shall be in accordance with the Corporation’s Qualified Allocation Plan.”
- c) Rule 67-48.002(83), Fla. Admin. Code (2005) defines the QAP as follows:

“QAP” of “Qualified Allocation Plan” means, with respect to the HC program, the 2005 Qualified Allocation Plan which is adopted and 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.

<sup>3</sup> Petitioner’s Petition cited 67-48.004(14)(l) in the style of its Petition. The correct cite is 67-48.004(14)(m),F.A.C.

<sup>4</sup>As Petitioner’s three Petitions pertain to one underlying application, the Petitions are consolidated for the purposes of the Order.



## LEGAL

### *Consent*

- d) The 2005 QAP provides, in pertinent part:
- [W]here 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 credits returned, and may allocate such housing credits to the Applicant for the year after the year in which the Development was otherwise required to be placed in service provided [certain] conditions have been met.
- e) Rule 67-48.004(14), Fla. Admin. Code (2005), provides:
- (14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:
- (j) Total Number of Units; ...
- (m) Funding Request...
- f) Specifically, Petitioner requests a variance of the above QAP provision (as incorporated by reference into Chapter 67-48, Fla. Admin. Code) to permit the return of its allocated credits at this time instead of within the last quarter of 2007, and to permit the immediate allocation of 2007 housing credits in exchange for its 2005 allocation. Petitioner requests a waiver of Rules 67-48.004(14)(j) and 67-48.004(m), F.A.C., to the extent that the Rules prohibit changing the Applicant's total number of units; and Applicant's funding request amount. Petitioner requests to reduce the number of units from 160 units to 125 units; and reduce the funding through Housing Credits from \$2,368,500 to \$1,850,390. Petitioner requests a waiver of the Rules 67-48.004(14)(j) and 67-48.004(m), F.A.C., to the extent that the Rules prohibit changing the Applicant's total number of units and Applicant's funding request amount, as applied to its 2006-04-10 SAIL Request, to allow the reduction in units from 160 to 125, with a proportional reduction in its Preliminary SAIL Commitment from \$1,800,000 to \$1,562,500.
- g) On September 29, 2006, Notice of the Petitions was published in the Florida Administrative Weekly.
- h) To date, Florida Housing has not received any comments concerning the Petition.

## LEGAL

### *Consent*

#### 2. Present Situation

- a) Petitioner cites substantial hardship and circumstances beyond its control to justify the granting of this variance, including the effects of Hurricane Wilma (October 24, 2005) on Miami-Dade County, which was declared as major disaster area. Petitioner states that the effects of Hurricanes Dennis, Katrina and Wilma and the increased costs of crude oil prices have resulted in an unforeseen increase in construction costs in the past 12 months. Petitioner has been unable to secure additional funding necessary to cover the increased development costs, in order to meet its construction completion date of December 31, 2007. Additionally, Petitioner demonstrated that a denial of its requested variance would result in its tax credit syndicator being unwilling to provide equity financing for the Development.
- b) IRS Revenue Procedure 95-28 allows extensions of time for the placed-in-service date of a development only after a major disaster area has been declared, for which a carryover allocation for the development is already in place prior to the disaster area being declared. Hurricane Wilma struck shortly before this Development received its carryover allocation and Petitioner is not eligible for relief under IRS Procedure 95-28. Absent a waiver from Florida Housing, Petitioner will not receive a one-year extension of the placed in service date. It would violate the principles of fairness to not allow Petitioner to have an extension of time for the placed-in-service date because it did not timely receive its carryover allocation. Petitioner also demonstrated that it is necessary to waive the QAP requirement that such returns be made only in the last quarter of the year the project is to be placed in service, to allow sufficient lead time to complete construction of the project.
- c) Section 120.542(2), Florida Statutes provides in pertinent part:

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

#### 3. Recommendation

Staff recommends that the Board GRANT Petitioner's requested variance from the requirements of the 2005 QAP, as follows: Petitioner shall be permitted to return its 2005 Housing Credit allocation, and to receive a Binding Commitment for an allocation of 2007 Housing Credits in an amount not to exceed its 2005 allocation, with a Placed-in Service Date of December 31, 2008; and GRANT, Petitioner's requested waiver from the requirements of Rule 67-48.004(14)(j) and 67-48.004(14)(m), F.A.C. (2005), to the extent necessary to allow Petitioner to reduce the total number of units from 160 to 125; and to reduce the funding through Housing Credits from \$2,368,500 to \$1,850,390. Staff also recommends that the Board GRANT Petitioner's requested waiver from the requirements of Rule 67-48.004(14)(j) and 67-48.004(14)(m), F.A.C. (2005), as it applies to the RFP #2006-04 to the extent necessary to allow Petitioner to reduce the total number of units from 160 to 125; and to reduce the funding through its Preliminary SAIL Commitment from \$1,800,000 to \$1,562,500.

# LEGAL

## Consent

### I. In Re: McCurdy Center, Ltd.

FHFC Case No. 2006-049VW

<b>Development Name: (“Development”):</b>	<b>McCurdy Center</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Greater Miami Neighborhoods, Inc.</b>
<b>Number of Units: 92</b>	<b>Location: Palm Beach County/Belle Glade</b>
<b>Type: Garden Apartments</b>	<b>Set Asides: 24% @ 30% AMI 76% @ 60%</b>
<b>Demographics: Homeless</b>	<b>SAIL: \$1,750,000</b>
<b>MMRB: N/A</b>	<b>Housing Credits: \$1,363,350</b>

#### 1. Background

a) During the 2005 Universal Cycle, Florida Housing awarded an allocation of SAIL funds and Low Income Housing Tax Credits (“HC”) to McCurdy Center, Ltd. (“Petitioner”), for Application #2005-106CS (the “Application”).

b) On August 29, 2006, Florida Housing received a “Petition for Waiver of Rule 67-48.004(14), Florida Administrative Code To Increase the Total Number of Units” (the “Petition”), from Petitioner. A copy of the Petition is attached as [Exhibit M](#).

c) Rule 67-48.004(14), Florida Administrative Code (2005), states in pertinent part:

“Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(j) Total number of units;”

d) Petitioner requests a waiver of the above Rule to permit a change in the unit mix originally described in its Application, and to permit the addition of another unit. Citing state-wide increases in construction costs, Petitioner now wishes to increase the number of units from 92 to 93 and change the Development unit mix from 83 single-bedroom plus 9 efficiency units to 93 single-bedroom units.

e) On September 9, 2006, the Notice of the Amended Petition was published in the Florida Administrative Weekly. To date, Florida Housing has received no comments concerning the Amended Petition. Petitioner may suffer substantial hardship should this waiver not be granted and adding additional affordable housing units to this Development serving the homeless demographic serves the purpose of the underlying statute.

## **LEGAL**

### ***Consent***

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

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

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

#### **3. Recommendation**

Staff recommends the Board **GRANT** the Petitioner's request for a waiver of Rule 67-48.004(14)(j), Florida Administrative Code, to permit an increase in the total number of units from 92 to 93.

**LEGAL**

*Consent*

**J. In Re: Millenia Development Group, LLLP**

**FHFC Case No. 2006-059VW**

<b>Development Name: (“Development”):</b>	<b>The Fountains at Millenia – Phase I Application # 2006-095C</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Atlantic Housing Group, LLLP</b>
<b>Number of Units: 164</b>	<b>Location: Orange County</b>
<b>Type: Garden Apartments</b>	<b>Set Aside: 88% at 60% AMI</b>
<b>Demographics: Family</b>	<b>Allocated Amount: N/A</b>
<b>MMRB: N/A</b>	<b>Housing Credits: \$2,010,000</b>

**1. Background**

- a) During the 2006 Cycle, Florida Housing awarded an allocation of Housing Credits to the Petitioner.
- b) On September 19, 2006, Florida Housing received a Petition for Waiver from Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), (“Petition”) from Millenia Development Group, LLLP (“Petitioner”). A copy of the Petition is attached as [Exhibit N](#).
- c) Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), state:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

\*\*\*

(j) Total number of units;

\*\*\*

(k) With regard to ... HC ..., the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application.

- d) Petitioner requests a waiver from these rules to permit (1) a reduction in the total number of units from 164 to 162, with the reduction to be applied to the market rate units, and (2) the resulting increase in the Total Set-Aside Percentage from 88% to 89%.

## LEGAL

### *Consent*

- e) The Development, as submitted in Petitioner's Application for HC funds, reflects a total set aside percentage of 88% with a total of 145 affordable units based on a total of 164 units. Subsequent to the completion of the final design and permitting process, Petitioner needs to eliminate two of the market rate units to enlarge the community room to make it more functional for the residents. Petitioner is seeking to reduce the number of total units by two, from 164 to 162, while leaving the total number of affordable units unchanged at 145. Since the number of affordable units will not be reduced, the amount of tax credits will not be affected. As a result of the reduction in total units with the number of affordable units remaining unchanged, the Total Set-Aside Percentage will actually increase to 89%.
- f) On September 29, 2006, the Notice of Petition was published in the Florida Administrative Weekly.
- g) To date, Florida Housing has not received any comments concerning the Petition.
- h) Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.
- i) The granting of this request for waiver will serve the purpose of the underlying statute in that the number of affordable housing units available to prospective tenants will remain unchanged while providing residents an added benefit in the form of a larger community room within the Development. Denial of the Petition will violate principles of fairness in that strict application of the rules in this case will lead to an unreasonable and unintended result. The intent of the rules is to ensure that developers do not provide fewer units of affordable housing than the number set forth in their application. In this case the number of affordable units will remain the same as that set forth in Petitioner's Application.

## 2. **Recommendation**

Staff recommends the Board grant the Petitioner's request for waiver from Rules 67-48.004(14)(j) and 67-48.004(14)(k), Florida Administrative Code (2006), to permit (1) a reduction in the total number of units from 164 to 162, with the reduction to be applied to the market rate units, and (2) the resulting increase in the Total Set-Aside Percentage from 88% to 89%.

## MULTIFAMILY BONDS

### *Consent*

#### IV. MULTIFAMILY BONDS

##### A. Request Approval Of The Final Credit Underwriting Report For Savannah Springs Apartments

<b>DEVELOPMENT NAME (“Development”):</b>	<b>Savannah Springs Apartments</b>
<b>DEVELOPER/PRINCIPAL (“Applicant”):</b>	<b>Savannah Springs Apartments, Ltd./Savannah Springs GP, LLC/TRG Member, LLC/The Richman Development Corporation/Richard P. Richman</b>
<b>NUMBER OF UNITS:</b>	<b>234</b>
<b>LOCATION (“County”):</b>	<b>Duval</b>
<b>TYPE (Rental, Homeownership):</b>	<b>Rental/Family (MMRB, RRLP and HC)</b>
<b>SET ASIDE:</b>	<b>50% @ 50%</b> <b>35% @ 60% (MMRB)</b>  <b>50% @ 50%</b> <b>50% @ 60% (SAIL &amp; HC)</b>
<b>ALLOCATED AMOUNT:</b>	<b>\$14,450,000 of Tax-Exempt Bonds and \$4,000,000 SAIL</b>

##### 1. Background

Applicant submitted an application (“Application”) on behalf of the proposed Development during the 2006 Universal Cycle. Applicant applied for tax-exempt bonds in the amount of \$14,250,000 and SAIL funds in the amount of \$4,000,000 in order to construct the Development. The Applicant subsequently requested an additional \$200,000 in tax-exempt bonds for a total amount of \$14,450,000.

##### 2. Present Situation

- a) While the current Program Rule does not prohibit changes or modifications of the proposed Development during credit underwriting, the Board has directed staff to advise it of any such changes.
- b) Total Development Costs have increased \$2,542,267 since the Application primarily due to increases in construction and financial costs as well as developer fee.
- c) Since the time of the Application, the syndication price of \$0.96 has decreased to \$0.94 according to TRGAHC; however, the anticipated amount of syndication proceeds to be paid to the partnership has increased by approximately \$630,000. AmeriNational does not consider this change to be a significant adverse change to the development.
- d) Additionally the Applicant submitted a request on September 14, 2006 to Florida Housing for \$200,000 of additional volume cap that is included in the MMRB loan of \$14,450,000 during the construction period in order to meet its 50% Bond Test.

## MULTIFAMILY BONDS

### *Consent*

- e) The Applicant, in a letter dated October 5, 2006, requested to swap all single pane windows with a shading coefficient of .67 or better for double pane glass on all windows. It is the opinion of AmeriNational this change will not have an adverse impact on the development.
- f) A Final Credit Underwriting Report dated October 5, 2006, is attached as [Exhibit A](#).

### **3. Recommendation**

That the Board approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated October 5, 2006 recommending that \$14,450,000 in bonds and \$4,000,000 in SAIL funds be issued for the purpose of constructing the Development, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.



## MULTIFAMILY BONDS

### *Consent*

**B. Request Approval To Allocate Up To \$2,600,000 In Tax-Exempt, Private Activity Bond Allocation And Approval Of The Final Credit Underwriting Report For Tuscany Lakes Apartments**

<b>DEVELOPMENT NAME (“Development”):</b>	<b>Tuscany Lakes Apartments</b>
<b>DEVELOPER/PRINCIPAL (“Owner”):</b>	<b>Tuscany Lakes, Ltd./The Carlisle Group, Inc./Tuscany Lakes, Inc./Lloyd J. Boggio/Bruce Greer/Luis Gonzalez</b>
<b>NUMBER OF UNITS:</b>	<b>348</b>
<b>LOCATION (“County”):</b>	<b>Manatee</b>
<b>TYPE (Rental, Homeownership):</b>	<b>Rental/Family (MMRB, SAIL and HC)</b>
<b>SET ASIDE:</b>	<b>40% @ 60% (MMRB) 100% @ 60% (HC)</b>
<b>ALLOCATED AMOUNT:</b>	<b>\$14,000,000 of Tax-Exempt Bonds and \$2,600,000 of Taxable Bonds</b>
<b>ADDITIONAL COMMENTS: Award of Bond Allocation and Refund Taxable Bonds</b>	

**1. Background**

In 2002, Florida Housing financed the construction of the Development with \$14,000,000 in tax-exempt bonds and \$2,600,000 in taxable bonds, designated as 2002 Series K.

**2. Present Situation**

- a) As of September 29, 2006, the MMRB Program had approximately \$300,000,000 in tax-exempt, private activity bond allocation that was not committed to a specific multifamily development.
- b) The Owner, in a letter dated June 28, 2006, attached as [Exhibit B](#), requested approval to refund the taxable bonds, currently in the principal amount of \$2,600,000, with tax-exempt bonds. The Owner anticipates that the refunding of the taxable bonds will decrease the interest costs.
- c) A Final Credit Underwriting Report dated September 21, 2006, is attached as [Exhibit C](#).

**3. Recommendation**

Approve the request to allocate up to \$2,600,000 in tax exempt, private activity bonds to the Development and approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated September 21, 2006, subject to further approvals and verifications by the Credit Underwriter, Credit Enhancer, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.

## MULTIFAMILY BONDS

### *Consent*

#### C. Request Approval To Transfer Bonds To Freddie Mac Pool Structure For The Developments

<b>DEVELOPMENT NAME (“Developments”):</b>	<b>Grand Savannah Club Apartments The Park at Palm Bay</b>
<b>DEVELOPER/PRINCIPAL (“Applicant”):</b>	<b>AIG SunAmerica, Inc./American International Group, Inc./SunAmerica</b>
<b>NUMBER OF UNITS:</b>	<b>320 – respectively 234 – respectively</b>
<b>LOCATION (“County”):</b>	<b>St. Lucie – respectively Brevard – respectively</b>
<b>TYPE (Rental, Homeownership):</b>	<b>Rental/Family (MMRB and HC)</b>
<b>SET ASIDE:</b>	<b>50% @ 60% - respectively 80% @ 60% - respectively (MMRB)</b>
<b>ALLOCATED AMOUNT:</b>	<b>\$13,650,000 of Tax-Exempt Bonds – respectively \$ 8,095,000 of Tax-Exempt Bonds and \$ 2,960,000 of Taxable Bonds – respectively</b>
<b>ADDITIONAL COMMENTS: Transfer of Bonds to Freddie Mac Structure</b>	

#### 1. Background

- a) In 1998, Florida Housing financed the construction of the Grand Savannah Club with \$13,650,000 in tax-exempt bonds, designated as 1998 Series A. These bonds mature March 1, 2030. In 2000, Florida Housing financed the construction of the The Park of Palm Bay with \$8,095,000 in tax-exempt bonds and \$2,960,000 in taxable bonds, designated as 2000 Series R (collectively with 1998 Series A, the “Bonds”). These bonds mature January 1, 2033.
- b) The Bonds were credit enhanced during construction and initial rent up by Financial Security Assurance Inc. (FSA) and by an SAI Credit Facility from AIG SunAmerica Inc. (SunAmerica). Affiliates of SunAmerica (or its parent company, American International Group, Inc.) purchased the low income housing tax credits for the Developments.
- c) Grand Savannah Club was developed by Coronado Construction, and The Park at Palm Bay was developed by The Brisben Companies. SunAmerica has previously removed the original developers of both Developments.
- d) In 2003, FSA advised SunAmerica that the conditions for conversion of Grand Savannah Club and The Park at Palm Bay to permanent financing had not been satisfied. SunAmerica exercised its rights under the financing documents to call the Bonds for mandatory purchase and had the Bonds re-issued as non-credit enhanced “SAI Purchased Bonds”. The respective financing documents provide that such SAI Purchased Bonds can only be held by SunAmerica, the respective Borrower, its general partner or, with the prior written consent of Florida Housing, any other person.
- e) The Board previously approved the transfer of the Grand Savannah Club SAI Purchased Bonds and The Park at Palm Bay SAI Purchased Bonds to separate custodial trust structures.

## MULTIFAMILY BONDS

### *Consent*

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

- a) SunAmerica has advised Florida Housing that it wishes to collapse the current custodial trust structures and have the Grand Savannah Club SAI Purchased Bonds and The Park at Palm Bay SAI Purchased Bonds (together with certain other bonds) transferred to the Federal Home Loan Mortgage Corporation (“Freddie Mac”). Freddie Mac in turn will place the bonds in a trust and market trust receipts representing an interest therein. SunAmerica will retain a residual interest.
- b) SunAmerica has advised that it may redeem a portion of the SAI Purchased Bonds, thereby reducing the debt service on the corresponding Development.
- c) SunAmerica has requested, through its counsel, attached as [Exhibit D](#), that Florida Housing consent to the transfer of the Grand Savannah Club SAI Purchased Bonds and The Park at Palm Bay SAI Purchased Bonds to Freddie Mac and allow at some future point in time to be able, as Freddie Mac may require, to terminate the existing custodial trust arrangement holding the bonds and have the bonds reregistered in their name. Currently the bonds may not be transferred without the prior written consent of Florida Housing.

#### 3. **Recommendation**

Approve the transfer of the Grand Savannah Club SAI Purchased Bonds and The Park at Palm Bay SAI Purchased Bonds to Freddie Mac, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.

## MULTIFAMILY BONDS

### *Consent*

#### **D. 2006 Supplemental MMRB Application**

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

The 2006 Supplemental MMRB Application cycle opened on March 3, 2006. As of September 29, 2006, 9 applications have been submitted, requesting \$83,637,000 in bond allocation, attached as [Exhibit E](#). These applications have been scored and meet the funding requirements.

##### **2. Recommendation**

Approve the issuance of Acknowledgement Resolutions and direct that the applications be invited in to credit underwriting.

**MULTIFAMILY BONDS**

*Consent*

**E. Request Approval To Allocate \$39,000,000 In Tax-Exempt, Private Activity Bond Allocation To The Developments**

<b>DEVELOPMENT NAME (“Developments”):</b>	Tallman Pines II Parkview Gardens Magnolia Crossing II Morris Court III Dixie Court Apartments II Silurian Pond
<b>DEVELOPER/PRINCIPAL (“Developers”):</b>	Tallman Pines Associates II, Ltd. Carlisle Group VI, Ltd. Magnolia Crossing II, Ltd. Morris Court III, Ltd. Dixie Court II, Ltd. Silurian Pond, Ltd.
<b>NUMBER OF UNITS:</b>	24 – respectively 40 – respectively 64 – respectively 50 – respectively 28 – respectively 72 – respectively
<b>LOCATION (“Counties”):</b>	Broward – respectively Miami-Dade – respectively Santa Rosa – respectively Escambia – respectively Broward – respectively Escambia – respectively
<b>TYPE (Rental, Homeownership):</b>	Rental
<b>SET ASIDE:</b>	85% @ 60% – respectively 85% @ 60% – respectively 85% @ 60% – respectively 85% @ 60% – respectively 85% @ 60% – respectively 85% @ 60% – respectively
<b>ALLOCATED AMOUNT:</b>	\$4,500,000 – respectively \$8,000,000 – respectively \$7,000,000 – respectively \$4,500,000 – respectively \$6,000,000 – respectively \$9,000,000 of Tax Exempt Bonds – respectively
<b>ADDITIONAL COMMENTS: Award of bond allocation</b>	

**1. Background**

At the March 3, 2006 meeting, the Board authorized the MMRB Program to conduct a supplemental application cycle.

**2. Present Situation**

As of September 29, 2006, the MMRB Program has approximately \$300,000,000 in tax-exempt, private activity bond allocation that is not committed to a specific multifamily development.

## MULTIFAMILY BONDS

### *Consent*

- a) The Developments are 2006 Supplemental MMRB Applications (“Applications”) to construct new affordable developments in the Counties. These Developments have also applied for Rental Recovery Loan Program (“RRLP”) funds as well.
- b) The rules governing the 2006 Supplemental MMRB Application cycle require an application to achieve a perfect score of sixty-six (66) points in order to be funded. Therefore, the Applications are ineligible for funding under the 2006 Supplemental MMRB Application cycle. However, the rules further state: “If there is private activity bond allocation remaining after all eligible Applications are funded, then this allocation will be applied to the Corporation’s single-family bond program or otherwise used as directed by the Board.”
- c) Since the corporation’s single-family bond program is not in need of any additional allocation, staff recommends that the Board use its discretion to award private activity bond allocation to the Developments even though they did not obtain a perfect score on their Applications. Staff believes that the public policy purposes served by obtaining these Developments as affordable for thirty (30) years far outweigh any failure to achieve a perfect score on the Application.

### **3. Recommendation**

Approve the request to allocate \$39,000,000 in tax exempt, private activity bonds to the Developments, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

# MULTIFAMILY BONDS

## *Consent*

### F. Assignment Of Bond Underwriters And Structuring Agents

#### 1. Background

- a) Pursuant to staff's request for approval to issue bonds to finance the construction of the proposed Development referenced below, a Final Credit Underwriting Report is being presented to the Board for approval simultaneously with this request to assign the appropriate professionals to this transaction. A brief description of the Development is detailed below along with the Staff's recommendation for the assignment.
- b) Additionally, the Corporation's Senior Financial Advisor has prepared a method of bond sale letter. Staff has reviewed the method of sale letter and Board approval is requested at the current meeting.

#### 2. Present Situation

- a) The Credit Underwriters, the Senior Financial Advisor and Florida Housing staff have reviewed the financing structure for the proposed Development.
- b) The Senior Financial Advisor's recommendation for the method of bond sale is being presented to the Board at the current meeting during the Multifamily Mortgage Revenue Bond Program Update of items on the agenda.

#### 3. Recommendation

Approve the assignment of the recommended professionals as shown in the chart for the proposed Development.

<b>Development Name</b>	<b>Location of Development</b>	<b>Number of Units</b>	<b>Method of Bond Sale</b>	<b>Recommended Professional</b>
<b>Savannah Springs Apartments</b>	<b>Duval</b>	<b>234</b>	<b>Negotiated</b>	<b>RBC Dain Rauscher, Inc.</b>

# MULTIFAMILY BONDS

## *Consent*

### **G. Request Approval Of The Method Of Bond Sale Recommendation From Florida Housing's Senior Financial Advisor**

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

- a) The Credit Underwriter has provided a Final Credit Underwriting Report for the proposed Development below. Florida Housing seeks Board approval pursuant to the recommendations of the Credit Underwriter and the appropriate Florida Housing staff.
- b) Pursuant to Rule 67-21.0045, F.A.C., staff has requested a review of the proposed bond structure by the Senior Financial Advisor in order to make a recommendation to the Board for the method of bond sale.
- c) CSG Advisors has prepared an analysis and recommendation for the method of bond sale for the Development. The recommendation letter is attached as [Exhibit F](#).

<b>Development Name</b>	<b>Location of Development</b>	<b>Number of Units</b>	<b>Method of Bond Sale</b>
<b>Savannah Springs Apartments</b>	<b>Duval</b>	<b>234</b>	<b>Negotiated</b>

#### **2. Recommendation**

Approve the recommendation of the Senior Financial Advisor for the method of bond sale for the above Development.



**PREDEVELOPMENT LOAN PROGRAM (PLP)**

*Consent*

**V. PREDEVELOPMENT LOAN PROGRAM (PLP)**

**A. Request Approval of PLP Loan to HERD Community Development Corporation, a Non-Profit Corporation, for Jackson Place (PLP 05-097)**

<b>DEVELOPMENT NAME (“Development”):</b>	<b>Jackson Place</b>
<b>APPLICANT/DEVELOPER (“Developer”):</b>	<b>HERD Community Development Corporation</b>
<b>CO-DEVELOPER:</b>	<b>n/a</b>
<b>NUMBER OF SET-ASIDE UNITS:</b>	<b>27</b>
<b>LOCATION (“County”):</b>	<b>Bay</b>
<b>TYPE:</b>	<b>Homeownership</b>
<b>SET ASIDE:</b>	<b>100% @ 80% AMI</b>
<b>PLP LOAN AMOUNT:</b>	<b>\$ 366,681</b>
<b>ADDITIONAL COMMENTS: The Technical Assistance Provider (TAP) has recommended approval.</b>	

**1. Background/Present Situation**

- a) On July 19, 2006, Florida Housing issued an Invitation to Participate in the PLP to the Developer. The Development will be located in Bay County.
- b) The Technical Assistance Provider (TAP) has approved the development plan and has recommended a loan amount of \$366,681 for PLP eligible activities ([Exhibit A](#)). The TAP assisted the Developer in preparing the development plan and budget ([Exhibit B](#)). Staff has reviewed them and determined that all budget items are PLP eligible.
- c) Additionally, \$253,000 of the \$366,681 total PLP Loan amount will be utilized for site acquisition. As such, the Development will be undergoing credit underwriting to approve the site acquisition portion of the loan. Upon receipt of such positive recommendation, the credit underwriting report will be presented to the Board for approval. In the interim, the Applicant has other financial obligations related to the Development that will require Florida Housing to close on the initial \$113,681, which is the non-site acquisition portion of the loan.

**2. Recommendation**

Approve a PLP Loan in the total amount of up to \$366,681 to the Developer, a non-profit corporation, for predevelopment expenses as recommended by the TAP and allow staff to proceed with loan closing proceedings on the non site acquisition portion of the loan.

**PREDEVELOPMENT LOAN PROGRAM (PLP)**

*Consent*

**B. Request Approval of Credit Underwriting Report for United Development Communities, Inc., a Non-Profit Corporation, for UDC-AHRP Broward County (PLP 05-093)**

<b>DEVELOPMENT NAME (“Development”):</b>	<b>UDC-AHRP Broward County</b>
<b>APPLICANT/DEVELOPER (“Developer”):</b>	<b>United Development Communities, Inc., a Non-Profit Corporation</b>
<b>CO-DEVELOPERS:</b>	<b>n/a</b>
<b>NUMBER OF UNITS:</b>	<b>4</b>
<b>LOCATION (“County”):</b>	<b>Broward</b>
<b>TYPE:</b>	<b>Homeownership</b>
<b>SET ASIDE:</b>	<b>100% @ 80% AMI</b>
<b>PLP LOAN AMOUNT:</b>	<b>\$ 500,000</b>

**1. Background/Present Situation**

- a) On March 27, 2006, Florida Housing issued an Invitation to Participate in the PLP to the non-profit Developer. The homes will be located in Broward County.
- b) On June 9, 2006, the Board approved the development plan and budget that was submitted by the Technical Assistance Provider (TAP) recommending a loan of \$500,000 for PLP eligible activities. Of the \$500,000 loan, \$452,000 will be utilized for the acquisition of homes, therefore the \$452,000 was contingent pending a positive recommendation from the credit underwriter.
- c) Staff received a credit underwriting report on August 10, 2006 with a positive recommendation for a PLP Loan in the amount of \$500,000, subject to the conditions outlined in the report ([Exhibit C](#)). Florida Housing has financed similar developments for this developer in the past using the PLP program.

**2. Recommendation**

Approve the Credit Underwriter’s final recommendation and authorize staff to proceed with loan closing activities on the PLP Loan.

**PREDEVELOPMENT LOAN PROGRAM (PLP)**

*Consent*

**C. Request Reduction of PLP Loan for The Oaks and Palms (PLP 05-076)**

<b>DEVELOPMENT NAME (“Development”):</b>	<b>The Oaks and Palms</b>
<b>APPLICANT/DEVELOPER (“Developer”):</b>	<b>Arcadia Housing Authority</b>
<b>CO-DEVELOPER:</b>	<b>Judd K. Roth</b>
<b>NUMBER OF UNITS:</b>	<b>110</b>
<b>LOCATION (“County”):</b>	<b>DeSoto County</b>
<b>TYPE:</b>	<b>Rental</b>
<b>SET ASIDE:</b>	<b>60% @ 60% AMI</b>
<b>PLP LOAN AMOUNT:</b>	<b>\$ 500,000</b>
<b>ADDITIONAL COMMENTS: The Technical Assistance Provider (TAP) has recommended approval.</b>	

**1. Background/Present Situation**

- a) On July 28, 2005, Florida Housing issued an Invitation to Participate in the PLP to the Developer. The Development will be located in DeSoto County.
- b) On October 14, 2005 the Board approved a PLP loan in the amount of \$500,000 for this development. This development originally consisted of units to be placed on two separate parcels of land owned by the Arcadia Housing Authority. One of the parcels (the Oaks) has restrictions from the U.S. Department of Housing and Urban Development (HUD) which restricts the ability to place a mortgage on the property, while the other parcel (the Palms) has no restrictions.
- c) The developer has requested permission to separate the two parcels and proceed with a PLP loan for the Palms development only, with a corresponding reduction in the loan amount to \$250,000 and number of units to 60.
- d) The TAP has recommended the change ([Exhibit D](#)) and has submitted a revised development plan including a revised budget ([Exhibit E](#)).

**2. Recommendation**

Approve a reduction in the PLP Loan amount to \$250,000 for the Palms alone, with corresponding reduction in the number of units to 60, and authorize staff to proceed with loan closing activities on the Palms development.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

VI. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval to Increase First Mortgage Loan for The Cove at Lady Lake Apartments, Cycle XVI and Cycle XVII (2004-138S/2005-068S)

Development Name: The Cove at Lady Lake Apartments (“Development”)	Location: Lake County
Developer/Principal: Sandspur Housing Partners, Ltd. (“Developer”)	Set-Aside: 100% @ 60% AMI
Number of Units: 176	Allocated Amount: (2004) \$1,500,000 and (2005) \$1,500,000
Type: Garden Style Buildings	Housing Credit Equity \$7,037,000
Demographics: Family	MMRB: \$9,800,000 (Local)

1. Background/Present Situation

- a) On May 9, 2005, a 2004 SAIL loan in the amount of \$1,500,000 for this 176-unit family development in Lake County closed. In the 2005 Universal Application Cycle, Applicants that were successful in receiving an award of 2004 SAIL funds could request additional funding for the difference in the 2004 and 2005 SAIL request limits.
- b) On August 25, 2005, the Board approved the final scores and ranking for the 2005 Universal Application Cycle, awarded an additional \$1,500,000 to this development and directed staff to proceed with all necessary credit underwriting activities.
- c) On March 4, 2006, a 2005 SAIL loan in the amount of \$1,500,000 for this 176-unit family development in Lake County closed.
- d) On August 11, 2006, staff received a letter from the Developer requesting approval of an additional allocation of \$1,500,000 in tax-exempt bonds from Orange County Housing Finance Authority due to increased construction costs ([Exhibit A](#)).
- e) On October 2, 2006, staff received a credit underwriting review with a positive recommendation for an additional allocation of \$1,500,000 in tax-exempt bonds ([Exhibit B](#)). Staff has evaluated this review and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

2. Recommendation

Approve the final credit underwriting review and direct staff to proceed with the modification of closing documents.

**STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)**

*Consent*

**B. Request Approval of Credit Underwriting Report for Sunnerset Village, Cycle XVI (2004-094S/2006-511C)**

<b>Development Name: Sunnerset Village (“Development”)</b>	<b>Location: St. Johns County</b>
<b>Developer/Principal: Transom Development, Inc. (“Developer”)</b>	<b>Set-Aside: 100% @ 60% AMI</b>
<b>Number of Units: 132</b>	<b>Allocated Amount: \$1,500,000</b>
<b>Type: Three-story with Elevator</b>	<b>Housing Credit Equity \$4,682,482</b>
<b>Demographics: Elderly</b>	<b>MMRB: \$10,740,000 (Local)</b>

**1. Background/Present Situation**

- a) During the 2004 Universal Application Cycle, the Applicant applied for a SAIL loan in the amount of \$1,500,000 for this 132-unit elderly development in St. Johns County.
- b) On October 28, 2004, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for a SAIL loan in an amount up to \$1,500,000.
- c) On October 4, 2006, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,500,000 ([Exhibit C](#)). Staff has reviewed this report and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

**2. Recommendation**

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm commitment and loan closing activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

C. Request Approval of Credit Underwriting Report for Pinnacle Park, Wilma Go Zone, (RFP2006-04-08/2005-100C)

<b>Development Name: Pinnacle Park (“Development”)</b>	<b>Location: Miami-Dade County</b>
<b>Developer/Principal: Pinnacle Housing Group, LLC (“Developer”)</b>	<b>Set-Aside: 13% @ 30% AMI, 82% @ 60% AMI and 5% @ non-income restricted work-force housing</b>
<b>Number of Units: 135</b>	<b>Allocated Amount: \$1,040,000</b>
<b>Type: High Rise</b>	<b>Housing Tax Credit Equity: \$23,782,546</b>
<b>Demographics: Family</b>	<b>MMRB: N/A</b>

1. Background/Present Situation

- a) Through an RFP process in April, 2006, developments that were located in the counties damaged by Hurricane Wilma and were awarded an allocation of only Competitive Housing Credits (HC) in the Universal Application Cycle were allowed to request SAIL funds. The Applicant applied for a SAIL loan in the amount of \$1,040,000 for this 135-unit family development in Miami-Dade County.
- b) On June 28, 2006, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for a SAIL Loan in an amount up to \$1,040,000.
- c) On October 5, 2006, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$1,040,000 ([Exhibit D](#)). Staff has reviewed this report and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.
- d) The Legal Department has submitted a rule waiver that is included in this Board package requesting to increase the total number of units and a change in the total set-aside percentages. The number of set-aside units is unchanged. These changes are indicated in our credit underwriting report and will remain the same upon approval of the waiver.

2. Recommendation

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm commitment and loan closing activities.

**STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)**

*Consent*

**D. Request Approval of Credit Underwriting Report for Savannah Springs Apartments, Cycle XVIII (2006-015BS)**

<b>Development Name: Savannah Springs Apartments (“Development”)</b>	<b>Location: Duval County</b>
<b>Developer/Principal: The Richman Group of Florida, Inc. (“Developer”)</b>	<b>Set-Aside: 50% @ 50% AMI and 50% @ 60% AMI</b>
<b>Number of Units: 234</b>	<b>Allocated Amount: \$4,000,000</b>
<b>Type: Garden Style</b>	<b>Housing Credit Equity \$7,987,792</b>
<b>Demographics: Family</b>	<b>MMRB: \$14,450,000</b>

**1. Background/Present Situation**

- a) On July 28, 2006, the Board approved the final scores and ranking for the 2006 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On August 7, 2006, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for a SAIL loan in an amount up to \$4,000,000 for this 234-unit family development located in Duval County. The Development was also awarded an MMRB allocation. The credit underwriting report is addressed in the MMRB section of this board package. Staff has reviewed this report and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

**2. Recommendation**

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm loan commitment and loan closing activities.

**STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)**

*Consent*

**E. Request Approval to Exchange Amenities for Roosevelt Gardens, Cycle XVI (2004-019S)**

<b>Development Name: Roosevelt Gardens (“Development”)</b>	<b>Location: Monroe County</b>
<b>Developer/Principal: The Housing Authority of the City of Key West, Florida (“Developer”)</b>	<b>Set-Aside: 100% @ 120% AMI</b>
<b>Number of Units: 96</b>	<b>Allocated Amount: \$2,000,000</b>
<b>Type: Garden Style</b>	<b>Total Housing Credit Equity: N/A</b>
<b>Demographics: Family</b>	<b>MMRB: \$11,850,000 (Local)</b>

**1. Background/Present Situation**

- a) On October 14, 2004, the Board approved the final scores and ranking for the 2004 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On October 28, 2004, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for a SAIL loan in an amount up to \$2,000,000 for this 96-unit family development in Monroe County.
- c) On August 25, 2005, the Board approved the final credit underwriting report which reflected that the Applicant would act as the General Contractor for the construction of the clubhouse, however, the Applicant preferred to bid the clubhouse to an outside general contractor. The bid procurement process has been ongoing due to the increase in construction costs.
- d) On September 22, 2006, staff received a letter from the developer advising that they intend to use a modular construction system for the clubhouse and also requesting approval of a change in amenities from “Laundry facilities in at least one common area” to “Library” ([Exhibit E](#)). It should be noted that all resident units have been constructed and each unit has washer and dryer hook-ups at no cost to the tenants.
- e) On August 16, 2006, staff received a credit underwriting review with a positive recommendation for the exchange in amenities ([Exhibit F](#)). Both the “Laundry facilities with full-size washers and dryers available in at least one common area on site” and “Library consisting of a minimum of 100 books and 5 current magazine subscriptions” amenities have a point value of 1 point each in the 2004 Universal Application. Staff has reviewed this proposal and finds the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

**2. Recommendation**

Approve the request to change amenities in this Development and direct staff to proceed with the loan closing activities.



## SPECIAL ASSETS

### *Consent*

#### VII. SPECIAL ASSETS

A. **Request for Six Month Extension for Liberty Center III SAIL Loan (97S-018) Which Matures on 11/30/2006**

<b>Development Name: Liberty Center III (“Development”)</b>	<b>Location: Duval</b>
<b>Developer/Principal: The Harris Group, Inc. (“Developer”)</b>	<b>Set-Aside: SAIL 20% @ 50% AMI; 80% @ 60% AMI; 75 Years</b>
<b>Number of Units: 100</b>	<b>Allocated Amount: SAIL \$1,800,000, 10 Years</b>
<b>Demographics: Family* (SRO-Homeless)</b>	<b>Notes: Rule 9I-35 SAIL Cycle IX</b>

1. **Background**

During the 1996 Cycle, Florida Housing awarded \$1,800,000 SAIL loan to Liberty Center for the Homeless, Inc., a Florida corporation, (Borrower) for the development of a 100-unit SRO apartment complex at 600 North Washington Street in Jacksonville, Duval County, Florida for single adult homeless women. The property was completed in December 1996.

2. **Present Situation**

The Borrower has requested a six month extension of the SAIL loan to allow time to re-negotiate the loan. Staff is currently in negotiations with the borrower to modify the terms of the note in order to maintain the homeless units.

3. **Recommendation**

Approve the request to extend the SAIL loan for six (6) months and direct staff to proceed with loan modification activities.