

COPY

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

CP DEVELOPMENT GROUP 2, LLC,

Petitioner,

vs.

FHFC No. 2009-0650C
Application No. 2009-114C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

PETITION FOR REVIEW

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005(5), Florida Administrative Code (F.A.C.), Petitioner, CP DEVELOPMENT GROUP 2, LLC ("CPD") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("Florida Housing") scoring actions concerning Universal Cycle Application No. 2009-114C. In support of this Petition, CPD provides as follows:

1. CPD is a Florida for-profit corporation with its address at 101 East Kennedy Blvd., Tampa, Florida 33602. CPD is in the business of providing affordable rental housing units.

2. Florida Housing is the state agency delegated the authority and responsibility for administering and awarding funds pursuant to Chapter 420, F.S., and Rules 67-21 and 67-48, F.A.C.

Nature of the Controversy

3. On August 20, 2009, CPD applied to Florida Housing for funding pursuant to the Low Income Housing Tax Credit Program (LIHTC). The purpose of the requested funds was to supplement the construction of a 146-unit affordable housing apartment complex in Tampa, Florida, named The Tempo.

4. Pursuant to section 420.5099, Florida Statutes, Florida Housing is the designated "housing credit agency" for the State of Florida and administers Florida's low-income housing tax credit program. Through this program, Florida Housing allocates Florida's annual fixed pool of federal tax credits to developers of affordable housing.

5. The tax credits allocated annually to each state are awarded by state "housing credit agencies" to single-purpose applicant entities created by real estate developers to develop specific multi-family housing projects. An applicant entity will then sell this ten-year stream of tax credits, typically to a "syndicator," with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at rents that are affordable to low-income and very-low-income tenants.

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code ("IRC"), by which federal income tax credits are allotted annually to each state on a per capita basis to encourage private developers to build and operate affordable low-income housing for families. These tax credits entitle the holder to a

dollar-for-dollar reduction in the holder's federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. Because Florida Housing's available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, Florida Housing has established a competitive application process pursuant to Chapter 67-48, F.A.C. Specifically, Florida Housing's application process for 2009, as set forth in Rules 67-48.002-.005, F.A.C., involves the following:

- (a) The publication and adoption by rule of an application package;
- (b) The completion and submission of applications by developers;
- (c) Florida Housing's preliminary scoring of applications;
- (d) An initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE");
- (e) Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- (f) An opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- (g) A second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- (h) Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;

- (i) An opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- (ii) Final scores, ranking, and allocation of tax credit funding the applicants through the adoption of final orders.

8. At the completion of this process a Final Score is assigned to each Application. Based on these Final Scores, and a series of Tie Breakers, Applications are then ranked. Funds are awarded to applicants starting with applicable preferences and set asides and the highest scoring applicants, until the available funds are exhausted. Applicants compete for funds, in large part, against other applicants in the same county size group, and against other applicants seeking to provide housing to the same demographic group. CPD is an applicant for Developments in the Large County Geographic Set-Aside.

9. Based on a review of Florida Housing's Final Scoring Summary dated December 2, 2009, CPD received a final score of 70 out of a possible 70 points for its application. Additionally, CPD received 6.00 out of 6.00 ability to proceed and 7.5 out of 7.5 tie-breaker proximity points. This score should allow CPD to receive a full award of its funding request. Florida Housing's scoring action concerns whether CPD provided an equity commitment letter which meets the requirements of the Universal Cycle Application and Rule. As will be explained more fully below, Florida Housing's scoring action in the instant case is erroneous.

Substantial Interests Affected

10. As an applicant for funds allocated by Florida Housing, CPD's substantial interests are adversely affected by the scoring decisions here. The final scoring actions of Florida Housing resulted in CPD's application being rejected from the funding range for Large County Developments. Since the purpose of the loan program in general is to provide funding to developers of apartment projects for low income residents, then CPD's interests are adversely and substantially affected by the loss of funding. Indeed, without the requested funding, CPD's ability to provide much needed affordable housing units will be severely jeopardized.

Scoring of CPD's Application

11. The Universal Application at Part V requests information regarding the financing of the proposed project. Specifically, at Part V(D), the Application requires the Applicant to provide information identifying any non-corporation funding commitments.

12. In its original application, CPD provided a letter from Bank of America which reflected an equity commitment in The Tempo project as a source of funding.

13. After conducting its preliminary review of the Application and all NOPSEs, Florida Housing found as follows:

Per page 74 of the 2009 Universal Application Instructions, the equity commitment must "state the anticipated total amount of equity to be provided." Although, the Applicant provided an equity commitment from Bank of America (Exhibit 57) reflecting the total amount of equity to be provided, the amounts reflected in the equity commitment are based off a dollar for dollar, 100% purchase of the requested allocated tax credits versus what's

actually stated in the equity commitment of \$.71, 99.99% purchase of tax credits. Because of this inconsistency, the HC equity cannot be considered a source of financing.

Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The applicant stated at Exhibit 9 of the Application that the Investor Limited Member interest in the Applicant entity is 99.98%. However, the equity commitment at Exhibit 57 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.

(See Attachment A.)

In response to Florida Housing's preliminary scoring decision, CPD provided cure documents, including a revised equity commitment letter from Bank of America (see Attachment B).

14. In response to the Cures, Florida Housing on December 2, 2009, found that CPD had addressed most scoring issues raised in preliminary scoring and by NOPSEs. However, Florida Housing concluded that CPD's cure raised an equity financing letter issue. Specifically, Florida Housing in its Final Scoring Summary concluded as follows:

As a cure for item 1T, the Applicant provided an equity commitment; however the total amount of equity listed on the first page of the equity letter does not equal the sum of the stated equity payments in the commitment letter. Therefore, the commitment could not be counted as a source of financing.

The Applicant has a permanent financing shortfall of \$10,299,679.

The Applicant attempted to cure item 1T by providing an equity commitment; however the commitment reflects a larger HC request amount than applied for, which is not allowable under

paragraph 67-48.004(14)(m), F.A.C. Therefore, the commitment could not be counted as a source of financing.

(See Attachment C.)

15. In the instant case, Florida Housing has apparently discovered an "inconsistency" in the Bank of America commitment letter not based on the equity amount identified and agreed to by the parties and listed in the corresponding proforma entry of \$10,142,253. Rather, Florida Housing asserts that the number is not what the payment schedule in the letter adds up to or \$10,142,252. Accordingly, Florida Housing, based on this \$1.00 difference or "inconsistency," has determined that CPD's application must be rejected.

16. Florida Housing's scoring decision is erroneous for several reasons. Initially, as a policy matter Section V.D(1)(f), provides that "commitments, proposals or letters of intent with conflicting information **may** be determined not to meet threshold depending upon the nature of the inconsistency." By using this language, Florida Housing has acknowledged that the inconsistencies may occur in these letters and unless the nature of the inconsistency is fatal rejection is not warranted. This policy statement is certainly applicable here and the \$1.00 difference here does not warrant rejection, especially given that the parties have agreed to \$1.00 more than what Florida Housing thinks the number should be.

17. As a factual matter, the apparent inconsistency here was caused by a rounding issue involving Bank of America's internal calculations and confirmed by the

Applicant's own calculator. Both Bank of America and the calculator used by CPD apparently rounded up the equity calculation to the next whole number which equaled \$10,442,253. Indeed, the calculation performed in the letter was confirmed using a Sharp EL-1801V desk top calculator which yielded the amount of \$10,442,253. Apparently, this was caused by a rounding function in the calculator. This is why the number was included in the letter and is an accurate number. The actual calculation numbers carried out two decimal points are as follows:

Annual Housing Credit Request =	\$1,470,887.00
Multiply by 10. (for 10 years) =	\$14,708,870.00
Multiply by 0.71 =	\$10,443,297.70
Multiply by .9999 =	\$10,442,253.37

Equity Pay-in Schedule:

\$10,442,253.37 distributed as follows:

Installment No. 1 – Multiply x .35 =	\$ 3,654,788.68
Installment No. 2 – Multiply by .35 =	\$ 3,654,788.68
Installment No. 3 – Multiply by .20 –	\$ 2,088,450.68
Installment No. 4 – Multiply by .10 =	\$ 1,044,225.34

These total \$10,442,253.38

18. Notwithstanding any perceived inconsistency, the equity commitment letter meets all the listed requirements of the Universal Application Instructions. Indeed, the letter includes:

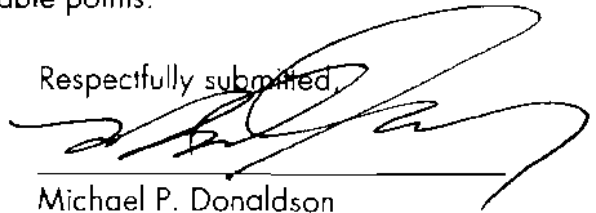
- Terms.
- Proposed interest rate of the construction loan (a published variable index will be acceptable).
- Proposed interest rate of the permanent loan (a published variable index will be acceptable).

- Signature of all parties, including acceptance by the Applicant.
- A statement that states the commitment, proposal or letter of intent does not expire before December 31, 2009, with the exception of Local Government issued tax-exempt bonds.

19. Accordingly, the letter meets the requirements of the Universal Cycle Application process. This result is not changed by the rounding issue referenced above. Moreover, a perceived inconsistency resulting from the use of a calculator does not rise to the level of rejecting this otherwise acceptable application.

WHEREFORE, CPD requests that it be granted an administrative proceeding to contest Florida Housing's erroneous scoring decisions. To the extent there are disputed issues of fact, this matter should be forwarded to the Division of Administrative Hearings. Ultimately, CPD requests the entry of a Recommended and Final Order which finds that it has met threshold and awards CPD all applicable points.

Respectfully submitted,

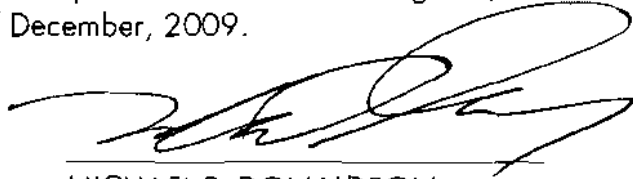


Michael P. Donaldson
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Tallahossee, FL 32302
Telephone: (850) 224-1585
Facsimile: (850) 222-0398

Counsel for Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301; and a copy furnished to Wellington H. Meffert, II, Esq., Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 28th day of December, 2009.

A handwritten signature in black ink, appearing to read 'Michael P. Donaldson', written over a horizontal line.

MICHAEL P. DONALDSON

Scoring Summary Report

File #: 2009-114C Development Name: The Tempo

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
10/21/2009	61.00	N	6.00	6.25
Preliminary	61.00	N	6.00	6.25
NOPSE	61.00	N	6.00	6.25
Final				
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00		
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00		
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	12.00		
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00		
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00		
4S	III	B	3	Green Building	5.00	5.00	5.00		
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	0.00	0.00		
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00		
7S	III	E	3	Affordability Period	5.00	5.00	5.00		
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00		
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00		
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00		
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00		
Local Government Contributions									
10S	IV	A		Contributions	5.00	0.00	0.00		
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	4.00		

ATTACHMENT A

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
5S	Because the Applicant did not commit to set aside at least 50% of the proposed Development's ELI units for Special Needs Households, the Application is not eligible for Special Needs points.	Preliminary	
10S	The Applicant provided the Local Government Verification of Contribution – Loan form and payment stream calculation behind Exhibit 45. However, the amount listed on the Local Government Verification of Contribution – Loan form was \$4,080,147, while the loan amount used on the payment stream to calculate the PV of the loan was \$4,080,145. Per page 61 of the 2009 Universal Application Instructions, in order to be considered complete and eligible for points the payment stream calculation must be attached to the Local Government Verification of Contribution – Loan form. Therefore, because the incorrect payment stream was attached, the Applicant received zero points for Local Government Contributions.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the equity commitment must "state the anticipated total amount of equity to be provided". Although, the Applicant provided an equity commitment from Bank of America (Exhibit 57) reflecting the total amount of equity to be provided, the amounts reflected in the equity commitment are based off of a dollar for dollar, 100% purchase of the requested allocated tax credits, versus what's actually stated in the equity commitment of \$.71, 99.99% purchase of tax credits. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	
2T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the Investor Limited Member interest in the Applicant entity is 99.98%. However, the equity commitment at Exhibit 57 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	
3T	V	D	1	Non-Corporation Funding	The Applicant listed a "Land Note" of \$336,042 as a source of financing. However, the documentation provided behind Exhibit 59 does not meet the requirements for debt financing as required by page 71 of the 2009 Universal Application Instructions. Therefore, it could not be considered as a source of financing.	Preliminary	
4T	V	B		Construction/Rehab Analysis	The Application has a construction financing shortfall of \$6,407,503	Preliminary	
5T	V	B		Permanent Analysis	The Application has a permanent financing shortfall of \$10,468,979.	Preliminary	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	1.00		
2A	III	C	3.a	Availability of Electricity	1.00	1.00	1.00		
3A	III	C	3.b	Availability of Water	1.00	1.00	1.00		
4A	III	C	3.c	Availability of Sewer	1.00	1.00	1.00		
5A	III	C	3.d	Availability of Roads	1.00	1.00	1.00		
6A	III	C	4	Appropriately Zoned	1.00	1.00	1.00		

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b (2) (a)	Grocery Store	1.25	1.25	1.25		
2P	III	A	10.b.(2) (b)	Public School	1.25	0.00	0.00		
3P	III	A	10.b (2) (c)	Medical Facility	1.25	0.00	0.00		
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00		
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25		
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75		
7P	III	A	10.a	Involvement of a PHA	7.50	0.00	0.00		

Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
2P	The Applicant is not eligible for Public School points because the Address for the Public School does not include the name of the city as required.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	E	1.b	Set-Aside Commitment	Although the Applicant failed to indicate at Part III.E.1.b. (1) whether the proposed Development qualifies as a Set-Aside Location A Development, Florida Housing was able to determine from the Development Address that the proposed Development does not qualify as a Set-Aside Location A Development.	Preliminary	
2C	V	B		Developer Fee	The maximum Developer fee of 16 percent was exceeded by \$905,311. Therefore, the Developer fee and the Total Development Cost were reduced by this amount.	Preliminary	
3C	V	B		Development Cost Pro Forma	The maximum General Contractor fee was exceeded by \$1 and adjusted down to \$2,063,157. This had no material impact on the Development.	Preliminary	
4C	V	D	1	Non-Corporation Funding	The funding commitment in the amount of \$336,042 found in the Amended Purchase Contract in Exhibit 59 is a capital contribution the Applicant will pay the Seller of the property. Page 70 of the Application Instructions states that capital contributions will not be considered a source of financing.	Preliminary	
5C	III	A	10	Proximity	The Applicant qualified for 3.75 automatic proximity points at 6P.	Preliminary	

2009 CURE FORM

(Submit a SEPARATE form for EACH reason relative to
EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2009-114C** and pertains to:

Part V Section A Subsection 1 Exhibit No. _____ (if applicable)

The attached information is submitted in response to the 2009 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2009 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Ability to Proceed Score Not Maxed	Item No. ____ A	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. IT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____ P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. ____ C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part V Section D Subsection 2 Exhibit 57 (if applicable).

Brief Statement of Explanation regarding
Application 2009-114C

As a part of preliminary scoring, Applicant failed threshold due to the inconsistency of the equity commitment provided at Exhibit 57 reflecting the total amount of equity to be provided, the amounts reflected in the equity commitment are based off a dollar for dollar, 100% purchase of the required allocated tax credits, versus what's actually stated in the equity commitment of \$.71, 99.99% purchase of tax credits, which thereby resulted in the Housing Credit equity not being considered as a source of financing.

In accordance with Rule Chapter 67-48-004(6), F.A.C., Applicant has provided a new Letter of Intent (Exhibit 58) and said Housing Credit Equity is now counted as a source of financing. Please note that Applicant has identified that an error was made in its initial Application submission on page 20 - Funding Request for Competitive Housing Credit (Annual Amount) and has revised said page 20 in the cure which immediately follows.



Bank of America
 Community Development Banking Group
 CAA-701-01-29
 1755 Grand Street, First Floor
 Concord, CA 94520
 Christopher Long
 Senior Vice President
 Tel: 925.692.6034
 Fax: 925.675.1945

October 22, 2009

Ms. Roxanne Amoroso
 CP Development Group 2, LLC
 c/o Bank of America Community Development Corporation
 101 E. Kennedy Blvd.
 Tampa, FL 33602

Re: Partnership: CP Development Group 2 LLC
 Development: The Tempo
 Location: Tampa, Florida

Dear Roxanne:

Thank you for the opportunity to provide this letter of intent to make an equity investment in your limited liability company (LLC), subject to preliminary and final investor approval. Bank of America, N.A. is interested in being the equity investor for the development, The Tempo, a to-be-constructed 146 unit family rental development receiving 9% housing credits. This letter of intent outlines certain terms and conditions that would be the basis of an operating agreement to be entered into among the member(s) and Bank of America, N.A. as the investment member.

Based on the information you provided to us, we have prepared this letter of intent under the following terms and assumptions:

1. Anticipated Annual Housing Credit Allocation: The annual anticipated tax credit amount is \$1,470,887
2. Percentage of Ownership and Credit Allocation: The percentage ownership of the LLC and the anticipated amount of Low-Income Housing Tax Credits being received by Bank of America, N.A. as Investor is 99.99%.
3. Syndication Rate: The Syndication Rate is 71%, or 71 cents per credit received by the investor.
4. Investor Equity Contribution: The Investor Equity Contribution is \$10,442,253, the product calculated by multiplying the Anticipated Annual Housing Credit Allocation by the number of Credit Years (10), multiplying by Percentage of Ownership and Credit Allocation (99.99%), and multiplying times the Syndication Rate (0.71): $(\$1,470,887 \times 10 \times 0.71 \times .9999 = \$10,442,253)$.
5. Equity Pay-in Schedule: The investor will make equity contributions to the LLC in accordance with the following schedule:

<u>Installment No. 1</u> : Paid prior to or simultaneous with the closing of construction financing	35.0%	\$3,654,788
<u>Installment No. 2</u> : Paid at 50% construction completion	35.0%	\$3,654,788
<u>Installment No. 3</u> : Paid at Construction Completion	20.0%	\$2,088,451
<u>Installment No. 4</u> : Paid at Stabilization and receipt of 8609s	10.0%	\$1,044,225
The total amount of equity being provided by the Investor is:	100.0%	\$10,442,253

6. Total Amount of Equity Being Provided Prior to Completion of Construction: The total amount paid prior to the completion of construction (including Installments No. 1 and 2) is: \$7,309,576.
7. Commitment Expiration: Please note that this commitment shall expire on August 5, 2010. In addition, please note that this equity investment is subject to acceptance of a Bank of America proposal for construction debt and term debt via our End-to-End product, verification of projection information, and completion of our underwriting, due diligence and documentation. Specific terms of both the equity and debt will be provided upon completion of our normal due diligence process.

The terms of the equity commitment will include the following:

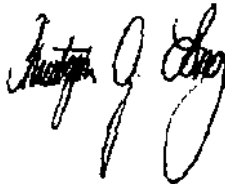
- Project rents underwritten at a level no greater than 90% of market rents.
- Debt Service Coverage, inclusive of reserves, greater than 1.15:1.00.
- Vacancy/collection loss of 7% or greater.
- Replacement Reserves of \$250 per unit per year or greater.
- A Lien Free Completion and Development Deficit Guaranty.
- An Operating Deficit Guaranty, representing a minimum of 6 months of operating expense plus must pay debt service, for a term of 5 years following 3 consecutive months of breakeven operations.
- A compliance period Tax Credit and Recapture Guaranty and Repurchase Agreement from the development entity and principals.
- Adjuster clauses for the delayed delivery or the reduction in credits.

I believe Bank of America's LIHTC equity and affordable housing debt products will provide you with the strength of Bank of America's franchise, as well as competitive pricing, and expedited underwriting and closing.

I look forward to working with you.

Executed:

Bank of America, N.A.

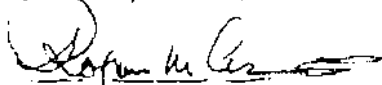


By: Christopher Long
Senior Vice President
Bank of America, N.A.

Date: October 22, 2009

Acknowledged and Executed:

CP Development Group 2, LLC



By: Roxanne Amoroso
Bank of America Community Development Corporation, Member,
CP Development Group 2, LLC

Date: October 22, 2009

cc: J. Leon
J. Rodman
R. Amoroso

Scoring Summary Report

File #: 2009-114C Development Name: The Tempo

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/03/2009	70.00	N	6.00	7.50
Preliminary	61.00	N	6.00	6.25
NOPSE	61.00	N	6.00	6.25
Final	70.00	N	6.00	7.50
Final-Ranking				

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	12.00	12.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1 b (2)	Special Needs Households	4.00	0.00	0.00	4.00	
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	0.00	0.00	5.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	4.00	4.00	

ATTACHMENT C

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
5S	Because the Applicant did not commit to set aside at least 50% of the proposed Development's ELI units for Special Needs Households, the Application is not eligible for Special Needs points.	Preliminary	Final
10S	The Applicant provided the Local Government Verification of Contribution – Loan form and payment stream calculation behind Exhibit 45. However, the amount listed on the Local Government Verification of Contribution – Loan form was \$4,080,147, while the loan amount used on the payment stream to calculate the PV of the loan was \$4,080,145. Per page 61 of the 2009 Universal Application Instructions, in order to be considered complete and eligible for points the payment stream calculation must be attached to the Local Government Verification of Contribution – Loan form. Therefore, because the incorrect payment stream was attached, the Applicant received zero points for Local Government Contributions.	Preliminary	Final

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the equity commitment must "state the anticipated total amount of equity to be provided". Although, the Applicant provided an equity commitment from Bank of America (Exhibit 57) reflecting the total amount of equity to be provided, the amounts reflected in the equity commitment are based off of a dollar for dollar, 100% purchase of the requested allocated tax credits, versus what's actually stated in the equity commitment of \$.71, 99.99% purchase of tax credits. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	Final
2T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the Investor Limited Member interest in the Applicant entity is 99.98%. However, the equity commitment at Exhibit 57 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	Final
3T	V	D	1	Non-Corporation Funding	The Applicant listed a "Land Note" of \$336,042 as a source of financing. However, the documentation provided behind Exhibit 59 does not meet the requirements for debt financing as required by page 71 of the 2009 Universal Application Instructions. Therefore, it could not be considered as a source of financing.	Preliminary	Final
4T	V	B		Construction/Rehab. Analysis	The Application has a construction financing shortfall of \$6,407,503.	Preliminary	Final
5T	V	B		Permanent Analysis	The Application has a permanent financing shortfall of \$10,468,979.	Preliminary	Final
6T	V	D	2	HC Equity	As a cure for item 1T, the Applicant provided an equity commitment; however the total amount of equity listed on the first page of the equity letter does not equal the sum of the stated equity payments in the commitment letter. Therefore, the commitment could not be counted as a source of financing.	Final	
7T	V	B		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$5,114,245.	Final	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
8T	V	B		Permanent Analysis	The Applicant has a permanent financing shortfall of \$10,299,679.	Final	
9T	V	D	2	HC Equity	The Applicant attempted to cure item 1T by providing an equity commitment; however the commitment reflects a larger HC request amount than applied for, which is not allowable under paragraph 67-48.004(14)(m), F.A.C. Therefore, the commitment could not be counted as a source of financing.	Final	

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	1.00	1.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	1.00	1.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	1.00	1.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	1.00	1.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	1.00	1.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	1.00	1.00	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	1.25	1.25	1.25	
2P	III	A	10.b.(2) (b)	Public School	1.25	0.00	0.00	1.25	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	3.75	
7P	III	A	10.a	Involvement of a PHA	7.50	0.00	0.00	0.00	

Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:

Item #	Reason(s)	Created As Result	Rescinded As Result
2P	The Applicant is not eligible for Public School points because the Address for the Public School does not include the name of the city as required.	Preliminary	Final

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	E	1.b	Set-Aside Commitment	Although the Applicant failed to indicate at Part III.E.1.b (1) whether the proposed Development qualifies as a Set-Aside Location A Development, Florida Housing was able to determine from the Development Address that the proposed Development does not qualify as a Set-Aside Location A Development.	Preliminary	
2C	V	B		Developer Fee	The maximum Developer fee of 16 percent was exceeded by \$905,311. Therefore, the Developer fee and the Total Development Cost were reduced by this amount.	Preliminary	Final
3C	V	B		Development Cost Pro Forma	The maximum General Contractor fee was exceeded by \$1 and adjusted down to \$2,063,157. This had no material impact on the Development.	Preliminary	Final
4C	V	D	1	Non-Corporation Funding	The funding commitment in the amount of \$336,042 found in the Amended Purchase Contract in Exhibit 59 is a capital contribution the Applicant will pay the Seller of the property. Page 70 of the Application Instructions states that capital contributions will not be considered a source of financing.	Preliminary	Final
5C	III	A	10	Proximity	The Applicant qualified for 3.75 automatic proximity points at 6P.	Preliminary	