BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

ORIGINAL

COLLINS PARK APARTMENTS, LLC,

Petitioner,

vs.

FHFC File No.: 2012-043UC
Application No. 2011-052C

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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PETITION FOR ADMINISTRATIVE HEARING

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005(5), Florida Administrative Code (F.A.C.), Petitioner, Collins Park Apartments, LLC ("Collins Park") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("Florida Housing") scoring actions concerning Universal Cycle Application Nos. 2011-128C("Metro South Senior") and 2011-208C ("Green Turnkey"). In support of this Petition, Collins Park provides as follows:

1. Collins Park is a Florida limited liability company with its address at 315 S. Biscayne Boulevard, Miami, Florida 33131. Collins Park 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 December 6, 2011, Collins Park 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 117 unit affordable housing apartment complex in Miami, Florida, named Collins Park Apartments.

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.

The 2011 Universal Application Cycle

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 2011, 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

(j) Final scores, ranking, and allocation of tax credit funding to applicants through the adoption of final orders.

(k) A final appeals process through which applicants may be allocated award funding from future credits by making the case that "but for" specific scoring errors by Florida Housing on other applications, their application would have been funded

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.

Collins Park's Application

9. Based on a review of Florida Housing's Final Ranking dated June 8, 2012, Collins Park received a final score of 79 out of a possible 79 points for its application. Collins Park received 6 out of 6 Ability-To-Proceed and 36 out of 37 Proximity Tie-Breaker points, and was deemed to have passed threshold. This score would place Collins Park in the funding range "but for" Florida Housings scoring of other Applications. In fact with this score Collins Park had the highest score and lottery number for Preservation and Non-Preservation applications in the State of Florida designated as a TOD not yet funded. Florida Housing's scoring actions concern whether Applications Nos. 2011-128C and 2011-208C were correctly scored and ranked.

10. As will be explained more fully below, Florida Housing's scoring actions are erroneous.

Substantial Interests Affected

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

Application #2011-128C

12. Part III. Section C of the Universal Application as a threshold matter requires an Applicant to provide information concerning the ability to proceed with the development including the availability of infrastructure including water and sewer. At Part III. Section (C.)(3.) the Universal Application Instructions specifically provide "Should any variance or local hearing be required **or if there is a moratorium pertaining to any of the utilities** or roads for this Development, **the infrastructure is not available**." (See Attachment A)

13. In response to this requirement Metro South Senior provided a letter dated November 14, 2011, from the Miami-Dade County Water and Sewer Department at Exhibit 30. This same letter was used to show that both Water and Sewer Services existed as of the Application Deadline. The letter specifically provides as to the provision of sewer that "Pump Station 177 is in Conditional Moratorium; therefore, a private pump station is needed." (See Attachment B)

14. This statement from Miami Dade County clearly identifies that there is a lack of infrastructure. Since there is a Moratorium for Sewer Service this required infrastructure is not available and was not available as of the Application Deadline of December 6, 2011, resulting in the failure to meet the threshold requirement. This issue was raised in numerous NOPSEs which Florida Housing did not accept. (See Attachment C) Florida Housing erred when it failed to penalize Metro South Senior in violation of the Universal Application Instructions. (See attachment D)

Application #2011-208C

15. Pursuant to Part IV. Section A. of the Universal Application Instructions, Applicants are eligible to receive five points for a Local Government Contribution. To be

eligible Applicants must provide evidence of a contribution value whose dollar amount is equal to or greater than the amount listed on the County Contribution List for the county in which the proposed Development will be located. In Miami-Dade County, where Green Turnkey's proposed project is located, the value of the contribution required to achieve the maximum of five points is $125,000.

16. The Applicant may provide evidence of the local government's commitment through the submission of one or more of the following exhibits:

1) Exhibit 36, in the case of a grant from the local government;
2) Exhibit 37, in the case of a fee waiver by the local government;
3) Exhibit 38, in the case of a loan from the local government; and
4) Exhibit 39, in the case of a fee deferral by the local government

17. Green Turnkey submitted, at Exhibit 37 of its initial Application response, a form entitled Local Government Verification of Contribution – Fee Waiver. The form provided that Miami-Dade County had waived impact fees for roads in the amount of $203,481.02. When the Preliminary Scoring Summary Report was issued on January 19, 2012, Green Turnkey received all five Local Government Contribution points. (See Attachment E)

18. Following the issuance of preliminary scores, a NOPSE challenge the calculation of the impact fee and questioned whether Green Turnkey was entitled to the 5 points for Local Government Contribution. Florida Housing accepted the NOPSE and removed the five Local Government Contribution points that previously had been awarded. (See Attachment F)

19. During the cure period, Green Turnkey rather than submitting a revised Exhibit 37 defended its original fee waiver submission. Basically in its detailed and lengthy explanation Green Turnkey **also** submitted an "alternate cure." Green Turnkey "doubled down" as to the corrections of its contribution. (See Attachment G)

20. Specifically, Green Turnkey submitted as an "alternate cure" a new Exhibit 39 a form entitled Local Government Verification of Contribution – Fee Deferral. *Id.* In accordance with the requirements on the form, Miami City Manager Johnny Martinez certified that on or before the Application Deadline for the 2011 Universal Application Cycle, the City of Miami had committed to defer $154,372.40 in fees for Washington Square Apartments. According to Green Turnkey that amount alone satisfied the requirements of the Universal Application Instructions to provide evidence of a contribution equal to or greater than $125,000, the amount on the County Contribution List for Miami-Dade County. (See Attachment G)

21. After reviewing the cure, a competing applicant submitted a NOAD that primarily focused on the fee calculation issue from Petitioner's original Exhibit 37. When Florida Housing issued its Final Scoring Summary Report on March 28, 2012, the 5 Local Government Contribution points were not restored and Green Turnkey challenged that decision by filing a Petition for Administrative Hearing. (See Attachment H)

22. Prior to scheduling a hearing, Florida Housing entered into a Consent Agreement with Green Turnkey. In the Consent Agreement, Florida Housing reversed its position as to the local Government contribution by in essence accepting the "alternate cure" and awarding 5 points. The Consent Agreement was adopted as a Final Order on June 8, 2012. (See Attachment I)

23. Florida Housing's actions in accepting the "alternate cure" is erroneous because there is nothing in Florida Housing's rules which specifically allows an applicant to provide alternate cures. In fact alternative cures as offered by Green Turnkey here should not be accepted. *DDC Investments, Ltd. d/b/a Denison Development Florida , Ltd. v. Florida Housing*

Finance Corporation, FHFC Case No. 2012-014UC (Final Order entered June 8, 2012). (See Attachment J)

24. Had Green Turnkey and Metro South Senior been correctly scored by Florida Housing, Collins Park would have been funded. Indeed if Collins Park is correct in this challenge then those two projects should have vacated the TOD 1 and TOD 2 rankings on the funding list.

The unfunded Application No. 2011-067C (Brickell View Terrace Apartments Ltd.) should have been ranked the No. 1 TOD with the 1/8 mile preference, satisfying the Brickell Station TOD. Due to satisfying the Brickell Station TOD, the currently funded Brickell Station TOD development 2011-181C (West Brickell View Apartments) should not have been funded as the No. 3 TOD.

As a result, Stirrup Plaza Preservation Phase One (No. 2011-048C) (Douglas Metrorail) should have been ranked the No. 2 TOD and Collins Park (Earlington Heights Metrorail) should have been ranked the No. 3 TOD. Accordingly, but for Florida Housing scoring errors, Collins Park should have been in the funding range.

WHEREFORE, Collins Park 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, Collins Park requests the entry of a Recommended and Final Order which finds that: Florida Housing's scoring decision as to Application Nos. 2011-128C and 2011-208C were erroneous and but for those erroneous scoring decisions Collins Park would have been funded. Collins Park would also request that it be funded from the next available allocation.

Respectfully submitted,

Michael P. Donaldson
FL Bar No. 0802761
CARLTON FIELDS, P.A.
P.O. Drawer 190
215 S. Monroe St., Suite 500
Tallahassee, 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 Della Harrell, Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 2nd day of July, 2012.

MICHAEL P. DONALDSON

ATTACHMENT A

Attachment A

3. Evidence of Infrastructure Availability (Threshold)

To achieve threshold, the Applicant must demonstrate that as of the date that signifies the Application Deadline for the 2011 Universal Cycle each type of infrastructure is available to the proposed Development site. Infrastructure is considered available if there are no impediments to obtaining service other than the conditions expressed in the Verification of Availability of Infrastructure forms as provided in this Application Package. Should any variance or local hearing be required, or if there is a moratorium pertaining to any of the utilities or roads for this Development, the infrastructure is not available. If the proposed Development consists of Scattered Sites, evidence of availability of each type of infrastructure must be provided for all of the Scattered Sites.

The Applicant may submit the properly completed and executed Verification of Availability of Infrastructure forms included within the Application Package or submit a letter from the entity providing the service (electricity, water, and wastewater) or Local Government (roads) verifying that each type of infrastructure is available for the proposed Development on or before the Application Deadline for the 2011 Universal Cycle. Regardless of whether provided by the Application Deadline or by the date that signifies the end of the cure period outlined in Rules 67-21.003 and 67-48.004, F.A.C., each letter submitted to confirm infrastructure availability must demonstrate availability on or before the Application Deadline for the 2011 Universal Cycle. Letters must be Development-specific and dated within 12 months of the Application Deadline. The verifications (forms and letters) may not be signed by the Applicant, by any related parties of the Applicant, by any Principals or Financial Beneficiaries of the Applicant, or by any local elected officials.

a. Electricity - Evidence of availability on or before the Application Deadline must be provided behind a tab labeled **"Exhibit 28"**.

b. Water - Evidence of availability on or before the Application Deadline must be provided behind a tab labeled **"Exhibit 29"**.

c. Sewer, Package Treatment or Septic Tank - Evidence of availability on or before the Application Deadline must be provided behind a tab labeled **"Exhibit 30"**.

d. Roads - Evidence of availability on or before the Application Deadline must be provided behind a tab labeled **"Exhibit 31"**.

4. Evidence of Appropriate Zoning (Threshold)

To achieve threshold the Applicant must provide the applicable Local Government verification form, properly completed and executed, behind a tab labeled **"Exhibit 32"**. The verification form must demonstrate that as of the date that signifies the Application Deadline for the 2011 Universal Cycle the proposed Development site is appropriately zoned and consistent with local land use regulations regarding density and intended use or that the proposed Development

ATTACHMENT B

Attachment B

MIAMI-DADE COUNTY
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Water and Sewer
PO Box 330316 • 3575 S. Lejeune Road
Miami, Florida 33233-0316
T 305-665-7471

November 14, 2011

Ken Bowron, Jr.
2206 Jo-an Drive
Sarasota, FL 34231

Re: Water and Sewer Availability for (11-246102) "Metro South Senior Apartments" for new construction of 91 apartment units to be located at 6101 Sunset Dr., South Miami, Florida, Folio #: 09-4025-011-0070, -0090, and -0100.

Ladies and Gentlemen:

This letter is in response to your inquiry regarding water and sewer availability to the above-referenced property for the proposed construction and connection of 91 apartment units to replace an existing office building.

The County owns and operates an existing twelve (12) inch water main stub-out located in S.W. 61 Avenue, north of Sunset Drive (S.W. 72 Street), to which the property owner shall connect and extend a twelve (12) inch water main northerly in S.W. 61 Avenue to the northeast corner of the property, interconnecting to an existing two (2) inch water main at that location for water service. The Developer may also connect to an existing twelve (12) inch water main or to an existing twenty (20) inch water main, both located in Sunset Drive abutting the southern boundary of the property for water service. Any public water main extension within the property shall be twelve (12) inches minimum in diameter. If two (2) or more fire hydrants are to be connected to a public water main extension within the property, then the water system shall be looped with two (2) points of connection. Pump Station 177 is in Conditional Moratorium; therefore, a private pump station is needed, as long as all legal requirements are met. The County owns and operates an eighteen (18) inch sewer force main located in S.W. 72 Street, east of Sunset Court, to which the Developer shall connect and extend an eight (8) inch sewer force main northerly across S.W. 72 Street, then westerly in S.W. 72 Street as necessary to provide service to the property.

Construction connection charges and connection charges shall be determined once the property owner enters into an agreement for water and sewer service, provided the Department is able to offer those services at the time of the owner's request. Information concerning the estimated cost of facilities must be obtained from a consulting engineer. All costs of engineering and construction will be the responsibility of the property owner. Easements must be provided covering any on-site facilities that will be owned and operated by the Department. Other points of connection may be established by the Department.

Please be advised that the right to connect the referenced property to the Department's sewer system is subject to the terms, covenants and conditions set forth in the Settlement Agreement between the Florida Department of Environmental Protection ("DEP") and the County dated July 27th, 1993; the First Amendment to Settlement Agreement between DEP and the County dated December 21st, 1995; the First Partial Consent Decree and the Second and Final Partial Consent Decree entered in the United States of America Environmental Protection Agency v. Metropolitan Dade County (Case Number 93-1109 CIV-MORENO), as currently in effect or as modified in the future; and all other current, subsequent or future agreements, court orders, judgments, consent orders; the consent order between DEP and the County filed on April 4, 2004; consent decrees and the like entered into between the County and the United States of America, the State of Florida, and/or any other governmental entity; and all other current, subsequent, or future enforcement and regulatory actions and proceedings.

This letter is for informational purposes only and conditions remain in effect for thirty (30) days from the date of this letter. Nothing contained in this letter provides the property owner with any vested rights to receive water and/or sewer service. The availability of water and/or sewer service is subject to the approval of all applicable governmental agencies having jurisdiction over these matters. When development plans for the subject property are finalized, and upon the owner's request, we will be pleased to prepare an agreement for water and/or sewer service, provided the Department is able to offer those services at the time of the owner's request. The agreement will detail requirements for off-site and on-site facilities, if any, points of connection, connection charges, capacity reservation and all other terms and conditions necessary for service in accordance with the Department's rules and regulations.

If we can be of further assistance in this matter, please contact us.

Very truly yours,

Zaba S. Castro, Esq.,
New Business Manager

ZSC/dp

ATTACHMENT C

Brief Statement of Explanation regarding

Application No. 2011-128C

Part III.C.3.

The Applicant provided as Exhibit 30 a letter of sewer availability that contains impediments to obtaining sewer service not allowed by the FHFC Instructions. Therefore, Exhibit 30 should be rejected and the Applicant should fail threshold and receive zero Ability to Proceed tie-breaker points for availability of sewer.

The Applicant provided a letter of availability from the Miami Dade Water and Sewer Department as Exhibit 30 in order to evidence infrastructure availability of sewer for the Development.

The letter from the Water and Sewer Department states that "Pump Station 177 is in **Conditional Moratorium**; therefore, a private pump station is needed, as long as all legal requirements are met." (emphasis added). Please see attached Exhibit A.

The FHFC Application Instructions clearly state that *"Infrastructure is considered available if there are no impediments to obtaining service other than the conditions expressed in the Verification of Availability of Infrastructure forms as provided in the Application Package."*

The Verification of Availability of Infrastructure – Sewer Capacity, Package Treatment, or Septic Tank form provided in the Application Package requires the local service provider to confirm the following:

*"There are no impediments to the proposed Development for obtaining the specified waste treatment service **other than the payment of hook-up or installation fees, line extensions to be paid for by the Applicant in connection with the construction of the Development**, or such other routine administrative procedure."*

and

*"To the best of our knowledge, there are **no moratoriums** pertaining to this service, which are applicable to the proposed Development"*

The letter of availability provided by the Applicant clearly states that there is an additional impediment to obtaining waste treatment service for this Development - the construction and approval of a private pump station – which is not listed as an acceptable impediment of the Verification form.

ATTACHMENT C

Further, the Water and Sewer Department would not have been able to sign the Verification form due to the fact that there is a moratorium pertaining to the service which is applicable to the proposed Development, as noted in the letter provided.

Therefore, because the pump station intended to provide sewer service this Development is under a moratorium as well as the fact that that there are additional impediments to obtaining service the sewer infrastructure should not be considered available.

In order to receive Ability to Proceed Tie-Breaker Points, evidence of availability of each type of infrastructure must be provided. The Applicant failed to provide this evidence for sewer infrastructure availability in Exhibits 30; therefore the Applicant should receive zero points for the Ability to Proceed Availability of Sewer points.

Exhibit A

MIAMI-DADE COUNTY
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Water and Sewer
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November 14, 2011

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Re: Water and Sewer Availability for (11-246102) "Metro South Senior Apartments" for new construction of 91 apartment units to be located at 6101 Sunset Dr., South Miami, Florida, Folio #: 09-4025-011-0070, -0090, and -0100.

Ladies and Gentlemen:

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The County owns and operates an existing twelve (12) inch water main stub-out located in S.W. 61 Avenue, north of Sunset Drive (S.W. 72 Street), to which the property owner shall connect and extend a twelve (12) inch water main northerly in S.W. 61 Avenue to the northeast corner of the property, interconnecting to an existing two (2) inch water main at that location for water service. The Developer may also connect to an existing twelve (12) inch water main or to an existing twenty (20) inch water main, both located in Sunset Drive abutting the southern boundary of the property for water service. Any public water main extension within the property shall be twelve (12) inches minimum in diameter. If two (2) or more fire hydrants are to be connected to a public water main extension within the property, then the water system shall be looped with two (2) points of connection. Pump Station 177 is in Conditional Moratorium; therefore, a private pump station is needed, as long as all legal requirements are met. The County owns and operates an eighteen (18) inch sewer force main located in S.W. 72 Street, east of Sunset Court, to which the Developer shall connect and extend an eight (8) inch sewer force main northerly across S.W. 72 Street, then westerly in S.W. 72 Street as necessary to provide service to the property.

Construction connection charges and connection charges shall be determined once the property owner enters into an agreement for water and sewer service, provided the Department is able to offer those services at the time of the owner's request. Information concerning the estimated cost of facilities must be obtained from a consulting engineer. All costs of engineering and construction will be the responsibility of the property owner. Easements must be provided covering any on-site facilities that will be owned and operated by the Department. Other points of connection may be established by the Department.

Please be advised that the right to connect the referenced property to the Department's sewer system is subject to the terms, covenants and conditions set forth in the Settlement Agreement between the Florida Department of Environmental Protection ("DEP") and the County dated July 27th, 1993; the First Amendment to Settlement Agreement between DEP and the County dated December 21st, 1995; the First Partial Consent Decree and the Second and Final Partial Consent Decree entered in the United States of America Environmental Protection Agency v. Metropolitan Dade County (Case Number 93-1109 CIV-MORENO), as currently in effect or as modified in the future; and all other current, subsequent or future agreements, court orders, judgments, consent orders; the consent order between DEP and the County filed on April 4, 2004; consent decrees and the like entered into between the County and the United States of America, the State of Florida, and/or any other governmental entity; and all other current, subsequent, or future enforcement and regulatory actions and proceedings.

This letter is for informational purposes only and conditions remain in effect for thirty (30) days from the date of this letter. Nothing contained in this letter provides the property owner with any vested rights to receive water and/or sewer service. The availability of water and/or sewer service is subject to the approval of all applicable governmental agencies having jurisdiction over these matters. When development plans for the subject property are finalized, and upon the owner's request, we will be pleased to prepare an agreement for water and/or sewer service, provided the Department is able to offer those services at the time of the owner's request. The agreement will detail requirements for off-site and on-site facilities, if any, points of connection, connection charges, capacity reservation and all other terms and conditions necessary for service in accordance with the Department's rules and regulations.

If we can be of further assistance in this matter, please contact us.

Very truly yours,

Zaba S. Castro, Esq.,
New Business Manager

ZSC/dp

Brief Statement of Explanation regarding Application No. 2011 - 128C

Provide a separate brief statement for each NOPSE

Pursuant to Rule 67-48.004(4), Sapodilla Place, Ltd. (Application Number 2011-182C) submits the following Notice of Possible Scoring Error and provides the following Brief Statement of Explanation regarding the deficiencies contained in the Application submitted by Metro South Senior Apartments Limited Partnership, and Application Number 2011-128C:

PART III: Proposed Development
SECTION C: Ability to Proceed
SUBSECTION 3: Evidence of Infrastructure (Sewer)

To achieve threshold the Applicant must provide a properly completed form or letter to verify, by the Application Deadline, availability of sewer service to the proposed development. The Applicant provided a letter from Miami Dade Water and Sewer Department, however the letter states that the pump station to which this project's sewer would flow (pump station 177) is currently under a conditional moratorium (see exhibit E). Further, Miami Dade Water and Sewer provided written documentation via email further clarifying the letter and confirming that "no new flows" are being accepted to this pump station (see Exhibit F attached).

As such, the Applicant must fail threshold as the proposed project did not have sewer capacity on or before the Application Deadline and currently does not have sewer capacity until pump station 177 is replaced by the County.

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Please be advised that the right to connect the referenced property to the Department's sewer system is subject to the terms, covenants and conditions set forth in the Settlement Agreement between the Florida Department of Environmental Protection ("DEP") and the County dated July 27th, 1993; the First Amendment to Settlement Agreement between DEP and the County dated December 21st, 1995; the First Partial Consent Decree and the Second and Final Partial Consent Decree entered in the United States of America Environmental Protection Agency v. Metropolitan Dade County (Case Number 93-1109 CIV-MORENO), as currently in effect or as modified in the future; and all other current, subsequent or future agreements, court orders, judgments, consent orders; the consent order between DEP and the County filed on April 4, 2004; consent decrees and the like entered into between the County and the United States of America, the State of Florida, and/or any other governmental entity; and all other current, subsequent, or future enforcement and regulatory actions and proceedings.

This letter is for informational purposes only and conditions remain in effect for thirty (30) days from the date of this letter. Nothing contained in this letter provides the property owner with any vested rights to receive water and/or sewer service. The availability of water and/or sewer service is subject to the approval of all applicable governmental agencies having jurisdiction over these matters. When development plans for the subject property are finalized, and upon the owner's request, we will be pleased to prepare an agreement for water and/or sewer service, provided the Department is able to offer those services at the time of the owner's request. The agreement will detail requirements for off-site and on-site facilities, if any, points of connection, connection charges, capacity reservation and all other terms and conditions necessary for service in accordance with the Department's rules and regulations.

If we can be of further assistance in this matter, please contact us.

Very truly yours,

Zaba S. Castro, Esq.,
New Business Manager

ZSC/dp

ATTACHMENT D

Scoring Summary Report

File #: 2011-128C Development Name: Metro South Senior Apartments

As of: ***06/08/2012***

	Maximum Points/Eligibility	Preliminary	NOPSE	Final	Final Ranking
Met Threshold	Y/N	Y	N	Y	Y
Total Points	79	79.00	79.00	79.00	79.00
Ability to Proceed Tie-Breaker Points	6	6.00	6.00	6.00	6.00
Proximity Tie-Breaker Points	37	36.75	36.75	36.75	36.75
Eligible for 1/8th Mile Ranking Preference	Y/N	N	N	N	N
Eligible for Age of Development Tie-Breaker Ranking Preference	Y/N	N	N	N	N
Eligible for Concrete Construction Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
Eligible for Florida General Contractor Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	Y
RA Level Classification (preference given to the lowest RA Level Classification)	1 - 6	6	6	6	6

ATTACHMENT D

Scores:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
				Developer					
1S	II.	B.	1.c.	Housing Credit Development Experience	3.00	3.00	3.00	3.00	3.00
				Construction Features and Amenities					
2S	III.	B.	3.a.	Optional - NC & Rehab. Units	9.00	9.00	9.00	9.00	9.00
3S	III.	B.	3.b.	Optional - All Developments Except SRO	12.00	12.00	12.00	12.00	12.00
3S	III.	B.	3.c.	Optional - SRO Developments	12.00	0.00	0.00	0.00	0.00
4S	III.	B.	3.d.	Optional - Universal Design &Visitability	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.a.(1)	Green Building Features (NC & Redev.)	7.00	0.00	0.00	0.00	0.00
5S	III.	B.	5.a.(2)	Green Building Certification (NC & Redev.)	10.00	10.00	10.00	10.00	10.00
5S	III.	B.	5.b.	Green Building Features (Rehab. & Preserv.)	10.00	0.00	0.00	0.00	0.00
				Set-Aside Commitments					
6S	III.	E.	1.b.(2)	Special Needs Households	4.00	4.00	4.00	4.00	4.00
7S	III.	E.	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	3.00
8S	III.	E.	3.	Affordability Period	5.00	5.00	5.00	5.00	5.00
				Resident Programs					
9S	III.	F.	1.	Programs for Non-Elderly & Non-Homeless	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	2.	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	0.00
9S	III.	F.	3.	Programs for Elderly	6.00	6.00	6.00	6.00	6.00
10S	III.	F.	4.	Programs for All Applicants	8.00	8.00	8.00	8.00	8.00
				Local Government Contributions					
11S	IV.	A.		Contributions	5.00	5.00	5.00	5.00	5.00
				Local Government Incentives					
12S	IV.	B.		Incentives	4.00	4.00	4.00	4.00	4.00

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V.	D.	1.	Non-Corporation Funding	The Applicant provide an equity letter from RBC Capital Markets which states on page one that the tax equity contribution will be $23,498,653. The Applicant provided a loan commitment letter from Chase Bank which states on page 2 "Tax Credit Equity: Approximately $2,526,990 annually". Due to this inconsistency the loan commitment letter could not be used as a source of financing.	NOPSE	Final
2T	V.	B.		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of $16,052,576.	NOPSE	Final
3T	V.	B.		Permanent Analysis	The Applicant has a permanent financing shortfall of $778,527.	NOPSE	Final

Ability To Proceed Tie-Breaker Points:

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

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
				Transit Services					
1P	III.	A.	10.a	Public Bus Stop	2.00	0.00	0.00	0.00	0.00
1P	III.	A.	10.a	Public Bus Transfer Stop or Public Bus Transit Stop	6.00	0.00	0.00	0.00	0.00
1P	III.	A.	10.a	Public Rail Station	7.00	7.00	7.00	7.00	7.00
				Tier 1 Services					
2P	III.	A.	10.a	Grocery Store	4.00	4.00	4.00	4.00	4.00
3P	III.	A.	10.a	Public School	4.00	0.00	0.00	0.00	0.00
3P	III.	A.	10.a	Senior Center	4.00	4.00	4.00	4.00	4.00
4P	III.	A.	10.a	Medical Facility	4.00	4.00	4.00	4.00	4.00
				Eligible for Tier 1 Service Score Boost (Yes/No)		N	N	N	N
				Total Tier 1 Service Score	12.00	12.00	12.00	12.00	12.00
				Tier 2 Services					
5P	III.	A.	10.a	Public Park	2.00	2.00	2.00	2.00	2.00
6P	III.	A.	10.a	Community Center	2.00	1.75	1.75	1.75	1.75
7P	III.	A.	10.a	Pharmacy	2.00	2.00	2.00	2.00	2.00
8P	III.	A.	10.a	Public Library	2.00	2.00	2.00	2.00	2.00
				FHFC Proximity List					
9P	III.	A.	10.b	Proximity to Developments on FHFC Development Proximity List	10.00	10.00	10.00	10.00	10.00

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III.	A.	10.b.	Proximity to Developments on FHFC Development Proximity List	The Application qualifies for 10 automatic proximity points at Part III.A.10.b.(1) of the Application.	Preliminary	
2C	V.	D.	1.	Non-Corporation Funding	The Applicant provided a Local Government Verification of Contribution-Loan form at Exhibit 38. Because the loan is not effective through September 7, 2012 (a date that is nine (9) months after the Application Deadline), it could not be considered a source of financing. This has no material impact on the Development's financing.	Preliminary	
3C	V.	B.		Pro Forma	The loan commitment provided states a loan commitment fee of 1% of both the construction and permanent loan amounts. However, the amounts listed on the proforma for loan origination fees exceed these amounts. Therefore, the Total Development Cost was reduced by $6,344.	NOPSE	

ATTACHMENT E

Exhibit 37

ATTACHMENT E

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION - FEE WAIVER

To be eligible to be considered for points, a sheet showing the computations by which the total amount of each fee waiver is determined must be attached to this verification form. Computations should include, where applicable, waived fee amount per set-aside unit.

Name of Development: Washington Square Apartments
(Part III.A.1. of the 2011 Universal Application)

Development Location: See Attached
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (i) the street name, closest designated intersection and city if located within a city or (ii) the street name, closest designated intersection and county if located in the unincorporated area of the county.)

Amount of Fee Waiver: $ 203,481.02. Is this amount based upon a per set-aside (affordable) unit computation? ☑ yes ☐ no

On or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238) the City/County of Miami-Dade (Name of City/County), pursuant to Ordinance: #88-112 (Reference Official Action, cite Ordinance or Resolution Number and Date), waived the following fees: Impact Fees for Roads

No consideration or promise of consideration has been given with respect to the fee waiver. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. This fee waiver is provided specifically with respect to the proposed Development.

The following government point of contact can verify the above stated contribution:
Name of Government Contact: Gregg Fortner, Director, PHCD
Address (street address and city): 701 NW 1st Court, 16th Floor
Miami, FL 33136
Telephone Number: 786-469-4106

CERTIFICATION

I certify that the foregoing information and the computations stated on the sheet attached to this form are true and correct and that this commitment is effective through 06/30/2012 (Date (mm/dd/yyyy))

Signature — Carlos A. Gimenez (Print or Type Name)

(305) 375-5071 (Telephone Number) — Mayor (Print or Type Title)

NOTE TO LOCAL GOVERNMENT OFFICIAL: Waivers that are not specifically made for the benefit of this Development but are instead of general benefit to the area in which the Development is located will NOT qualify as a contribution to the Development. Further, the fact that no impact fees or other fees are levied by a local jurisdiction for ANY type of development DOES NOT constitute a "Local Government Contribution" to the proposed Development. Similarly, if such fees ARE levied by the local jurisdiction but the nature of the proposed Development exempts it (e.g., typically, a Rehabilitation Development is not subject to impact fees), for purposes of this form, no "Local Government Contribution" exists and no points will be awarded.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

This contribution will not be considered if the certification contains corrections or 'white-out' or if the certification is scanned, imaged, altered, or retyped. The certification may be photocopied.

The Application may still be eligible for automatic points.

Provide Behind a Tab Labeled "Exhibit 37"

	Washington Square Apartments
Sites	**Address**
1	1146 NW 7 Court, Miami, FL
2	1500 NW 7 Court, Miami, FL

MIAMI-DADE COUNTY IMPACT FEE WAIVER CALCULATION

Washington Square Apartments

Address: 1146 NW 7 Court, Miami, FL and 1500 NW 7th Court, Miami, FL
88 units

Below amounts change according to set-a-side units for tax credit and/or municipality location.

	Gross Waiver Per Unit	% Admin. Charge	Less Contribution	Total Per Unit
Road (2%)	$2,358.53	2.00%	$46.25	$2,312.28
	$2,358.53		*$46.25*	*$2,312.28*
88				
Total Waivers				***$203,481.02***

Memorandum

MIAMI-DADE COUNTY

Date: November 30, 2011

To: Russell Benford, Deputy Mayor

From: Carlos A. Gimenez
Mayor

Subject: Signature Authority for 2011 Universal Cycle Forms

Effective September 6, 2011, you were given authorization to sign on my behalf for those items under your departmental purview. You are further authorized to sign all forms related to the Florida Housing Finance Corporation's 2011 Universal Cycle for Tax Credit on my behalf effective September 6, 2011. These forms may include but are not limited to the following:

1. 2011 Universal Cycle – Local Government Verification of Qualification as Urban In-Fill Development
2. 2011 Universal Cycle – Local Government Verification of Contribution – Fee Waiver
3. 2011 Universal Cycle – Local Government Verification of Contribution – Loan
4. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentive Expedited Permitting Process for Affordable Housing
5. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Contributions to Affordable Housing Properties or Developments
6. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Modification of Fee Requirements for Affordable Housing Properties or Developments
7. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Impact of Policies, Ordinances, Regulations, or Plan Provisions on Cost of Affordable Housing Properties or Developments

Russell Benford
Deputy Mayor

c: Mary Lou Rizzo, Director, Human Resources Department
Jennifer Moon, Director, Office of Management and Budget
Angel Petisco, Director, Enterprise Technology Services Department
Office of the Mayor Senior Staff
Office of the Mayor Senior Secretaries

ATTACHMENT F

Brief Statement of Explanation regarding

Application No. 2011-208C

Part IV.A.1.a.2, Exhibit 37

Applicant has failed to meet threshold and should not have received 5 points since Applicant did not obtain a valid Local Government Contribution.

In Exhibit 37, Applicant provides a Local Government Verification of Contribution – Fee Waiver form (the "Form") pursuant to Miami-Dade County Ordinance #88-112 (the "Ordinance"). The Form indicates that Miami-Dade County (the "County") has agreed to waive fees in the amount of $203,481.02. This calculation is incorrect since, pursuant to the Ordinance, the correct calculation should *only* be based on an *increase* in development activity.

In Part III.A.6.a of the Application, Applicant proposes building 84 new construction units and 4 rehab units. Attached hereto as Exhibit "A" is a property map from the County Property Appraiser's website which shows that there are currently 21 existing units on the Development site. Attached as Exhibit "B" is the Submittal Identification Form which was submitted by Applicant to the Miami-Dade Public Housing Agency pursuant to a Request for Proposals No. 794 ("RFP") in order to obtain site control for the Development site. Attachment A of the RFP clearly also indicates 21 existing units on site.

Attached as Exhibit "C" is Applicant's proposed site plan ("Site Plan") for the Development site which was submitted to the City of Miami, Office of Zoning. The Site Plan only indicates new construction for 67 units on the Development site.

Chapter 33E-7 – Road Impact Fee Formula in the Ordinance states that "...the proposed development shall be required to pay an impact fee ***only*** for any ***increase*** in the development activity" and further states that Applicant shall only pay "... a road impact fee based on the net increase in the impact fee above that which would have been required for the previous use." [emphasis added]. A copy of the relevant provision is attached hereto as Exhibit "D".

ATTACHMENT F

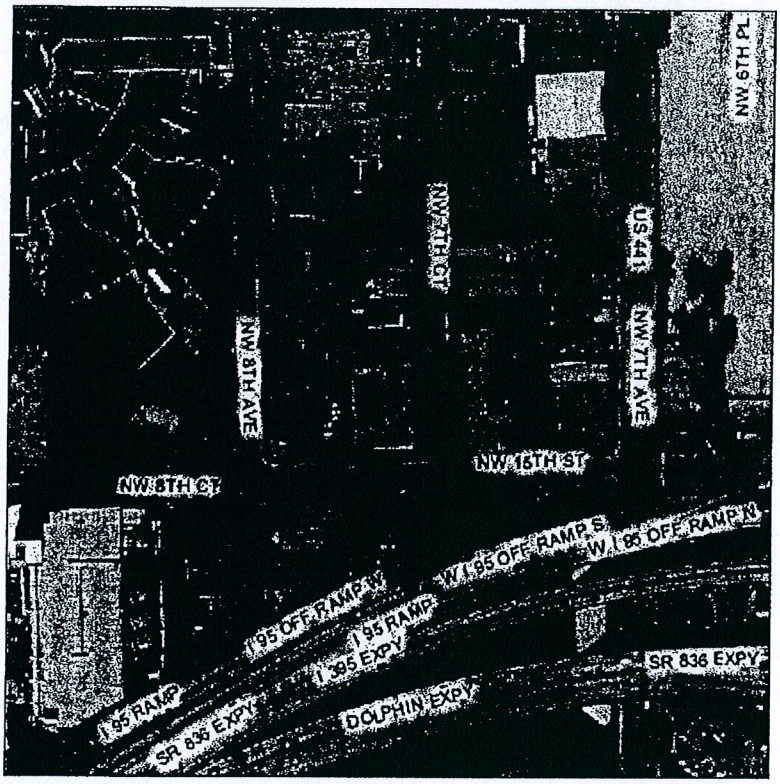
Since the Form was calculated based on 88 units of new construction and there will only be a net increase in development activity of 67 additional units, the Form is incorrect and fails to meet threshold.

EXHIBIT “A”

My Home
Miami-Dade County, Florida

miamidade.gov MIAMI-DADE

Property Information Map



Aerial Photography - 2009 0 120 ft

This map was created on 1/24/2012 3:32:41 PM for reference purposes only.

Close

Summary Details:

Folio No.:	01-3135-019-0340
Property:	1500 NW 7 CT
Mailing Address:	MIAMI-DADE COUNTY MIAMI DADE HOUSING AGENCY 1401 NW 7 ST MIAMI FL 33125-3601

Property Information:

Primary Zone:	8000 GOVERNMENT & INSTITUTIONS
CLUC:	0047 DADE COUNTY
Beds/Baths:	42/21
Floors:	3
Living Units:	21
Adj Sq Footage:	20,070
Lot Size:	24,000 SQ FT
Year Built:	1968
Legal Description:	HIGHLAND PARK PB 2013 LOTS 11 THRU 14 LESS E5FT THEREOF /AKA FLA 5-28/ BLK 2 LOT SIZE 24000 SQUARE FEET

Assessment Information:

Year:	2011	2010
Land Value:	$240,000	$240,000
Building Value:	$683,351	$692,463
Market Value:	$923,351	$932,463
Assessed Value:	$923,351	$932,463

Taxable Value Information:

Year:	2011	2010
Taxing Authority:	Applied Exemption/ Taxable Value:	Applied Exemption/ Taxable Value:
Regional:	$923,351/$0	$932,463/$0
County:	$923,351/$0	$932,463/$0
City:	$923,351/$0	$932,463/$0
School Board:	$923,351/$0	$932,463/$0

EXHIBIT “B”

ATTACHMENT A

SUBMITTAL IDENTIFICATION FORM

(Submit one form for each development site of interest)

1. DEVELOPMENT OF GREATEST INTEREST	
Development Number: FLA 5-28	
Development Name: Green Turnkey	
Total Existing Units: 21	Total Proposed Units: 21
Total Units to be Demolished, if any: 0	
Relocation of Residents for Construction, (if applicable):	X Yes ___ No
Total Proposed New Units, if any: 0	
Total Units (Existing and Proposed): 21	
Proposed Uses In Addition to Housing, if any:	
Other Pertinent Proposed Scope (if any):	

2. DEVELOPER AND JOINT VENTURE FIRM (if any)	
Entity Name:Carlisle Development Group, LLC	Form of Organization:Limited Liability Co.
Contact Name:Kenneth Naylor	Taxpayer ID or SS Number:13-4207792
Address:2950 SW 27th Ave, Suite 200, Miami, FL 33133	
Phone:305-476-8118	Fax:305-476-1557
JV Entity Name: Primary Construction, Inc.	Form of Organization:Corporation
Contact Name: Adrienne P. Moss	Taxpayer ID or SS Number:26-0759635
Address: 1250 NW 79 Street, Ste. 204, Miami, FL 33147	
Phone: (786) 348-1237	Fax: (305) 836-1592
Entity Name:Primary Construction, Inc	Form of Organization:Corporation

3. PRINCIPALS	
Name:Matthew Greer	Title: Chief Executive Officer
Address:2950 SW 27th Avenue, Suite 200, Miami, FL 33133	
Phone:305-476-8118	Fax:305-476-1557
Name:	Title:
Address:	
Phone:	Fax:
Name:	Title:
Address:	
Phone:	Fax:

4. OTHER DEVELOPMENT TEAM MEMBERS	
Company Name: TCG International, LLC	Role in Project: Consultant
Contact Name: Jaime Bordenave	Title:President Emeritus
Address: 1120 Rhode Island Avenue NW,Washington, DC 20005	
Phone: 202-667-3002	Fax: 202-667-3035

MDPHA - HOUSING PROJECTS NEXT TO TRANSIT STATIONS / RENOVATION PRIORITY

2/24/2011

Site	AMP Group	FL HUD #	Development Name	Develop. Address / Location	Elderly Designated Units	Other Eld. & Fam Unit	Total Units	Com. District	Approximate Distance from a Metro Rail Station	Approximate Renovation Cost	MDPHA Renovation Priority
240	835	005026	Haley Sofge Towers	800/750 NW 13 Ave.	475	0	475	5	Within a mile	$ 3,600,000.00	High
260	838	005062	Three Round Towers	2920 NW 18 Ave.	391	0	391	3	Within a mile	$ 2,800,000.00	High
140	824	005016	Annie Coleman	Scattered Site	0	210	210	2	Within a mile	$ 2,500,000.00	High
210	830	005032	Rainbow Village	NW 20 St. & 3 Ave.	0	100	100	3	Within a mile	$ 2,000,000.00	High
241	836	005013	Robert King High	1403/05 NW 7 St.	315	0	315	5	Within a mile	$ 2,000,000.00	High
140	824	005015	Annie Coleman	2200 NW 57 St. - Scattered Site	0	144	144	3	Within a mile	$ 1,700,000.00	High
220	831	005049	Culmer Place	610 NW 10 St.	0	151	151	3	Within a mile	$ 1,650,000.00	High
280	840	005012	Joe Moretti	Scattered	0	288	288	5	Within a mile	$ 1,600,000.00	High
220	831	005075	Culmer Gardens	NW 5 St. & 5 Ave.	0	75	75	3	Within a mile	$ 1,500,000.00	High
221	832	005041	Jack Orr Plaza	550 NW 5 St.	0	200	200	5	Within a mile	$ 1,430,000.00	High
250	812	005034	Dante Fascell	2929 NW 18 Ave	151	0	151	3	Within a mile	$ 1,200,000.00	High
291	841	005027	Gwen Cherry 14	2099 NW 23 St.	0	78	78	3	Within a mile	$ 1,124,000.00	High
291	841	005027	Gwen Cherry 16	NW 20 Ave. & 18 Terr.	0	70	70	3	Within a mile	$ 1,008,000.00	High
280	840	005089	Harry Cain	490 NE 2 Ave.	0	154	154	5	Adjacent to a Station	$ 1,000,000.00	High
240	835	005048	Martin Fine Villas	1301 NW 7 St.	0	50	50	5	Within a mile	$ 1,000,000.00	High
121	817	000144	Ward Towers	5400 NW 22 AVE	100	0	100	3	Within a mile	$ 900,000.00	Medium
310	804	005058	Stirrup Plaza	3150 Mundy St.	100	24	124	7	Within a mile	$ 807,000.00	Medium
311	804	005-060	South Miami	SW 68 ST. & SW 59 Place	0	58	58	6	Within a mile	$ 800,000.00	Medium
210	830	005099	Town Park	NW 5 Ave. & 19 St.	0	38	38	3	Within a mile	$ 800,000.00	Medium
311	804	005045	S. Miami Plaza	6701 SW 62 Ave.	97	0	97	6	Within a mile	$ 725,000.00	Medium
232	833	005025	Claude Pepper	750 NW 18 Terr (Satellite Office)	0	166	166	3	Within 1/4 mile	$ 700,000.00	Medium
250	837	005027	Scattered Site 11 - D	1919 NW 29 St.	0	40	40	3	Within a mile	$ 540,000.00	Medium
210	830	005027	Gwen Cherry 23 - C	Scattered Site	0	36	36	3	Within a mile	$ 520,000.00	Medium
291	841	005027	Gwen Cherry 13	NW 12 Ave. & 24 St.	0	31	31	3	Within a mile	$ 450,000.00	Low
291	841	005027	Gwen Cherry 08	NW 11 Ave. & 23 St.	0	21	21	3	Within a mile	$ 420,000.00	Low
221	832	005054	Parkside I & II	333/357 NW 3 St.	0	56	56	5	Within a mile	$ 414,000.00	Low
291	841	005027	Gwen Cherry 15	NW 23 Ave. & 23 St.	0	28	28	3	Within a mile	$ 404,000.00	Low
230	833	005028	Green Turnkey	1500 NW 7 Ct.	0	21	21	3	Within a mile	$ 400,000.00	Low
291	841	005027	Gwen Cherry 12	NW 10 Ave. & 29 St.	0	6	6	3	Within a mile	$ 382,000.00	Low
270	839	005090	Jose Marti Plaza	154 SW 17 Ave.	0	55	55	5	Within a mile	$ 362,000.00	Low
230	833	005091	Phyllis Wheatley	1701 NW 2 Ct.	0	40	40	3	Within a mile	$ 270,000.00	Low
190	829	005009	Jollivette	2400 NW 63 St. - Scattered Site	0	66	66	2	Within 1/4 mile	$ 231,000.00	Low
280	840	005019	Medvin Apts.	945 SW 3 Ave.	0	18	18	5	Within a mile	$ 231,000.00	Low
250	837	005027	Scattered Site 9 - D	NW 21 Ave. & 32 St.	0	16	16	3	Within a mile	$ 215,000.00	Low
231	834	005057	Helen Sawyer	1150 NW 11 St. Rd.	101	3	104	3	Within 1/4 mile	$ 160,000.00	Low
Grand Total					549	1638	2187			$ 35,843,000.00	

EXHIBIT "C"

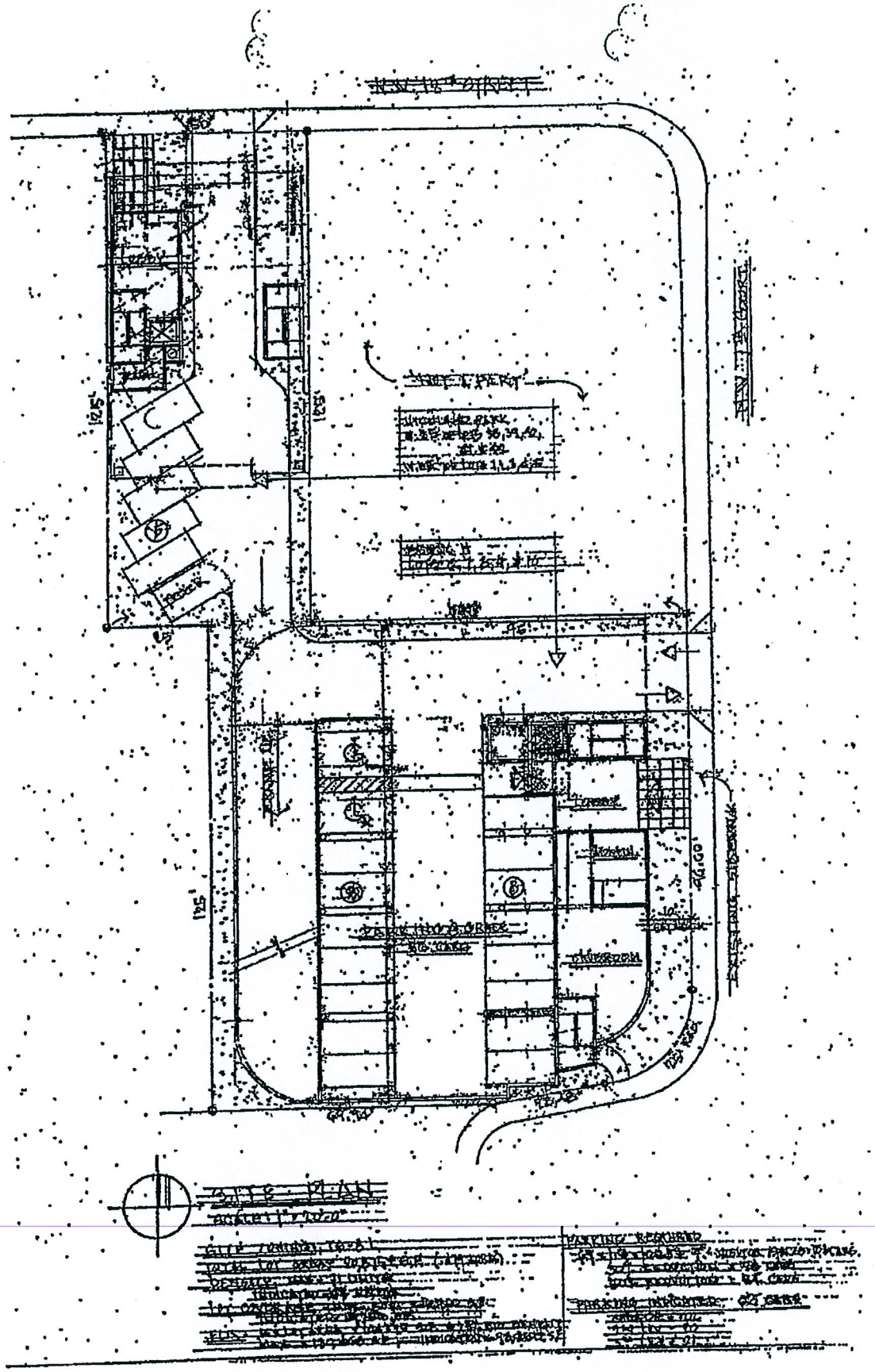


EXHIBIT "D"

Sec. 33E-7. - Road impact fee formula.

(a) The feepayer shall pay a road impact fee amount based on the formula set forth below. Such fee will be based on the capital cost of roadway improvements required to serve any increase in transportation requirements resulting from proposed development activities together with impact fee administrative costs. The formula to be used to calculate the road impact fee shall be as follows:

(1) Total Trips = Proposed Units of Development × Trip Generation Rate × 97% Trips Non-transit × 1/2 × Percent New Trips

(2) (Outside UIA) New Lane Miles = Total Trips × Trip Length ÷ 8,100 Average Daily Vehicles Capacity per Lane Mile

(Within UIA) New Lane Miles = Total Trips × Trip Length ÷ 8,500 Average Daily Vehicles Capacity per Lane Mile

(3) Road Cost = New Lane Miles × $1,951,500 per Lane Mile (Including $151,500 per lane mile for Right-of-Way Costs)

(4) (Outside UIA) Net Road Cost = Road Cost - $265,680 per New Lane Mile credited from Motor Fuels Tax and Vehicle License Fees

(Within UIA) Net Road Cost = Road Cost - $278,800 per New Lane Mile credited from Motor Fuels Tax and Vehicle License Fees)

(5) Inflation Factor = PDC Multiplier from Table of Present Day Cost (PDC) Multipliers by Calendar Year in subsection 33E-8(d).

(6) Road Impact Fee = Net Road Costs × Inflation Factor + 2% Administrative Costs

(b) In the case of development activity involving a change of use and/or magnitude of use in which a building permit is required, the proposed development shall be required to pay an impact fee only for any increase in the development activity. The impact fee shall be the difference between the computed impact fee for the proposed development activity and the computed impact fee for the existing development activity as defined in Section 33E-5. Any building permit which expires or is revoked after the effective date of this chapter and for which a fee has not previously been paid under this chapter shall be required to comply with the provisions herein. No refunds will be given for proposed development activity resulting in a negative fee calculation.

(c) No impact fee payment shall be required for any applicants seeking development activity for which the computed fee amount under the terms of this chapter is less than fifty dollars ($50.00).

The above formula shall be used to compute the amount of the fee to be paid using either of the approaches set forth in Section 33E-8 or Section 33E-9, at the election of the feepayer.

(d) Any change of use, redevelopment or modification of an existing use which requires the issuance of a building permit and which generates additional vehicular trips shall pay a road impact fee based on the net increase in the impact fee above that which would have been required for the previous use.

(Ord. No. 88-112, § 1(7), 12-6-88; Ord. No. 89-53, § 1, 6-6-89; Ord. No. 94-134, § 1, 6-21-94; Ord. No. 09-08, § 4, 1-22-09)

ATTACHMENT G

Brief Statement of Explanation regarding Application 2011-208C

Provide a separate statement for each Cure

Part IV.A.1.a.2, Exhibit 37

Based on NOPSE scoring, the Applicant did not obtain a valid Local Government Contribution and therefore the application fails to meet threshold and should not have received 5 points. The Applicant believes the Exhibit 37, Local Government Verification of Contribution – Fee Waiver submitted in the application is valid for the reasons stated below. In addition, we have submitted Exhibit 39, Local Government Verification – Fee Deferral from the City of Miami should Florida Housing Finance Corporation disagree with the validity of Exhibit 37.

The NOPSE suggests that:
"In Exhibit 37, Applicant provides a Local Government Verification of Contribution – Fee Waiver form (the "Form") pursuant to Miami-Dade County Ordinance #88-112. The Form indicates that Miami-Dade County (the "County") has agreed to waive fees in the amount of $203,481.02. This calculation is incorrect since, pursuant to the Ordinance, the correct calculation should only be based on an increase in development activity."

In 1988 Miami Dade County created Chapter 33E of the County Code (the "Ordinance"). That legislation created the Road Impact Fee program throughout Miami Dade County, including all municipalities within the county. The road impact fee system established a method of assessing development activity in Miami Dade County its appropriate share of road improvement costs based on impacts created and benefits received.

To properly compute the amount of Road Impact Fees a development will be required to pay, Chapter 33E-7(b) states that the amount of road impact fees owed "shall be the difference between the computed impact fee for the proposed development activity and the computed impact fee for the Existing Development activity as defined in Section 33E-5."

Section 33E-5 of the Ordinance defines the capitalized term: "Existing Development". The term means the lawful land use existing at any time during the period from December 6, 1988 through June 4, 1989 ***and*** any development or additional development for which the landowner also holds a valid building permit as of June 4, 1989. Existing development ***shall also include*** the maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter." (Emphasis supplied)

In other words, to meet the definition of Existing Development in the Ordinance, a development must meet both of the following requirements:

a) it was an existing use was between December 1988 and June 1989, AND
b) it is a development activity for which a previous impact fee was paid after the adoption of the impact fee ordinance.

With the use of the term "if any" the definition allows for, but does not require, a valid building permit as of June 4, 1989. Note that the language referencing the existing use condition and the impact fee payment condition contain no such contingent language, therefore both of these conditions *must* be met.

The development currently in place where Washington Square Apartments will be built meets only the first prong of the definition above. It fails to meet the definition of Existing Development because it was built in 1968, 20 years before the Ordinance was adopted. Therefore it does not meet the definition of Existing Development. Because of that Washington Square Apartments will be subject to impact fees in an amount equal to all new construction ($203,481.02). In other words because the buildings on the property are not an Existing Development under the Ordinance, there will be no credit awarded for the buildings currently on the property because they are not an Existing Development.

Existing Development (as defined in the Ordinance) is development activity that already paid an impact fee. The intent of the road impact fee program was to avoid 'double charging' future development activity that paid impact road impact fees by providing qualifying Existing Developments with a credit against future impact fee payments. The plain reading of the

ordinance clearly states that the impact fee program was not to established to legislatively create impact fee credits for existing development activity that didn't pay impact fees.

The NOPSE's assertion is inaccurate and the fee waiver amount listed in Exhibit 37 is correctly stated. In addition, the Applicant has submitted Exhibit 39, Local Government Verification of Contribution – Fee Deferral which also verifies the Applicant has obtained a valid Local Government Contribution. The form indicates that the City of Miami has agreed to defer fees in the amount of $154,372.40. Therefore the application meets threshold and earns five points for local government contribution.

Miami - Dade County, Florida, Code of Ordinances >> PART III - CODE OF ORDINANCES >> Chapter 33E - ROAD IMPACT FEES >>

Chapter 33E - ROAD IMPACT FEES [362]

Sec. 33E-1. - Incorporation of provisions by reference.

The matters set forth above [in the introductory clauses of Ordinance Number 88-112] are hereby found to be true and are hereby adopted and incorporated by reference.

(Ord. No. 88-112, § 1(1), 12-6-88)

Sec. 33E-2. - Short title, authority and applicability.

(a) This chapter [Ordinance Number 88-112], effective June 4, 1989, shall be known and may be cited as the "Miami-Dade County Road Impact Fee Ordinance."

(b) The Board of County Commissioners of Miami-Dade County has the authority to adopt this chapter pursuant to Article VIII, Section 6 of the Constitution of the State of Florida, Section 1.01 of the Charter of Miami-Dade County and Chapters 163 and 380, Florida Statutes.

(c) This chapter shall be applicable to land development in the entirety of Miami-Dade County.

(Ord. No. 88-112, § 1(2), 12-6-88; Ord. No. 09-08, § 1, 1-22-09)

Sec. 33E-3. - Intent and purposes.

(a) This chapter is intended to implement and be consistent with the Miami-Dade County Comprehensive Development Master Plan adopted pursuant to Chapter 163, Florida Statutes.

(b) The purpose of this chapter in regulating development is to ensure that all new development bears its proportionate share of a portion of the capital cost of roadway capacity improvements necessary to allow an adequate level of roadway service.

(Ord. No. 88-112, § 1(3), 12-6-88; Ord. No. 08-135, § 1, 12-2-08)

Sec. 33E-4. - Rules of construction.

(a) The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

(b) For the purposes of administration and enforcement, unless otherwise stated, the following rules of construction shall apply to the text of this chapter:

(1) If there is any conflict between the text of this chapter and any table, summary table or illustration, the text shall control.

(2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(3) The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

(4) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(5) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(6) The word "he" means "he or she" and "his" means "his or her."

(Ord. No. 88-112, § 1(4), 12-6-88)

Sec. 33E-5. - Definitions.

(a) The words and terms listed below are hereby defined for the purpose of this chapter:

(1) *Adjusted gross income* means all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the County Planning and Zoning Director, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code.

(2) *Affordable Housing,* pursuant to the Florida Housing Planning and Community Assistance Act (Chapter 420, Part VI, Florida Statutes) and for the purpose of eligibility for a road impact fee exemption shall mean:

a. With respect to a housing unit to be occupied by very-low-income persons, that monthly rents, or monthly mortgage payments including property taxes and insurance, do not exceed 30 percent of that amount which represents 50 percent of the median annual income for households within Miami-Dade County, divided by 12.

b. With respect to a housing unit to be occupied by low-income persons, that monthly rents, or monthly mortgage payments including taxes and insurance, do not exceed 30 percent of that amount which represents 80 percent of the median annual income for households within Miami-Dade County, divided by 12.

(3) *Arterial roadway* means a roadway intended to serve moderate to large traffic volumes traveling relatively long distances. These facilities are characterized by long trip lengths and high speeds and volumes.

(4) *Building permit* shall mean an official document or certificate issued by the Building Official authorizing the construction, alteration or installation of any building, structure or any part thereof. The building permit application plans shall bear the impress seal and signature of a licensed architect or registered professional engineer and indicate the use and occupancy of all parts of the building or structure.

(5) *Collector roadway* means a roadway which is intended to serve as the connecting link for local streets and to provide intraneighborhood transportation. These facilities are characterized by relatively short trip lengths and moderate speeds and volumes.

(6) *County Manager* means the Chief Administrative Officer of Metropolitan Miami-Dade County or his designee.

(7) *County Public Works Director* means the Director of the Miami-Dade County Public Works Department or his designee.

(8) *County Planning and Zoning Director* means the Director of the Miami-Dade County Department of Planning and Zoning or his designee.

(9) *Development activity, development* or *activity* means any activity for which a building permit is required pursuant to the South Florida Building Code and/or any applicable County or municipal ordinance.

(10) *Existing development* means the lawful land use physically existing at any time during the period from December 6, 1988 through June 4, 1989 and any development or additional development for which the landowner holds a valid building permit as of June 4, 1989. Existing development shall also include the maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter. As used in this chapter, the term "lawful land use" shall not include a land use which has been established or maintained in violation of this chapter or applicable municipal codes.

(11) *Feepayer* means a person intending to commence a proposed development for which an impact fee computation is required, or a person who has paid an impact fee, provided a letter of credit, or made a contribution in-lieu-of-fee pursuant to this chapter.

(12) *Level of service* is the qualitative measure of traffic service provided by a road under a particular volume condition as described in the current edition of the Highway Capacity Manual, Special

Report 209, published by the nonprofit Transportation Research Board of the National Research Council serving the National Academy of Engineering.

(13) *Local street* means a roadway which has the primary function to serve adjacent property by providing the initial access to the highway network. These facilities are characterized by short trip lengths, low speeds, and small traffic volumes.

(14) *Long range transportation plan* means the adopted Miami-Dade Transportation Plan or successor document adopted by the Miami-Dade County Metropolitan Planning Organization.

(15) *Low-income persons* means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual income for households within Miami-Dade County.

(16) *Median Annual Income For Households Within Miami-Dade County* is equivalent to Median Family Income (MFI) for Miami-Dade County as determined for the current fiscal year by the U.S. Department of Housing and Urban Development.

(17) *Miami-Dade County Metropolitan Planning Organization* or *MPO* means the local government entity designated by the Governor, pursuant to Section 339.175, Florida Statutes, for the management of transportation planning process in Miami-Dade County.

(18) *Miami-Dade Road Impact Fee Manual* or *impact fee manual* or *the manual* means the document adopted by resolution of the Board of County Commissioners which contains information, sets forth procedures and implements policies essential to the administration of the road impact fee pursuant to this chapter.

(19) *Off-site roadway improvement* or *off-site improvement* means any arterial and collector roadway improvement located outside of the boundaries of a parcel proposed for development or platted subdivision parcel excluding those improvements required to be dedicated or improved pursuant to the subdivision or zoning regulations. This definition also includes roadway improvements, including right-of-way dedication, which are located beyond those zoned right-of-way limits specified in Section 33-133, Miami-Dade County Code.

(20) *Road impact fee, fee,* or *impact fee* means the proportionate share charge required to be paid in accordance with this chapter.

(21) *Road impact fee schedule* or *impact fee schedule* means the table of impact fee per unit of development used by the Public Works Director in computing the roadway impact fee pursuant to Section 33E-8 of this chapter.

(22) *Roadway capacity improvement* or *roadway improvement* means any roadway element or select transit capital improvement which will serve to enhance the vehicular movement or increase the vehicular volume in any corridor. The following roadway elements shall be considered as roadway capacity improvements:

a. Thru lanes;
b. Turn lanes;
c. Bridges;
d. Drainage facilities that serve to enhance vehicular movement or volume;
e. Traffic signalization;
f. Sidewalks or bike facilities that serve to enhance vehicular movement or volume;
g. Resurfacing of existing roadways including planning and removal of existing paved surfaces where such improvements will enhance the roadway capacity and service level; and
h. Select Transit Capital Improvements; and
i. Other structural improvements shown by specific studies to enhance roadway capacity.

In addition, the following roadway elements shall also be considered roadway capacity improvements when undertaken as components of a complete roadway project:

a. Curbs, medians, shoulders, striping, and traffic signage;
b. Utility relocation; and
c. Sodding and tree planting.

Furthermore, the following activities: preliminary engineering, design studies, land surveys, engineering design, right-of-way acquisition, and permitting, shall also be construed as roadway capacity improvements when associated with the construction of any of the aforementioned roadway elements.

Expenditures for all such improvements shall be in accordance with Section 33E-12 and implementing provisions of the Road Impact Fee Manual.

(23) *Select Transit Capital Improvement* means a specific transit capital project located inside the Urban Infill Area that has been determined by the Board of County Commissioners to be of strategic value in providing roadway capacity inside the Urban Infill Area pursuant to Section 33E-12(d).

(24)

Short range transportation improvement program means the five-year roadway program adopted annually by the Miami-Dade County Metropolitan Planning Organization as amended from time to time.

(25) *Student* means any person not living with his or her parent or guardian who is eligible to be claimed by his or her parent or guardian as a dependent under the federal income tax code and who is enrolled on at least a half-time basis in a secondary school, career center, community college, college or university.

(26) *Total Trips* means total outbound trips. (Outbound trips are attributed to the proposed development. Return trips are attributed to the destination.)

(27) *Unit(s) of development* means a quantifiable increment of development activity dimensioned in terms of dwelling units, one thousand (1,000) square feet of floor area, hotel/motel rooms, parking spaces, students or other appropriate measurements contained in the impact fee schedule or in the current edition of "Trip Generation, an Informational Study" published by the Institute of Traffic Engineers.

(28) *Urban Infill Area* or *UIA* pursuant to the adopted Comprehensive Development Plan means that part of Miami-Dade County located east of, and including S.R. 826 (Palmetto Expressway) and NW/SW 77 Avenue and, excluding the area north of and west of I-95, and the City of Islandia.

(29) *Very-low-income persons* means one or more natural persons or a family, not including students as defined herein, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual income for households within Miami-Dade County.

(Ord. No. 88-112, § 1(5), 12-6-88; Ord. No. 89-53, § 1, 6-6-89; Ord. No. 89-130, § 1, 12-19-89; Ord. No. 94-134, § 1, 6-21-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 26, 9-3-98; Ord. No. 00-76, § 1, 6-6-00; Ord. No. 08-135, § 2, 12-2-08; Ord. No. 09-08, § 2, 1-22-09)

Sec. 33E-6. - Road impact fee imposition.

(a) Any application for a building permit for development activity within Miami-Dade County shall be subject to the imposition of a road impact fee in the manner and amount set forth in this chapter. All building permits issued after the effective date of this chapter shall be subject to the imposition of the computed impact fee as determined herein. However, any application for a building permit where the required road impact fee payment is made prior to October 1, 1994 shall not be subject to Ordinance 94-134 amending Chapter 33E of the Code of Miami-Dade County and the Miami-Dade Manual provided said building permits are issued prior to January 29, 1995.

No such building permit shall be issued by the County or any Miami-Dade County municipality unless and until the applicant has paid such impact fee, or presented a letter of credit for such impact fee in a form acceptable to the Miami-Dade County Planning and Zoning Director, for contributions in-lieu-of-fee as provided in Section 33E-10. This shall not prohibit a feepayer from initiating an independent fee computation study as provided for in Section 33E-9 herein.

(b) Notwithstanding the payment of a road impact fee or provision of a contribution in-lieu-of-fee in conjunction with land development activity, other State, County and municipal development regulations may limit the issuance of building or use permits for development activity.

(c) Nothing herein shall prohibit any municipality or Miami-Dade County from paying the required impact fee on behalf of any applicant or feepayer. In such an instance, said impact fee payment shall be from other allowable fundable sources other than prior impact fee revenues.

(Ord. No. 88-112, § 1(6), 12-6-88; Ord. No. 90-60, § 1, 6-19-90; Ord. No. 94-134, § 1, 6-21-94; Ord. No. 94-185, § 1, 9-22-94; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 26, 9-3-98)

Sec. 33E-6.1. - Payment of road impact fees.

(a) The feepayer shall pay a road impact fee amount based on the formula set forth in Section 33E-7

(b) Payment shall be made in cash, personal check, cashier's check, or money order payable to Miami-Dade County; however, when a municipality is the permitting authority, payment shall not be made by personal check.

(c) No building permit shall be issued by the county or any municipality therein until payment for the road impact fee has been received or a bond accepted pursuant to subsection 33E-6.1(g). The total road impact fee shall be paid prior to issuance of a certificate of completion, temporary certificate of use and occupancy or certificate of use and occupancy for any part of construction authorized by the building permit.

(d) Upon receiving notice that a payment proffered for an impact fee is invalid due to insufficient funds, improper execution or for any other reason, the appropriate county or city building department shall have the authority to stop all construction authorized by the permit until payment in full is received. Payment in full shall include the amount owed for the road impact fee plus any penalty amount charged by a bank against the county as a result said invalid payment, plus, pursuant to Section 68.065 Florida

Statutes, a service fee of ten dollars ($10.00) or five (5) percent of the face amount of the invalid payment, which ever is greater.

(e) If the amount of the impact fee paid is found to have been insufficient for any reason, the appropriate County or city building department shall have the authority [to] stop all construction authorized by the permit until payment in full is received.

(f) The County shall have the authority to lien real property for which a Final Certificate of Use and Occupancy (C.O.) has been issued but for which the correct required road impact fee has not been paid in full. Such lien must be filed within three years from the date of issuance of the C.O.

(g) Road impact fees exceeding twenty-five thousand dollars ($25,000.00) may be deferred provided that the feepayer submits either a surety performance bond (the bond) or an automatically renewable, irrevocable letter of credit (the bond), for the total amount of the impact fee. Upon acceptance of the bond by the County Planning and Zoning Department the building permit may be issued.

(h) All developments subject to road impact fees paid on or after April 22, 2009, but prior to April 22, 2010, shall be obligated to pay thirty (30) percent of the fee as computed herein. All developments subject to road impact fees paid on or after April 22, 2010, but prior to April 22, 2012, shall be obligated to pay fifty (50) percent of the fee as computed herein. All developments subject to road impact fees paid on or after April 22, 2012, but prior to April 22, 2013, shall be obligated to pay sixty-five (65) percent of the fee as computed herein. All developments subject to road impact fees paid on or after April 22, 2013, but prior to April 22, 2014, shall be obligated to pay eighty (80) percent of the fee as computed herein. All developments subject to road impact fees paid on or after April 22, 2014, but prior to January 1, 2015 shall be obligated to pay ninety (90) percent of the fee as computed herein. All developments subject to road impact fees paid on or after January 1, 2015, shall be obligated to pay one hundred (100) percent of the fee as computed herein. This subsection shall expire on January 1, 2015.

(i) Any development subject to road impact fees for which a plat has been filed in the public records prior to January 1, 2009, and for which road impact fees are paid prior to January 1, 2011, shall be charged for road impact fees in accordance with the Fee Schedule in effect for the year 2008. A copy of the 2008 Table 100 and 2008 Table 100A Fee Schedules shall be included in the road impact fee manual until the date of expiration of this provision. This subsection shall expire on January 1, 2011.

(Ord. No. 09-08, § 3, 1-22-09; Ord. No. 11-31, § 1, 5-17-11)

Sec. 33E-7. - Road impact fee formula.

(a) The feepayer shall pay a road impact fee amount based on the formula set forth below. Such fee will be based on the capital cost of roadway improvements required to serve any increase in transportation requirements resulting from proposed development activities together with impact fee administrative costs. The formula to be used to calculate the road impact fee shall be as follows:

(1) Total Trips = Proposed Units of Development × Trip Generation Rate × 97% Trips Non-transit × 1/2 × Percent New Trips

(2) (Outside UIA) New Lane Miles = Total Trips × Trip Length ÷ 8,100 Average Daily Vehicles Capacity per Lane Mile

(Within UIA) New Lane Miles = Total Trips × Trip Length ÷ 8,500 Average Daily Vehicles Capacity per Lane Mile

(3) Road Cost = New Lane Miles × $1,951,500 per Lane Mile (Including $151,500 per lane mile for Right-of-Way Costs)

(4) (Outside UIA) Net Road Cost = Road Cost - $265,680 per New Lane Mile credited from Motor Fuels Tax and Vehicle License Fees

(Within UIA) Net Road Cost = Road Cost - $278,800 per New Lane Mile credited from Motor Fuels Tax and Vehicle License Fees)

(5) Inflation Factor = PDC Multiplier from Table of Present Day Cost (PDC) Multipliers by Calendar Year in subsection 33E-8(d).

(6) Road Impact Fee = Net Road Costs × Inflation Factor + 2% Administrative Costs

(b) In the case of development activity involving a change of use and/or magnitude of use in which a building permit is required, the proposed development shall be required to pay an impact fee only for any increase in the development activity. The impact fee shall be the difference between the computed impact fee for the proposed development activity and the computed impact fee for the existing development activity as defined in Section 33E-5. Any building permit which expires or is revoked after the effective date of this chapter and for which a fee has not previously been paid under this chapter shall be required to comply with the provisions herein. No refunds will be given for proposed development activity resulting in a negative fee calculation.

(c) No impact fee payment shall be required for any applicants seeking development activity for which the computed fee amount under the terms of this chapter is less than fifty dollars ($50.00).

The above formula shall be used to compute the amount of the fee to be paid using either of the approaches set forth in Section 33E-8 or Section 33E-9, at the election of the feepayer.

(d) Any change of use, redevelopment or modification of an existing use which requires the issuance of a building permit and which generates additional vehicular trips shall pay a road impact fee based on the net increase in the impact fee above that which would have been required for the previous use.

(Ord. No. 88-112, § 1(7), 12-6-88; Ord. No. 89-53, § 1, 6-6-89; Ord. No. 94-134, § 1, 6-21-94; Ord. No. 09-08, § 4, 1-22-09)

Sec. 33E-8. - Fee computation by adopted schedule.

The feepayer may elect to allow the County Public Works Director to use the impact fee schedule set forth below developed pursuant to the formula set forth in Section 33E-7(a). The Impact Fee Per Unit of Development shall be multiplied by the Present Day Cost (PDC) Multiplier for the calendar year in which the fee is paid in accordance with the table in subsection 33E-8(d).

(a) The following impact fee schedule shall be used by the County Public Works Director in computing the road impact fee:

TABLE 100

ROAD IMPACT FEE SCHEDULE
OUTSIDE URBAN INFILL AREA

ITE Code	ITE Land Use Type	Trip Generation Rate[1] (ADT)[2] Per Unit of Dev.	Trip Length (mile)	% New Trip[3]	Impact Fee Per Unit of Dev. ($)
	Port and Terminal				
30	Truck Terminals	9.85/1,000 GSF[4]	6.25	100%	6,338
	Industrial				
130	Industrial Park	6.96/1,000 GSF	6.16	100%	4,414
140	Manufacturing	3.82/1,000 GSF	6.16	100%	2,423
150	Warehousing	4.96/1,000 GSF	6.16	100%	3,146
151	Mini-Warehouse	2.50/1,000 GSF	5.90	100%	1,519
	Residential				
210	Single-Family Detached	9.57/unit	6.09	100%	6,001
220	Apartment (Rentals)	6.72/unit	6.09	100%	4,214
230	Condominium, Townhouse	5.86/unit	6.09	100%	3,674
240	Mobile Home	4.99/unit	6.09	100%	3,129
	Lodging				
310	Hotel	8.92/occupied room	6.09	100%	5,593
320	Motel	9.11/occupied room	6.09	100%	5,712
	Recreational				
420	Marina	2.96/berth	6.30	100%	1,920
430	Golf Course	35.74/hole	6.30	100%	23,183
491	Racquet Club	38.70/court	6.30	100%	25,103
492	Health/Fitness	4.02/1,000 GSF	6.30	100%	2,608
	Institutional				
520	Elementary School	1.29/student	1.25	75%	125
530	High School	1.71/student	4.00	100%	704
540	Jr./Community College	1.20/student	6.07	100%	750
550	University	2.38/student	6.07	100%	1,487

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION - FEE DEFERRAL

To be eligible to be considered for points, a sheet showing the payment stream for which the net present value of the fee deferral was calculated must be attached to this verification form.

Name of Development: Washington Square Apartments
(Part III.A.1. of the 2011 Universal Cycle Application)

Development Location: See attached
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (i) the street name, closest designated intersection and city if located within a city or (ii) the street name, closest designated intersection and county if located in the unincorporated area of the county.)

Complete the following:

On or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238) the City/County of City of Miami (Name of City or County) committed to defer $ 154,372.40 in fees for the proposed Development referenced above. The fee deferral will bear interest at a rate of 0.000 % per annum over a period of 50 years. The fee deferral repayment period, amortization period, payment frequency and other applicable terms are:

City of Miami impact fees are deferred for the 50-year affordability period with no repayment of the deferred fee nor interest except upon affordability default.

No consideration or promise of consideration has been given with respect to the fee deferral. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. This fee deferral is provided specifically with respect to the proposed Development.

The following government point of contact can verify the above stated contribution:

Name of Government Contact: Barnaby Min, Zoning Administrator
Address (street address and city): 444 S.W. 2nd Ave, Miami, FL 33130

Telephone Number: 305-416-2080

CERTIFICATION

I certify that the foregoing information and the payment stream stated on the sheet attached to this form are true and correct and that this commitment is effective through 09/30/2012
Date (mm/dd/yyyy)

Signature

Johnny Martinez, P.E.
Print or Type Name

305-416-1025
Telephone Number

City Manager
Print or Type Title

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

This contribution will not be considered if the certification contains corrections or 'white-out' or if the certification is scanned, imaged, altered, or retyped. The certification may be photocopied.

The Application may still be eligible for automatic points.

Provide Behind a Tab Labeled "Exhibit 39"

	Washington Square Apartments
Sites	Address
1	1146 NW 7 Court, Miami, FL
2	1500 NW 7 Court, Miami, FL

CITY OF MIAMI IMPACT FEE DEFERRAL CALCULATION

Washington Square Apartments

ADDRESS: 1146 NW 7 Court, Miami, FL and 1500 NW 7th Court, Miami, FL
67 Units

Below amounts change according to set-a-side units for tax credit and/or municipality location.

	Gross Deferral Per Unit	% Admin. Charge	Less Contribution	Total Per Unit
Fire (4%)	$377.37	4.00%	$15.09	$362.28
Police (5%)	$492.44	5.00%	$24.62	$467.82
Park (5%)	$1,551.55	5.00%	$77.58	$1,473.97
	$2,421.36		*$117.29*	*$2,304.07*
67				
Total Deferral				***$154,372.40***

Impact Fee Deferral Calculation

Assumptions

Discount Rate	6.49%
Interest Rate	0.00%
Number of Payments	50
Monthly Payment	$0.00
Deferral Amount	$154,372.40
Repayment Req'd?	Yes
NPV (Payment)	$6,654.70
Net Deferral	$147,717.70

Year	Accr. Int. Pmt.	Principle Red.	Loan Balance	Actual Payment
1	$0	$0	$154,372	$0.00
2	$0	$0	$154,372	$0.00
3	$0	$0	$154,372	$0.00
4	$0	$0	$154,372	$0.00
5	$0	$0	$154,372	$0.00
6	$0	$0	$154,372	$0.00
7	$0	$0	$154,372	$0.00
8	$0	$0	$154,372	$0.00
9	$0	$0	$154,372	$0.00
10	$0	$0	$154,372	$0.00
11	$0	$0	$154,372	$0.00
12	$0	$0	$154,372	$0.00
13	$0	$0	$154,372	$0.00
14	$0	$0	$154,372	$0.00
15	$0	$0	$154,372	$0.00
16	$0	$0	$154,372	$0.00
17	$0	$0	$154,372	$0.00
18	$0	$0	$154,372	$0.00
19	$0	$0	$154,372	$0.00
20	$0	$0	$154,372	$0.00
21	$0	$0	$154,372	$0.00
22	$0	$0	$154,372	$0.00
23	$0	$0	$154,372	$0.00
24	$0	$0	$154,372	$0.00
25	$0	$0	$154,372	$0.00
26	$0	$0	$154,372	$0.00
27	$0	$0	$154,372	$0.00
28	$0	$0	$154,372	$0.00
29	$0	$0	$154,372	$0.00
30	$0	$0	$154,372	$0.00
31	$0	$0	$154,372	$0.00
32	$0	$0	$154,372	$0.00
33	$0	$0	$154,372	$0.00
34	$0	$0	$154,372	$0.00
35	$0	$0	$154,372	$0.00
36	$0	$0	$154,372	$0.00
37	$0	$0	$154,372	$0.00
38	$0	$0	$154,372	$0.00
39	$0	$0	$154,372	$0.00
40	$0	$0	$154,372	$0.00
41	$0	$0	$154,372	$0.00
42	$0	$0	$154,372	$0.00
43	$0	$0	$154,372	$0.00
44	$0	$0	$154,372	$0.00
45	$0	$0	$154,372	$0.00
46	$0	$0	$154,372	$0.00
47	$0	$0	$154,372	$0.00
48	$0	$0	$154,372	$0.00
49	$0	$0	$154,372	$0.00
50	$0	$0	$154,372	$154,372.40
Total	$0			$154,372.40

2011 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. 2011-____** and pertains to:

Part IV Section A Subsection 2 Exhibit No. _____ (if applicable)

The attached information is submitted in response to the 2011 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:

	2011 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
☐ Reason Score Not Maxed	Item No. _____S	☐	☐
☐ Reason Ability to Proceed Score Not Maxed	Item No. _____A	☐	☐
☐ Reason Failed Threshold	Item No. _____T	☐	☐
☐ Reason Proximity Points Not Maxed	Item No. _____P	☐	☐
☐ Additional Comment	Item No. _____C	☐	☐

☒ **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 _____ Section _____ Subsection_____ Exhibit _____ (if applicable).

ATTACHMENT H

Brief Statement of Explanation regarding

Application 2011- 208C

Provide a separate brief statement for each NOAD

In Applicant's attempted cure for NOPSE scoring item 11S, Applicant attempts to justify that their original submission was correct and that the Local Government Contribution form (the "Form") exceeds the $125,000 required by Florida Housing Finance Corporation ("FHFC"). Applicant fails in their attempt to justify that their original submission is correct and makes spurious arguments in a desperate attempt to convince FHFC that Applicant meets threshold and should earn five points for Local Government Contribution.

The Miami-Dade County Road Impact Fee Ordinance (the "Road Ordinance"), Sec. 33E-7 Road impact fee formula reads as follows:

> "(b) In the case of development activity involving a change of use and/or magnitude of use in which a building permit is required, **the proposed development shall be required to pay an impact fee only for any *increase* in the development activity**. The **impact fee shall be the difference between the computed impact fee for the proposed development activity and the computed impact fee for the existing development activity** as defined in Section 33E-5. (emphasis added)"

The Road impact fee formula at Sec. 33E-7(b) makes two things abundantly clear: (i) the proposed development shall only be required to pay an impact fee on any ***increase* in the development activity**; and (ii) the impact fee is the **difference** between the computed impact fee for the **proposed development activity** and the computed impact fee for the **existing development activity**.

Existing development in Section 33E-5 of the Road Ordinance means:

> "...the **lawful land use physically existing** at any time during the period from December 6, 1988 through June 4, 1989 and any development or additional development for

which the **landowner holds a valid building permit** as of June 4, 1989. Existing development shall also include the maximum level of development activity for which a previous impact fee was paid under the provisions of this chapter. (emphasis added)"

Applicant attempts to craft a misleading argument in which they claim, against all logic and the clear wording of the Road Ordinance, that because Applicant's site was built in 1968, that they are not to be considered in the calculation of "existing development activity". The purpose in the Road Ordinance, of both the timeframe and the building permit statement, is to ensure that structures existing between December 6, 1988 and June 4, 1989 and developments which had a valid building permit on the effective date of the Road Ordinance did NOT have to pay for impact fees in accordance with the Road Ordinance. This has been confirmed by our land use and zoning attorney Jeffrey Bercow, Esq., founding partner of respected land use and zoning firm Bercow Radell & Fernandez, P.A.

Additionally, two (2) other 2011 applications attempted to cure a NOPSE for failure to provide the Form in a totally different manner and both failed to interpret the Ordinance in the same curious manner as the Applicant.

Application 2011-243C attempted to cure their NOPSE with the documentation attached hereto as Exhibit "A". Specifically, I direct your attention to the fourth (4^{th}) page of the attachment in which Miami-Dade County Deputy Mayor Russell Benford states that there were changes to Application 2011-243C's Form "due to impact fee credits due for existing dwelling units that are proposed to be demolished". Please note that this existing development in Application 2011-243C was built prior to 1988.

Application 2011-047C cured their NOPSE with a new impact fee waiver based only on the net increase in development activity in accordance with the provisions of the Road Ordinance. Please note that this existing development in Application 2011-047C was also built prior to 1988 and please note on their cure, attached hereto as Exhibit "B" that their Miami-Dade County Impact Fee Waiver Calculation sheet includes the underlined words: "20 Net increase from existing". This revised Form was signed by Deputy Mayor Russell Benford and it is now quite apparent that the Miami-Dade County Mayor's Office disagrees with the instant Applicant's spurious interpretation of the Road Ordinance.

It is abundantly clear from the above that Applicant's original submission of the Form is incorrect and Applicant has failed correctly submit the Form since impact fee are **only due on the net increase in development activity**. Applicant admits that the buildings on the site were in existence prior to 1989 and therefore, such buildings will serve as a credit on the net impact fee calculation.

Additionally, Applicant has now submitted Exhibit 39, Local Government Verification of Contribution – Fee Deferral from the City of Miami (the "Fee Deferral"). The Fee Deferral should not be considered a valid local government contribution since the Fee Deferral was signed by the City Manager on February 28, 2012.

Attached as Exhibit "C" is an email message from Barnaby L. Min, Esq., City of Miami Zoning Administrator (the "Email"). In the Email, Mr. Min states, with specificity, that the Fee Deferral "was signed by the City Manager on February 28, 2012". Mr. Min, in the Email, later goes on to say that the Fee Deferral is an amendment to a previously executed document signed "**on or about** December 5, 2011 by the City Manager" (emphasis added). This lack of specificity calls into question whether Applicant was in possession of any Fee Deferral prior to the Application deadline. Additionally, the records Mr. Min delivered in connection with the Applicant on January 24, 2012 did not contain any Fee Deferral. While a local government contribution form may be an amendment to a previously executed document, it is incumbent upon Applicant to conclusively prove that such original document was signed on or before the Application deadline of December 6, 2011. If the Fee Deferral was signed prior to the Application deadline on December 6, 2011, there is no reason why Applicant would not have provided it in their original submission. The statement by Mr. Min, that the original document was signed "on or about December 5, 2011 by the City Manager" is both inconsistent with Applicant having such Fee Deferral by the Application deadline and grossly inadequate to **prove** that Applicant was in possession of such Fee Deferral by the Application deadline.

Additionally, it is curious that Applicant so strenuously argues in the cure that the existing units on the Development site do not constitute an Existing development activity, and therefore are not eligible for a fee waiver, while at the same time submitting a Fee Deferral which is calculated based on a credit for existing units on the Development site.

In light of the above, Applicant is unable to receive the minimum amount of Local Government Contribution in Miami-Dade County, Florida and Applicant should receive zero points for Local Government Contribution.

EXHIBIT "A"

Ex. "A"

2011 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. 2011-**243C and pertains to:

Part IV Section A Subsection _____ Exhibit No. 37 (if applicable)

The attached information is submitted in response to the 2011 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:

	2011 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
☒ Reason Score Not Maxed	Item No. 11S	☐	☒
☐ Reason Ability to Proceed Score Not Maxed	Item No. ____A	☐	☐
☐ Reason Failed Threshold	Item No. ____T	☐	☐
☐ Reason Proximity Points Not Maxed	Item No. ____P	☐	☐
☐ Additional Comment	Item No. ____C	☐	☐

☐ 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 _____ Section _____ Subsection_____ Exhibit _____ (if applicable).

Ex "A"

Brief Statement of Explanation regarding Application 2011 – 243C

Provide a separate brief statement for each Cure

ITEM # 11S:

As a result of a NOPSE submitted, it was determined that Applicant's Fee Waiver was incorrectly calculated. The NOPSE filed, incorrectly stated the amount of Impact Fee Credits because the Applicant is NOT seeking to redevelop the entire Public Housing Development known as Culmer Place.

Culmer Place Phase 2 will only affect four existing buildings containing a total of 29 existing Dwelling Units. Applicant has proposed 120 units of new construction, by applying the Impact Fee Credit (29 Units) the applicant will be eligible for a waiver in the amount of 91 Units. This calculation has been further verified by Miami-Dade County and attached is a revised Exhibit 37 which provides verification of fee waiver in the amount of $210,417.87.

Based upon the change, Applicant's score should be updated to reflect the fact that Applicant has been awarded a Local Government Contribution that exceeds the minimum requirements of FHFC as set forth in FHFC's 2011 Universal Application Instructions.

Ex "A"

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION - FEE WAIVER

To be eligible to be considered for points, a sheet showing the computations by which the total amount of each fee waiver is determined must be attached to this verification form. Computations should include, where applicable, waived fee amount per set-aside unit.

Name of Development: Culmer Place Phase 2
(Part III.A.1. of the 2011 Universal Application)

Development Location: SE Corner of NW 7th Avenue & NW 10th Street, Miami, FL 33136
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (i) the street name, closest designated intersection and city if located within a city or (ii) the street name, closest designated intersection and county if located in the unincorporated area of the county.)

Amount of Fee Waiver: $ 210,417.87. Is this amount based upon a per set-aside (affordable) unit computation? ☑ yes ☐ no

On or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238) the City/County of Miami-Dade (Name of City/County), pursuant to Ordinance: #88-112 (Reference Official Action, cite Ordinance or Resolution Number and Date), waived the following fees: Impact Fees for Roads.

No consideration or promise of consideration has been given with respect to the fee waiver. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. This fee waiver is provided specifically with respect to the proposed Development.

The following government point of contact can verify the above stated contribution:
Name of Government Contact: Gregg Fortner, Director, PHCD
Address (street address and city): 701 NW 1st Court, 16th Floor
Miami, FL 33136
Telephone Number: 786-469-4106

CERTIFICATION

I certify that the foregoing information and the computations stated on the sheet attached to this form are true and correct and that this commitment is effective through 06/30/2012.
Date (mm/dd/yyyy)

Signature — Russell Benford, Print or Type Name

(305) 375-5071, Telephone Number — Deputy Mayor, Print or Type Title

NOTE TO LOCAL GOVERNMENT OFFICIAL: Waivers that are not specifically made for the benefit of this Development but are instead of general benefit to the area in which the Development is located will NOT qualify as a contribution to the Development. Further, the fact that no impact fees or other fees are levied by a local jurisdiction for ANY type of development DOES NOT constitute a "Local Government Contribution" to the proposed Development. Similarly, if such fees ARE levied by the local jurisdiction but the nature of the proposed Development exempts it (e.g., typically, a Rehabilitation Development is not subject to impact fees), for purposes of this form, no "Local Government Contribution" exists and no points will be awarded.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

This contribution will not be considered if the certification contains corrections or 'white-out' or if the certification is scanned, imaged, altered, or retyped. The certification may be photocopied.

The Application may still be eligible for automatic points.

Provide Behind a Tab Labeled "Exhibit 37"

Ex- "A"

OFFICE OF THE MAYOR
MIAMI-DADE COUNTY, FLORIDA

CARLOS A. GIMENEZ
MAYOR

February 27, 2012

Mr. Joe Chambers
The Michaels Development Company I, L.P.
3 East Slow Road Suite 100
Marlton, NJ 08053

RE:	Applicant:	Culmer Place Phase 2, LLC
	Development:	Culmer Place Phase 2
	Location:	Miami-Dade County

Dear Mr. Chambers:

This letter supersedes the previous letter I provided dated December 5, 2011, as there were changes required in the calculation of the local government contribution due to impact fee credits due for existing dwelling units that are proposed to be demolished

As part of the County's commitment to affordable housing, this letter is to confirm the local government contribution for the 2011 Universal Tax Credit Cycle, for the above referenced development. Pursuant to Miami-Dade County Ordinance #88-112, the waiver of Miami-Dade County Impact fees (roads) for this affordable housing development will result in a savings of $210,417.87. This commitment is effective through June 30. 2012.

If you have any questions regarding this local government contribution, please contact Gregg Fortner, Director, Public Housing and Community Development (PHCD), at (786) 469-4106.

Sincerely,

Russell Benford
Deputy Mayor

C: Gregg Fortner, Director, PHCD

EXHIBIT "B"

Ex "B"

2011 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. 2011-**047C and pertains to:

Part IV Section A Subsection 1.a.(2) Exhibit No. 37 (if applicable)

The attached information is submitted in response to the 2011 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:

	2011 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
☒ Reason Score Not Maxed	Item No. 11S	☐	☒
☐ Reason Ability to Proceed Score Not Maxed	Item No. ____A	☐	☐
☐ Reason Failed Threshold	Item No. ____T	☐	☐
☐ Reason Proximity Points Not Maxed	Item No. ____P	☐	☐
☐ Additional Comment	Item No. ____C	☐	☐

☐ **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 _____ Section _____ Subsection_____ Exhibit _____ (if applicable).

Ex. "B"

Brief Statement of Explanation regarding Cure for Application No. 2011-047C

Provide a separate brief statement for each Cure

As a result of NOPSE Florida Housing has concluded that the Applicant has not obtained a Valid Local Government Verification of Contribution Fee Waiver form at Exhibit 37. Specifically based on the NOPSE the Applicant did not receive points for the Local Government Contribution for a Road Impact Fee Waiver based on 116 units. (Exhibit 37)

As a cure the Applicant has corrected and provided a revised and executed Local Government Verification of Contribution Fee Waiver form based on a **20** unit increase in the amount of **$46,245.69** (Attachment A) including a calculation spreadsheet for the road impact fee waiver (Attachment B). The sum of the fee waiver from Miami Dade County and the fee deferral amount of **$89,986.12** from the City of Miami (Attachment D) based on a 20 unit increase in development activity totals **$136,231.81** in local government contribution. The minimum $125,000 Value of Contribution required to achieve maximum points is satisfied. Therefore the Application passes threshold and should receive the maximum points.

- See Attached a Revised Exhibit 37 - Attachment A
- See Attached a Revised Miami Dade County Impact Fee Waiver Calculation – Attachment B
- See Attached a Signature Authorization Memorandum from Mayor Carlos A. Gimenez authorizing Deputy Mayor Russell Benford to sign the Exhibit 37. – Attachment C
- See Attached a Revised Valuation of Deferral Fee – Attachment D

Ex "B"

Attachment A

2011 UNIVERSAL CYCLE - LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION - FEE WAIVER

To be eligible to be considered for points, a sheet showing the computations by which the total amount of each fee waiver is determined must be attached to this verification form. Computations should include, where applicable, waived fee amount per set-aside unit.

Name of Development: Joe Moretti Preservation Phase One
(Part III.A.1. of the 2011 Universal Application)

Development Location: 240 SW 9 St.; 920,924,930,934 SW 2 Ave.; 211,215,217,219,225,227,233,235,239, 241,247, 249, 255,257, 265, 267,275,277,285, 287 SW 10 St., Miami, Florida 33130
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide (i) the street name, closest designated intersection and city if located within a city or (ii) the street name, closest designated intersection and county if located in the unincorporated area of the county.)

Amount of Fee Waiver: $ 46,245.69. Is this amount based upon a per set-aside (affordable) unit computation? ☑ yes ☐ no

On or before the Application Deadline for the 2011 Universal Application Cycle (as stated on the FHFC Website http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238) the City/County of Miami- Dade (Name of City/County), pursuant to Ordinance: #88-112 (Reference Official Action, eite Ordinance or Resolution Number and Date), waived the following fees: Impact Fees for Roads.

No consideration or promise of consideration has been given with respect to the fee waiver. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. This fee waiver is provided specifically with respect to the proposed Development.

The following government point of contact can verify the above stated contribution:
Name of Government Contact: Gregg Fortner, Director, PHCD
Address (street address and city): 701 NW 1st Court, 16th Floor
Miami, FL 33136
Telephone Number: 786-469-4106

CERTIFICATION

I certify that the foregoing information and the computations stated on the sheet attached to this form are true and correct and that this commitment is effective through 06/30/2012 (Date (mm/dd/yyyy)).

Signature — Carlos A. Gimenez (Print or Type Name)

(305) 375-5071 (Telephone Number) — Mayor (Print or Type Title)

NOTE TO LOCAL GOVERNMENT OFFICIAL: Waivers that are not specifically made for the benefit of this Development but are instead of general benefit to the area in which the Development is located will NOT qualify as a contribution to the Development. Further, the fact that no impact fees or other fees are levied by a local jurisdiction for ANY type of development DOES NOT constitute a "Local Government Contribution" to the proposed Development. Similarly, if such fees ARE levied by the local jurisdiction but the nature of the proposed Development exempts it (e.g., typically, a Rehabilitation Development is not subject to impact fees), for purposes of this form, no "Local Government Contribution" exists and no points will be awarded.

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

This contribution will not be considered if the certification contains corrections or "white-out" or if the certification is scanned, imaged, altered, or retyped. The certification may be photocopied.

The Application may still be eligible for automatic points.

Provide Behind a Tab Labeled "Exhibit 37"

Ex "B"

Attachment B

MIAMI-DADE COUNTY IMPACT FEE WAIVER CALCULATION

Joe Moretti Preservation Phase One

Address:

240 SW 9th St; 920, 924, 930,
934 SW 2nd Ave.; 211, 215,
217, 219, 225, 227, 233, 235,
239, 241, 247, 249, 255, 257,
265, 267, 275, 277, 285, 287
SW 10th St.
Miami, FL 33130

01-0206-090-1020
01-0206-090-1120

Units:

116 New Construction
20 Net increase from existing

Below amounts change according to set-a-side units for tax credit and/or municipality location.

	Gross Impact Fee Per Unit Amount Per Unit Waived	Admin Factor for Admin Charge	Less Contribution For Admin Charge	Net Amount Per Unit Waived
Road (2%)	$2,358.53	1.02	$46.25	$2,312.28
Fire (4%)	$0.00	1.04	$0.00	$0.00
Police (5%)	$0.00	1.05	$0.00	$0.00
Park (5%)	$0.00	1.05	$0.00	$0.00
	$2,358.53		*$46.25*	*$2,312.28*
20				
Total Waivers				***$46,245.69***

The only number you enter is the total of set-a-side units in the highlighted portion. If its in the City of Miami, County only takes care of roads.

Ex. "B"
Attachment

Memorandum

MIAMI-DADE COUNTY

Date: November 30, 2011

To: Russell Benford, Deputy Mayor

From: Carlos A. Gimenez
Mayor

Subject: Signature Authority for 2011 Universal Cycle Forms

Effective September 6, 2011, you were given authorization to sign on my behalf for those items under your departmental purview. You are further authorized to sign all forms related to the Florida Housing Finance Corporation's 2011 Universal Cycle for Tax Credit on my behalf effective September 6, 2011. These forms may include but are not limited to the following:

1. 2011 Universal Cycle – Local Government Verification of Qualification as Urban In-Fill Development
2. 2011 Universal Cycle – Local Government Verification of Contribution – Fee Waiver
3. 2011 Universal Cycle – Local Government Verification of Contribution – Loan
4. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentive Expedited Permitting Process for Affordable Housing
5. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Contributions to Affordable Housing Properties or Developments
6. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Modification of Fee Requirements for Affordable Housing Properties or Developments
7. 2011 Universal Cycle – Local Government Verification of Affordable Housing Incentives Impact of Policies, Ordinances, Regulations, or Plan Provisions on Cost of Affordable Housing Properties or Developments

Russell Benford
Deputy Mayor

c: Mary Lou Rizzo, Director, Human Resources Department
Jennifer Moon, Director, Office of Management and Budget
Angel Petisco, Director, Enterprise Technology Services Department
Office of the Mayor Senior Staff
Office of the Mayor Senior Secretaries

Ex "B"
Attachment D

2011 Universal Cycle
Valuation for Fee Deferral

	Master	EXISTING UNITS	Deferral based on Total Net Increase	**Joe Moretti Preservation Phase One**
# Units	316	96	220	20
Deferral per unit	4,702	4,702	4,702	4,702
	1,485,832.00	451,392.00	1,034,440.00	94,040.00
Deferral Amount - Phase One				94,040.00
NPV of payments	6.49%			4,053.88
VALUE				**89,986.12**

Period (Year #)	Interest	Principal	Total Payment
1	0.00	0.00	0.00
2	0.00	0.00	0.00
3	0.00	0.00	0.00
4	0.00	0.00	0.00
5	0.00	0.00	0.00
6	0.00	0.00	0.00
7	0.00	0.00	0.00
8	0.00	0.00	0.00
9	0.00	0.00	0.00
10	0.00	0.00	0.00
11	0.00	0.00	0.00
12	0.00	0.00	0.00
13	0.00	0.00	0.00
14	0.00	0.00	0.00
15	0.00	0.00	0.00
16	0.00	0.00	0.00
17	0.00	0.00	0.00
18	0.00	0.00	0.00
19	0.00	0.00	0.00
20	0.00	0.00	0.00
21	0.00	0.00	0.00
22	0.00	0.00	0.00
23	0.00	0.00	0.00
24	0.00	0.00	0.00
25	0.00	0.00	0.00
26	0.00	0.00	0.00
27	0.00	0.00	0.00
28	0.00	0.00	0.00
29	0.00	0.00	0.00
30	0.00	0.00	0.00
31	0.00	0.00	0.00
32	0.00	0.00	0.00
33	0.00	0.00	0.00
34	0.00	0.00	0.00
35	0.00	0.00	0.00
36	0.00	0.00	0.00
37	0.00	0.00	0.00
38	0.00	0.00	0.00
39	0.00	0.00	0.00
40	0.00	0.00	0.00
41	0.00	0.00	0.00
42	0.00	0.00	0.00
43	0.00	0.00	0.00
44	0.00	0.00	0.00
45	0.00	0.00	0.00
46	0.00	0.00	0.00
47	0.00	0.00	0.00
48	0.00	0.00	0.00
49	0.00	0.00	0.00
50	0.00	94,040.00	94,040.00

EXHIBIT "C"

Ex "C"

Adam Freeman

From: Min, Barnaby [bmin@miamigov.com]
Sent: Friday, March 02, 2012 3:28 PM
To: Adam Freeman; oscar@rocdevelopment.com
Cc: Torrado, Manuel
Subject: RE: Impact Fee Deferral Form

The originals were signed on or about December 5, 2011 by the City Manager.

Barnaby L. Min, Esq.
Zoning Administrator
City of Miami Office of Zoning
Telephone: 305-416-1491
Facsimile: 305-416-1490
bmin@miamigov.com
www.miami21.org

From: Torrado, Manuel
Sent: Friday, March 02, 2012 3:22 PM
To: Min, Barnaby
Subject: FW: Impact Fee Deferral Form

Thank you

From: Adam Freeman [mailto:adamf@htgf.com]
Sent: Friday, March 02, 2012 2:37 PM
To: Torrado, Manuel
Cc: oscar@rocdevelopment.com
Subject: FW: Impact Fee Deferral Form

Manny,

Can you please tell us when this original document was signed? It is very important.

Thank you for your help,

Adam Freeman
(305) 962-6900

From: oscar@rocdevelopment.com [mailto:oscar@rocdevelopment.com]
Sent: Friday, March 02, 2012 1:40 PM
To: Adam Freeman
Subject: Fw: Impact Fee Deferral Form

Call Manny for other doc!!! Thanks

Ex "C"

Sent via BlackBerry by AT&T

From: "Min, Barnaby" <bmin@miamigov.com>
Date: Fri, 2 Mar 2012 13:36:36 -0500
To: oscar@rocdevelopment.com<oscar@rocdevelopment.com>
Cc: Torrado, Manuel<mtorrado@miamigov.com>
Subject: RE: Impact Fee Deferral Form

This particular document was reviewed and signed by staff on February 28, 2012 and was likewise signed by the City Manager on February 28, 2012. This document was an amendment to a previously executed document. If you wish to know about the previously approved document, please contact Manny Torrado at (305) 416-1487.

Barnaby L. Min, Esq.
Zoning Administrator
City of Miami Office of Zoning
Telephone: 305-416-1491
Facsimile: 305-416-1490
bmin@miamigov.com
www.miami21.org

From: oscar@rocdevelopment.com [mailto:oscar@rocdevelopment.com]
Sent: Friday, March 02, 2012 12:54 PM
To: Min, Barnaby
Subject: Fw: Impact Fee Deferral Form

Barnaby,

As discussed, attached please find the "City Impact Fee Deferral" form for a potential project named Washington Square. Please confirm by email when this document was signed by the Manager and initialed by you. Thanks for your help!!!

Oscar

Sent via BlackBerry by AT&T

From: Adam Freeman <adamf@htgf.com>
Date: Fri, 2 Mar 2012 12:28:04 -0500
To: oscar@rocdevelopment.com<oscar@rocdevelopment.com>
Subject: Impact Fee Deferral Form

See attached.

2011 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. 2011-**208C and pertains to:

Part III Section C Subsection 2 Exhibit No. 27 (if applicable)

The attached information is submitted in response to the 2011 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:

	2011 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
☐ Reason Score Not Maxed	Item No. ____S	☐	☐
☐ Reason Ability to Proceed Score Not Maxed	Item No. ____A	☐	☐
☒ Reason Failed Threshold	Item No. 1T	☒	☐
☐ Reason Proximity Points Not Maxed	Item No. ____P	☐	☐
☐ Additional Comment	Item No. ____C	☐	☐

☐ 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 _____ Section _____ Subsection_____ Exhibit _____ (if applicable).

Brief Statement of Explanation regarding
Application 2011- 208C

Provide a separate brief statement for each NOAD

Applicant attempted to cure item #1T by submitting site control documentation as Exhibit 27. However, the documentation submitted is incomplete and fails to demonstrate valid site control.
Section 1.1(j) of the Ground Lease dated December 5, 2011 between Miami-Dade County and Carlisle Development Group, LLC ("Ground Lease") states "***Environmental Assessments*** means the environmental studies, reports and material correspondence described in Exhibit D." There is no exhibit D included in the Ground Lease.

Applicant attempts to address this deficiency in the first of three amendments to the Ground Lease which are submitted in its cure. However, Section 10.12 of the Ground Lease clearly states "This Lease may be amended by mutual agreement of Landlord and Tenant, **subject to the prior written approval of HUD, as applicable**..." (emphasis added)

Since the Applicant failed to provide any evidence of prior written approval of HUD, or evidence that such approval was not applicable, the three amendments to the Ground Lease included in the cure should be considered invalid. Accordingly, there is no Exhibit D included in the Ground Lease and Applicant has failed to demonstrate valid site control and has failed threshold.

ATTACHMENT I

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

GREEN TURNKEY PLAZA, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

FHFC CASE NO.: 2012-016UC
Application No. 2011-208C
2011 Universal Cycle

CONSENT AGREEMENT

Petitioner Green Turnkey Plaza, Ltd. ("Green Turnkey") and Respondent Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, hereby present the following Consent Agreement:

APPEARANCES

For Petitioner:
Donna E. Blanton
Florida Bar No.: 948500
Radey Thomas Yon & Clark, P.A.
301 S. Bronough Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

For Respondent:
Hugh Brown, Deputy General Counsel
Florida Bar No.: 003484
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

ATTACHMENT I

PRELIMINARY STATEMENT

On or before December 6, 2011, Green Turnkey submitted an Application to Florida Housing for an award of tax credits through the 2011 Universal Cycle. On March 29, 2012, Florida Housing notified Green Turnkey of the results of scoring its Application and provided Green Turnkey with a Notice of Rights pursuant to Sections 120.569 and 120.57, Florida Statutes. Green Turnkey timely filed a Petition for Informal Administrative Hearing ("Petition") challenging the findings that Green Turnkey was not entitled to five Local Government Contribution points and that Green Turnkey was entitled to only 1.75 proximity tie-breaker points for its proximity to a public park. Florida Housing has reviewed the petition and its scoring decisions and has determined that Green Turnkey is entitled to five Local Government Contribution points and two proximity tie-breaker points for a public park. Thus, Green Turnkey receives 79 total points, 6 ability to proceed tie-breaker points, and 36.50 proximity tie-breaker points. Additionally, Green Turnkey has satisfied all threshold requirements.

Upon issuance of a Final Order adopting the terms of this Consent Agreement, Green Turnkey agrees to dismiss its Petition with prejudice. The parties waive all right to appeal this Consent Agreement or the Final Order to be issued in this case, and each party shall bear its own costs and attorney's fees. This Consent Agreement is subject to the approval of the Board of Directors of Florida Housing ("The Board"). If the Board does not approve this Consent Agreement, no Final Order will be issued and this Consent Agreement shall be null and void as if it were never executed.

STIPULATED FINDINGS OF FACT

1. Green Turnkey is a Florida limited partnership with its address at 2950 SW 27th Avenue, Suite 200, Miami, Fl, 33133, and is in the business of providing affordable rental housing units.

2. Florida Housing is a public corporation that is organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. § 420.504, Fla. Stat.; Rule Chapter 67-48, Fla. Admin. Code.

3. The Low Income Housing Tax Credit ("Tax Credit") program is created within the Internal Revenue Code, and awards a dollar for dollar credit against federal income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of rental housing units targeted at low and very low income population groups. Developers sell, or syndicate, the Tax Credits to generate a substantial portion of the funding necessary for construction of affordable housing development.

4. Florida Housing is the designated "housing credit agency" responsible for the allocation and distribution of Florida's Tax Credits to applicants for the development of rental housing for low income and very low income families.

5. Florida Housing uses a Qualified Allocation Plan (QAP), the Universal Application and a scoring process for the award of Tax Credits, as outlined in Rule 67-48.004, Florida Administrative Code. The provisions of the QAP are adopted and incorporated by reference in Rule 67-48.002(94), Florida Administrative Code. Pursuant to the QAP, Tax Credits are apportioned among the most populated counties, medium populated counties, and

least populated counties. The QAP also establishes various set-asides and special targeting goals.

6. The 2011 Universal Application Package (or UA1016 (Rev. 2-11)) is adopted and incorporated by reference through Rule 67-48.004(1)(a), Florida Administrative Code. It consists of Instructions and forms, some of which are not applicable to every Applicant.

7. Florida Housing's scoring process for 2011, found at Rules 67-48.004-.005, Florida Administrative Code, 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

j. final scores, ranking, and allocation of funding to successful applicants, as well as those who successfully appeal through the adoption of final orders.

8. The 2011 Universal Cycle Application offers a maximum score of 79 application points. In the event of the tie between competing applications, the Universal Cycle Application Instructions provide for a series of tie-breaking procedures to rank such applications for funding priority, including an award of up to six points for a demonstrated ability to proceed and an award of up to 37 points for proximity to certain services, such as transit facilities, a grocery store, a medical facility, a public school, a public park, a community center, a pharmacy, senior center and a public library.

9. On or about December 6, 2011, Green Turnkey and others submitted applications for financing in Florida Housing's 2011 funding cycle. Green Turnkey (Application #2011-208C) applied for Tax Credits to help finance the construction of an 88-unit affordable apartment complex in Miami, Florida, called Washington Square Apartments.

10. Green Turnkey received notice of Florida Housing's initial scoring of the Application on or about January 19, 2012, at which time Green Turnkey was awarded a preliminary score of 79 points out of a possible 79 points, and 10 of 37 possible proximity "tie breaker" points (awarded for geographic proximity to certain services and facilities), and 6 of 6 possible ability to proceed tie-breaker points. Florida Housing also concluded that the Green Turnkey application had failed threshold requirements.

11. On or about January 25 2012, Florida Housing received a NOPSE in connection with Green Turnkey's application. On or about February 23, 2012, Florida Housing sent Green Turnkey the NOPSE relating to its application submitted by a competing applicant, Florida Housing's position on the NOPSE, and the effect the NOPSE had on the applicant's score.

12. On or before February 29, 2012, Green Turnkey timely submitted its cure materials to Florida Housing.

13. On or about March 6, 2012, Florida Housing received NOADs in connection with Green Turnkey's application. Florida Housing issued its final scores on March 28, 2011, which were formally received by Green Turnkey a day later.

14. At the conclusion of the NOPSE, cure review, and NOAD processes, Florida Housing determined that Green Turnkey met all threshold requirements and awarded the Green Turnkey Application a score of 74 application points. The reason that Green Turnkey did not receive all 79 available application points was explained as follows:

Item #	Reason(s)	Created As Result
11S	The Applicant provided a Local Government Verification of Contribution - Fee Waiver form at Exhibit 37. Based on evidence provided by a NOPSE, it appears the impact fees were calculated incorrectly and may have been overstated. Therefore, the Applicant received zero points for the Local Government Contribution. The Applicant is not eligible for automatic points.	NOPSE

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of
6C	IV.	A.		Local Government Contributions	The Applicant attempted to cure item 11S. However, evidence provided in a NOAD contradicted the Applicant's interpretation of the applicable ordinance.	Final

15. Florida Housing also determined when final scores were released that the Green Turnkey Application was entitled to only 1.75 proximity tie-breaker points for a public park, as illustrated in Green Turnkey's Final Scoring Summary Report:

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final
5P	III.	A.	10.a	Public Park	2.00	0.00	0.00	1.75

16. On or before April 19, 2012, Green Turnkey submitted a Petition for Informal Administrative Hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

17. The two issues raised in the petition were: (1) Florida Housing incorrectly determined that Green Turnkey was not eligible for Local Government Contribution points during preliminary scoring and subsequently overlooked a valid Cure submitted by Petitioner,

and (2) Florida Housing incorrectly determined that Green Turnkey was not entitled to two proximity tie-breaker points for a public park due to a mathematical error.

STIPULATED CONCLUSIONS OF LAW

18. Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Florida Administrative Code Chapter 67-48, the Florida Housing Board of Directors has jurisdiction over the parties to this proceeding.

19. Florida Housing is statutorily authorized to institute a competitive application process for the allocation of Tax Credits and has done so through Rules 67-48.004 and 67-48.005, Florida Administrative Code.

20. An agency's interpretation of its own rules will be upheld unless it is clearly erroneous, or amounts to an unreasonable interpretation. *Legal Envtl. Assistance Found., Inc., v. Board of County Comm'rs of Brevard County*, 642 So. 2d 1081 (Fla 1994); *Miles v. Florida A and M Univ.*, 813 So. 2d 242 (Fla. 1st DCA 2002). This is so even if the agency's interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. *Golfcrest Nursing Home v. Agency for Health Care Admin.*, 662 So. 2d 1330 (Fla. 1st DCA 1995).

STIPULATED DISPOSITION

Green Turnkey has met all threshold requirements and is entitled to 79 application points, 6 ability to proceed tie-breaker points, and 36.50 proximity tie-breaker points.

Respectfully submitted this 29th day of May 2012.

By: _____

Donna Blanton
Florida Bar No. 948500
Counsel for Petitioner
Radey, Thomas, Yon & Clark, P.A.
301 S. Bronough St., Suite 200
Tallahassee, Florida 32301
Telephone No. (850) 425-6654
Facsimile No. (850) 425-6694

By: _____

Hugh Brown
Florida Bar No. 003484
Assistant General Counsel
Florida Housing Finance Corporation
227 North Bronough Street
Suite 5000
Tallahassee, Florida 32301-1329
Telephone: (850) 488-4197
Facsimile: (850) 414-6548

ATTACHMENT J

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

DDC INVESTMENTS, LTD.
d/b/a DENISON DEVELOPMENT
FLORIDA, LTD.,

Petitioner,

v.

FHFC Case No.: 2012-014UC
Application No. : 2011-137C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____/

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation ("Board") for consideration and final agency action on June 8, 2012. The matter for consideration before this Board is a Recommended Order issued under section 120.57(2), Florida Statutes. After a review of the record and otherwise being fully advised in these proceedings, this Board finds:

On or before December 6, 2011, DDC Investments, Ltd. d/b/a Denison Development Florida Ltd, ("Petitioner"), submitted its 2011 Universal Cycle Application ("Application") to Florida Housing Finance Corporation ("Florida Housing") seeking an allocation of competitive "9%"

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION
Della M Harrell /DATE: 6/8/12

ATTACHMENT J

Tax Credits under the federal Low Income Housing Tax Credit program to fund the project known as Merritt at Highland Park. Petitioner timely filed its "Amended Petition for Informal Administrative Proceedings," (the "Petition") challenging Florida Housing's scoring on its Application No. 2011-137C. The parties stipulated to the facts at issue. Accordingly, an informal hearing was held before Florida Housing Finance Corporation's appointed Hearing Officer Diane D. Tremor, pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on May 10, 2012. A Recommended Order was filed on May 23, 2012. A true and correct copy of the Recommended Order is attached hereto as "Exhibit A."

The Recommended Order recommends that Florida Housing enter a Final Order finding that:

Florida Housing correctly awarded no tie-breaker points in scoring Petitioner's "Verification of Local Government Contribution – Loan," on Application Exhibit 38, and that Florida Housing erred in awarding less than the four tie-breaker points available for Exhibit 25, "Proximity to Medical Facility."

RULING ON THE RECOMMENDED ORDER

The Board finds that the findings of fact and the conclusions of law of the Recommended Order are supported by competent substantial evidence.

ORDER

1. The Findings of Fact of the Recommended Order are adopted as Florida Housing's Findings of Fact and incorporated by reference as though fully set forth in this Order.

2. The conclusions of law of the Recommended Order are adopted as Florida Housing's conclusions of law and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY **ORDERED** that Petitioner is awarded no tie-breaker points for Petitioner's "Verification of Local Government Contribution – Loan," Application Exhibit 38, and is awarded four tie-breaker points for its "Proximity to Medical Facility," Application Exhibit 25, to Application No. 2011-137C.

DONE and ORDERED this *8th* day of June, 2012.

FLORIDA HOUSING FINANCE CORPORATION

By: _____
Chair

Copies to:

Wellington H. Meffert II
General Counsel
Florida Housing Finance Corporation
337 North Bronough Street, Suite 5000
Tallahassee, FL 32301

Linda Loomis Shelley, Esq.
Karen A. Brodeen, Esq.
Fowler White Boggs PA
101 North Monroe Street, Suite 1090
Tallahassee, FL 32301

Diane Tremor, Hearing Officer
Sundstrom Friedman & Fumero LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 300 MARTIN LUTHER KING, JR., BLVD., TALLAHASSEE, FLORIDA 32399-1850, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Exhibit A

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

DDC INVESTMENTS, LTD
d/b/a DENISON DEVELOPMENT
FLORIDA, LTD.,
Petitioner,

vs.

FHFC Case No. 2012-014UC
Application No. 2011-137C

FLORIDA HOUSING FINANCE
CORPORATION,
Respondent.

_____/

RECOMMENDED ORDER

Pursuant to notice and Sections 120.569 and 120.57(2), Florida Statutes, the Florida Housing Finance Corporation, by its duly designated Hearing Officer, Diane D. Tremor, held an informal hearing in Tallahassee, Florida, in the above captioned proceeding on May 10, 2012.

APPEARANCES

For Petitioner:
Linda Loomis Shelley
Karen A. Brodeen
Fowler White Boggs, PA
101 North Monroe Street, Suite 1090
Tallahassee, Florida 32301

For Respondent:
Wellington H. Meffert, II
General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Ste. 5000
Tallahassee, FL 32301-1329

STATEMENT OF THE ISSUES

There are no disputed issues of material fact. The issues for determination in this proceeding are whether Petitioner's application was entitled to receive additional points for Local Government Support and for proximity to a medical facility.

PRELIMINARY STATEMENT

At the informal hearing, the parties stipulated to the admission into evidence of Joint Exhibits 1 through 8 and to Petitioner's Exhibit 1. Joint Exhibit 1 is a Joint Stipulation of Facts and Exhibits. That document basically describes the application process and the circumstances regarding the scoring of Petitioner's application with regard to the issues in dispute. The Joint Stipulation of Facts and Exhibits (Joint Exhibit 1) is attached to this Recommended Order as Attachment A, and the facts recited therein are incorporated in this Recommended Order.

At the informal hearing, Petitioner adopted its oral argument presented during the informal hearing, conducted by the undersigned Hearing Officer on the same date, in the case entitled *DDC Investments, Ltd d/b/a Denison Development Florida, Ltd. v. Florida Housing Finance Corporation,* FHFC Case No. 2011-015UC, Application No. 2011-136C, regarding the Applicant's eligibility to receive scoring points for a Local Government Contribution, as evidenced by Exhibit 38 of the application. Subsequent to the hearing, the parties timely

submitted their Proposed Recommended Orders, which have been fully considered by the undersigned.

FINDINGS OF FACT

Based upon the undisputed facts and documents received into evidence at the hearing, the following relevant facts are found:

1. The Petitioner, DDC Investments, LTD d/b/a Denison Development Florida, LTD., submitted Application Number 2011-014C in Florida Housing's 2011 Universal Cycle seeking low income rental housing tax credits for its project known as Merritt at Highland Park. (Joint Exhibit 1)

Local Government Contribution

2. The 2011 Universal Application Instructions, at Part IV.A, allow applicants to receive five (5) points for a Local Government Contribution, which includes a loan. The Instructions further provide, at pages 93-94, that: "State, federal or Local Government funds initially obtained by or derived from a Local Government qualify as a Local Governmental contribution even though the funds are directly administered by an intermediary, such as a housing finance authority . . ." To be entitled to such points, Applicants are required to submit, as Exhibit 38, a form entitled "Local Government Verification of Contribution – Loan." That form states that the Certification on the form:

> "must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this Certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this Form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary, such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatures are not acceptable. . . .

The upper portion of the form requires the completion of spaces for the "name of the City or County" which committed to the loan amount on or before the Application Deadline and the amount of the commitment (loan amount). The form also contains a space for the name of a government contact who can verify the contribution. (See Joint Exhibit 2)

3. As part of its initial application, Petitioner submitted, as its Exhibit 38, an executed "Local Government Verification of Contribution – Loan" form, stating in the space labeled "Name of City or County" that the "Saint Petersburg Housing Authority" committed $120,000.00 in the form of a reduced interest rate loan to the Applicant. The St. Petersburg Housing Authority was listed as the name of the government contact, and the Certification on the form was signed by the Chairman, Joseph T. Lettelleir. (Joint Exhibit 2)

4. In its preliminary scoring of Petitioner's application, Florida Housing awarded Petitioner the maximum five (5) points for Local Government Contributions under Part IV, A. (Joint Exhibit 4)

5. After the preliminary scoring, competing applicants submitted Notices of Proposed Scoring Errors ("NOPSEs") to Florida Housing challenging the award of the maximum five points awarded to Petitioner for Local Government Contributions. The NOPSEs raised objections that the Chairman of the Saint Petersburg Housing Authority was not authorized to sign the Certification on Exhibit 38 and that the Saint Petersburg Housing Authority is ineligible to provide a local contribution loan for purposes of Exhibit 38 because it is not a county or municipality. The NOPSEs contained documentation raising a question as to whether the City of St. Petersburg approved the loan commitment. (Joint Exhibit 5)

6. Thereafter, Petitioner submitted two Cure forms regarding its initially submitted Exhibit 38. One Cure form urged that the Saint Petersburg Housing Authority is eligible as a source of Local Government Contribution, and the other urged that Joe Lettelleir, as Chairman of the Board of the Saint Petersburg Housing Authority appointed by the Mayor of St. Petersburg, is the appropriate person to sign the Certification attached to the Form included as Exhibit 38. However, the Petitioner attached to its Cure a "Substitute Exhibit 38" with notation: "Should

FHFC reject signature by Chief Appointed Official Joe Lettelleir." The Certification on the revised Exhibit is signed by Darrell Irions, Chief Executive Officer, and the person listed as the government contact is Darrell Irions. That Exhibit is otherwise identical to the Petitioner's originally submitted Exhibit 38. (Joint Exhibit 6)

7. In its final scoring of Petitioner's application, Florida Housing did not award Petitioner any points for a Local Government Contribution under Part IV.A. As reasons for that determination, Florida Housing stated that "the funding committed was not from the City/County, but from the Saint Petersburg Housing Authority," that Petitioner's Exhibit 38 "does not indicate if the funding commitment is from the city or county and it is still signed by the St. Petersburg Housing Authority," and that the form "must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Counsel/Commission [sic] or Chairperson of the Board of County Commissioners." (Joint Exhibit 8)

Proximity to Medical Facility

8. Part III, Section A, subsection 10 of the 2011 Universal Application Instructions allows applicants in the Housing Credit Program to receive a maximum of four (4) proximity tie-breaker points for the project's physical

proximity to a medical facility. A "Medical Facility" is defined in the Instructions, in relevant part, as

> a hospital, state or county health clinic or walk-in clinic (that does not require a prior appointment) that provides general medical treatment or general surgical services at least five days per week to any physically sick or injured person.

(Instructions, page 34) The Instructions further provide that applicants are entitled to provide information for only one of each type of eligible service, such as a medical facility, and that if information is provided for more than one type of such service, no proximity tie-breaker points will be awarded for that type of service. (Instructions, page 33)

9. In order to demonstrate proximity to a medical facility, Petitioner submitted as a part of its initially filed application Exhibit 25 listing the Richard E. Hosking Health Center. (Joint Exhibit 3)

10. In its preliminary scoring of Petitioner's application, Florida Housing awarded Petitioner the maximum 4.0 points for proximity to a medical facility. (Joint Exhibit 4)

11. A competing applicant filed a Notice of Possible Scoring Error ("NOPSE") regarding the eligibility of the Richard E. Hosking Health Center to be considered a "medical facility" as defined in the Instructions. The NOPSE included information from the Pinellas County Health and Services website about the County's Health Plan, which Plan is accepted by Richard E. Hosking Health

Center and does not provide information about the full range of medical services provided by the Hosking Health Center. (Joint Exhibit 5) As stipulated by both parties herein, the "information provided in the NOPSE is facially misleading." (Joint Exhibit 1, page 9, paragraph 32)

12. In response to the NOPSE, Petitioner submitted Cure documentation. This documentation included an explanation of the misleading nature of the documentation attached to the NOPSE by a competing applicant (to wit: a description of a County Health Plan), and stated that the Hosking Health Center offers services to individuals regardless of whether they are enrolled in the County Health Plan. In its Cure, Petitioner reasserted its position that the Hosking Health Center qualifies for proximity points and requested the reinstatement of four (4) points for that eligible medical facility. As part of its Cure, Petitioner included a "Substitute Exhibit 25" "should FHFC reject Richard E. Hosking Health Center." The "Substitute" Exhibit 25 names St. Anthony's Hospital as the medical facility claimed for proximity points. (Joint Exhibit 6)

13. A competing applicant submitted a Notice of Additional Deficiencies ("NOAD") regarding Petitioner's Cure documentation, arguing that the Cure submitted two different medical facilities for consideration and that the Instructions prohibit multiple locations. (Joint Exhibit 7)

14. In its final scoring of Petitioner's application, Florida Housing awarded Petitioner only 3.5 proximity tie-breaker points for proximity to a medical center. (Joint Exhibit 8) As stipulated by the parties, the 3.5 point score reflects an award based on the distance between St. Anthony's Hospital and the proposed project site. (Joint Exhibit 1, page 9, paragraph 31)

15. The parties have stipulated that the Hosking Health Center qualifies as a "Medical Facility," as that term is described in the Instructions. (Joint Exhibit 1, page 10, paragraph 33) The parties have further stipulated that

> In its Cure, Petitioner was careful to note that the information provided regarding St. Anthony's Hospital is a "Substitute Exhibit 25" "Should FHFC reject Richard E. Hosking Health Center." Alternate Exhibit 25's explanatory text clarified that Florida Housing was first to reconsider original exhibit.

(Joint Exhibit 1, pages 10-11, paragraph 37)

CONCLUSIONS OF LAW

Pursuant to Sections 120.569 and 120.57(2), Florida Statutes, and Chapter 67-48, Florida Administrative Code, the Informal Hearing Officer has jurisdiction of the parties and the subject matter of this proceeding. Because Florida Housing determined that Petitioner was not entitled to receive five (5) points for a Local Government Contribution , and was entitled to only 3.5 (as opposed to 4.0) points for proximity to a medical facility, Petitioner's substantial interests are affected by Florida Housing's proposed agency action.

There are two issues for determination in this proceeding. The first is whether Petitioner submitted sufficient documentation regarding a Local Government Contribution. More specifically, the issue is whether Petitioner's Exhibit 38 complied with the Application Instructions and the forms prescribed by Florida Housing's rules. The second issue is whether Petitioner's application should receive 4.0 points for proximity to a medical facility known as the Richard E. Hosking Health Center, as opposed to 3.5 points for proximity to St. Anthony's Hospital.

Local Government Contribution

The Universal Application Package or UA 1016 (Rev. 2-11), which includes the application forms and the Application Instructions, is adopted by Rule 67-48.004(1)(a), Florida Administrative Code. As applicable to the issues raised in this proceeding regarding a local government contribution in the form of a loan, the Instructions, at pages 93 and 94, provide, in part, that

> State, federal, or Local Government **funds initially obtained by or derived from a Local Government qualify** as a Local Government Contribution even though the funds are directly administered by an **intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Corporation** . . . . Local Government contributions that have not received final approval will not qualify as a Local Government contribution for purposes of this Application. (Emphasis supplied)

The Instructions further provide, at page 93, that Applicants must provide the Local Government Verification of Contribution – Loan form behind a tab labeled "Exhibit 38," and that said form must reflect the effective date of the Local Government commitment, which date must be on or before the Application Deadline. This last requirement is reflected on the printed form. After spaces provided for the name of the development and the development location, the form states: "On or before the Application Deadline for the 2011 Universal Application Cycle . . . **the City/County** of _____ committed $_____ in the form of a reduced interest rate loan to the Applicant . . ." Under the two blank spaces are the words **"Name of City or County"** and "loan amount".

The Local Government Verification of Contribution – Loan form provides a listing of persons authorized to sign the form "for certification of state, federal or Local Government funds **initially obtained by or derived from a Local Government that is directly administered by an intermediary** such as a housing finance authority, . . . " (Emphasis supplied) That same portion of the form states the persons authorized to sign the Certification, including "the chief appointed official (staff) responsible for such approval," and states that "[o]ther signatories are not acceptable," and that "[t]he Applicant will not receive credit for this contribution if the certification is improperly signed."

Apart and separate from the issue of who may sign the Certification appearing on the form is the requirement, stated both in the Application Instructions and the form, that the funds committed must be "initially obtained by or derived from a Local Government." As demonstrated by the language emphasized in bold type above, this repeated requirement is clear and unambiguous.

Petitioner argues that there is nothing on the form or any other part of the Application which inquires about the origin of the loan claimed as a contribution from local government. That is not correct. The form specifically requests the name of the City or County which committed the loan on or before the Application Deadline. In addition, the Certification of the truth and correctness of the information provided on the form references "funds initially obtained by or derived from a Local Government". The Instructions provide: "Local Government contributions that have not received final approval will not qualify as a Local Government contribution for purposes of this Application." Moreover, both the Instructions and the form refer to funds "directly administered by an intermediary." An "intermediary" is defined in *Random House Webster's College Dictionary* (2000) as an "intermediate agent or agency; a go-between or mediator." An "intermediate" is "being, situated or acting between two points, stages, things, persons, etc." Thus, to be qualified to administer funds proposed for the loan, the

St. Petersburg Housing Authority would have to be acting "between" the local government and the Applicant in this case. It again follow that the submission of a properly completed and executed Verification form is intended to be an affirmation that the funds proposed for the loan were initially obtained by a City or a County.

Importantly, Petitioner makes no argument in this proceeding, nor did it submit any information in its Application, that local government (i.e., the City or the County) was the source of the funds proposed to be loaned to the Petitioner. Petitioner did not address in its CURE materials the allegations and documents submitted with the NOPSEs suggesting that the funds proposed for a loan were not initially obtained by or derived from the City of St. Petersburg. Instead, as it did at the informal hearing, Petitioner argued that it was proper for the St. Petersburg Housing Authority, through its "chief appointed official (staff)" to execute the form entitled Local Government Verification of Contribution – Loan.

The undersigned agrees that the language on the Certification portion of the form describing the individual authorized to execute the form, which language is different than that appearing on prior versions of the form (see Petitioner's Exhibit 1) permits a "chief appointed official (staff)" of an entity other than a City or a County to execute the form. However, that begs the issue. The person or entity signing the form must be acting as an "intermediary" in the administration of funds initially obtained by or derived from a City or a County. Petitioner's original and

revised Exhibit 38 fail to demonstrate that required fact. Accordingly, Petitioner was entitled to no points for the Local Government Contribution sought through its Exhibit 38.

Proximity to Medical Facility

The parties have stipulated that the Richard E. Hosking Health Center submitted for proximity tie-breaker points in Petitioner's initial application in Exhibit 25 qualifies as a "medical facility" under Florida Housing's rules, and that the NOPSE addressing that facility was misleading. The parties have also stipulated that Petitioner's Cure documentation made clear that its Substitute Exhibit 25 identifying St. Anthony's Hospital for proximity points was to be considered only if the Hosking Health Center was rejected by Florida Housing. (See Finding of Facts, Paragraphs 9 and 15) Accordingly, there is no factual dispute regarding these matters.

The issue then becomes whether Florida Housing was required to consider only Petitioner's "Substitute Exhibit 25" identifying St. Anthony's Hospital for proximity points, submitted as a Cure as a result of a misleading NOSPE, or was entitled to rely upon Petitioner's originally submitted Exhibit 25. In resolving this issue, several rules come into play. The first is found in the Application Instructions prohibiting applicants from submitting more than one medical facility for proximity tie-breaker points. (Instructions, page 33) It is obvious that Florida

Housing did not penalize Petitioner under the auspices of this rule since it awarded points only for St. Anthony's Hospital. The second is Rule 67-48.006, Florida Administrative Code, which allows Applicants to "cure" their applications by submitting "additional documentation, revised pages and such other information" deemed appropriate to address issues raised in preliminary scoring and NOPSE decisions. That same Rule further provides that a new form, page or exhibit provided during the cure period will be considered a replacement of a previously submitted form, page or exhibit.

There is nothing in Florida Housing's rules which specifically allows applicants to provide alternative cures. That, however, is not what happened in this case. Instead, the Petitioner submitted a Cure which explained the misleading NOPSE, reasserted its position that the Hosking Health Center qualified as a "medical facility" and submitted a "Substitute Exhibit 25" if the Hosking facility as rejected. (Joint Exhibit 6) Petitioner was not asking Florida Housing to award points for two medical facilities, nor was Petitioner asking Florida Housing to choose the best medical facility as between the Hosking Health Center and St. Anthony's Hospital, thereby causing Florida Housing to "assist" an applicant contrary to Rule 67-48.004(1)(b). Stated differently, Petitioner's Cure materials did not request Florida Housing to consider the two medical facilities concurrently and then choose which one to score. As demonstrated by Joint Exhibit 6, Petitioner's

Cure submittal was clearly requesting Florida Housing to first reconsider its initially submitted Exhibit 25 as eligible for 4.0 proximity tie-breaker points. As noted above, the parties have so stipulated. Although Florida Housing's rules do not specifically address this situation, surely Florida Housing has the ability and authority to reconsider its decisions made during the application scoring process, even if that reconsideration involves the same documents previously reviewed. The fact that Petitioner also submitted a "Substitute Exhibit 25" to be considered only if its prior Exhibit were rejected does not preclude a review of Florida Housing's initial decision regarding that initial Exhibit. To apply a very strict and literal application of Rule 67-48.004(6), stating that new exhibits are to be considered a replacement of previous exhibits, under the facts of this case would be unreasonable. Moreover, it would frustrate an applicant's right to obtain meaningful administrative review of Florida Housing's proposed agency action, contrary to the Administrative Procedure Act and Florida Housing's Rule 67-48.005(1), Florida Administrative Code.

In summary, Petitioner was entitled to receive 4.0 proximity tie-breaker points for its proximity to the Richard E. Hosking Health Center based upon Petitioner's initially submitted Exhibit 25. Under the specific facts of this case, including the stipulation of facts by the parties, Petitioner's "Substitute Exhibit 25"

naming a different medical facility for proximity points did not vitiate its original request that 4.0 points be awarded for proximity to the Hosking Health Center.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law recited herein, it is RECOMMENDED that a Final Order be entered awarding Petitioner's application no points for a Local Government Contribution and 4.0 proximity tie-breaker points for proximity to a medical facility.

Respectfully submitted this 23rd day of May, 2012.

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NOTICE OF RIGHT TO SUBMIT WRITTEN ARGUMENT

In accordance with Rule 67-48.005(3), Florida Administrative Code, Applicants have the right to submit written arguments in response to a Recommended Order for consideration by the Board. Any written argument should be typed, double-spaced with margins no less than one (1) inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five (5) pages, excluding the caption and certificate of service. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m. five (5) calendar days from the date of issuance of the Recommended Order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to Recommended Orders.

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

DDC INVESTMENTS, LTD.
d/b/a DENISON DEVELOPMENT
FLORIDA, LTD.,

Petitioner,

v.

FHFC CASE NO.: 2012-014UC
Application No. : 2011-137C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____/

JOINT STIPULATION OF FACTS AND EXHIBITS

Petitioner, DDC Investments, Ltd. ("Petitioner"), and Respondent, Florida Housing Finance Corporation ("Florida Housing"), by and through undersigned counsel, submit this stipulation for purposes of expediting the informal hearing scheduled for May 10, 2012, in Tallahassee, Florida, and agree to the findings of fact and to the admission of the exhibits described below.

THE PARTIES

1. Petitioner is DDC Investments, Ltd. d/b/a Denison Development Florida, Ltd., which is authorized by the Florida Department of State to conduct business in the State of Florida as a foreign limited partnership. Its business address is 2520 Longfellow Street, Suite 310, Austin Texas, 78705. For purposes of this proceeding, Petitioner's address is that of its undersigned counsel, Linda Loomis Shelley, Esquire, Fowler White Boggs, PA, 101 North

Attachment A

Monroe Street, Suite 1090, Tallahassee, Florida, 32301; telephone number (850) 681-4260, facsimile number (850) 681-3381.

2. Florida Housing is a public corporation, with its address at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida. Section 420.504, F.S.

BACKGROUND

3. Florida Housing administers various affordable housing programs including the Housing Credit (HC) Program pursuant to Section 42 of the Internal Revenue Code and Section 420.5099, F.S., under which Florida Housing is designated as the HC agency for the state of Florida within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code, and Rule Chapter 67-48, F.A.C.; and

4. The 2011 Universal Cycle Application, through which affordable housing developers apply for low income rental housing tax credits under the above-described affordable housing program administered by Florida Housing, together with Instructions and Forms, comprise the Universal Application Package or UA1016 (Rev. 2-11) adopted and incorporated by Rule 67-48.004(1)(a), F.A.C.

5. Because the demand for HC tax credits exceeds that which is available, qualified affordable housing developments must compete for this funding. To assess the relative merits of proposed developments, Florida Housing has established a competitive application process known as the Universal Cycle pursuant to Rule Chapter 67-48, F.A.C. Specifically, Florida Housing's application process for the 2011 Universal Cycle, as set forth in Rule 67-48.001-.005, F.A.C., involves the following:

a. the publication and adoption by rule of a "Universal Application Package," which applicants use to apply for funding under the HC and HOME Programs administered by Florida Housing;

b. the completion and submission of applications by developers;

c. Florida Housing's preliminary scoring of applications (preliminary scoring summary);

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 (NOPSE scoring summary) 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 was deemed to have failed to satisfy threshold or 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 (final scoring summary) to applicants of any resulting change in their scores;

i. an opportunity for applicants to challenge, by informal or formal administrative proceedings, Florida Housing's evaluation of any item in their own application for which the applicant was deemed to have failed to satisfy threshold or received less than the maximum score;[1]

j. final scores, ranking of applications, and award of funding to successful applicants, including those who successfully appeal the adverse scoring of their application; and

k. an opportunity for applicants to challenge, by informal or formal administrative proceedings, Florida Housing's final scoring and ranking of competing applications where such scoring and ranking resulted in a denial of Florida Housing funding to the challenging applicant.

[1] This proceeding is the subject of such a challenge.

PETITIONER'S APPLICATION AND SCORING ISSUES

6. FHFC prepared the application package for the competitive 2011 Universal Cycle. The application package is adopted by reference in FHFC Rule 67-48.004(1)(a), Fla. Admin. Code, and includes the application form, application exhibit forms, and application instructions ("Instructions").

7. During the 2011 Universal Cycle, DDC submitted an application for Merritt at Highland Park to qualify for low income rental housing tax credits ("Application").

Exhibit 38

8. With respect Part IV, Section A, the applicable type of local government contribution is a loan. Form 38 is entitled and described in the application form as "Local Government Verification of Contribution-Loan Form." As required by the Application, Form 38 was completed and included behind a tab attached as "Exhibit 38."

9. The Instructions for Part IV, Section A of the 2011 Universal Application state that an applicant is entitled to five points for a Local Government contribution (loan) if: 1) the dollar amount has a value equal to or greater than the amounts on the County Contribution List; 2) such contribution is demonstrated by providing the properly completed applicable form; and 3) there is an attachment that either shows, as applicable, the payment stream for all present value calculations or the calculations by which the total amount of each waiver is determined. Instructions, at 92-93.

10. . The Instructions further advise:

> State, federal or Local Government funds initially obtained by or derived from a Local Government qualify as a Local Governmental contribution **even though the funds are directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization,** provided that they otherwise meet the requirements set forth in this Application, including those relating to the

executed verification form. Local Government contributions that have not received final approval will not qualify as a Local Government contribution for purposes of this Application. **The following will not qualify as a Local Government Contribution: (i) a contribution from an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer and (ii) HOPE VI funds.**

Instructions, at 93-94 (emphasis added).

11. The loan verification form reiterates that an entity other than a county or municipality may administer the local government contribution:

> This certificate must be signed by the chief appointed chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager, Administrator Coordinator, Chairperson of the City Council Commission or Chairperson of the Board of County Commissioners... One of the authorized persons named may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that **is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO).**
>
> Form 38 (emphasis added).

12. Petitioner timely submitted its application for financing in FHFC's 2011 Universal Cycle. The completed loan verification form submitted by Merritt at Highland Park as Exhibit 38 states that the "Government Contact" is the Saint Petersburg Housing Authority and it is executed by the Chairman of the Saint Petersburg Housing Authority, Joseph Lettelleir.

13. In the preliminary scoring, Petitioner was awarded the maximum five points for Part IV, Section A and a total score of 79 points.

14. After the preliminary scoring, applicants were provided the opportunity to submit Notices Of Proposed Scoring Errors ("NOPSEs") to FHFC challenging specific section scores awarded to other applications. NOPSEs filed by certain other applicants disputed the maximum five points awarded preliminarily for Part IV, Section A to Merritt at Highland Park.

15. The Application received NOPSEs raising objections that the signature of the Chairman of the Saint Petersburg Housing Authority is not eligible to sign Form 38 and that the Saint Petersburg Housing Authority is ineligible to provide a local contribution loan for purposes of Form 38 because it is not a county or municipality.

16. After review of the NOPSEs, Petitioner submitted Cures pursuant to Rule 67-48.004(6), Fla. Admin. Code, which provides an applicant the opportunity to submit additional documentation, revised pages, and other information that it deems appropriate.

17. None of the NOPSEs disputed the adequacy of the dollar amount of the loans, which is required to be at least equal to the amount listed in the County Contribution List, nor the Proposed Repayment Schedule included in Exhibit 38.

18. In the March 2012 Scoring Summary Report, Merritt at Highland Park received zero points for Part IV, Section A. The scoring sheet attributes the revised scoring to have been created as a result of the NOPSE process, as follows:

> The Local Government Verification of Contribution – Loan form must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Counsel/Commission or Chairperson of the Board of County Commissioners. Therefore, zero points were awarded and the Applicant was not eligible for automatic points.
>
> The Applicant received zero points for the Local Government Verification of Contribution – Loan form because the funding committed was not from the City/County, but from the Saint Petersburg Housing Authority. The Applicant was not eligible for automatic points.
>
> March 2012 Scoring Summary Report, Merritt at Highland Park, at 2.

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
11S	The Local Government Verification of Contribution- Loan form must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager/Administrator/Coordinator, Chairperson of the City Counsel/Commission or Chairperson of the Board of County Commissioners. Therefore, zero points were awarded and the Applicant was not eligible for automatic points.	NOPSE	
11S	The Applicant received zero points for the Local Government Verification of Contribution - Loan form because the funding committed was not from the City/County, but from the Saint Petersburg Housing Authority. The Applicant was not eligible for automatic points.	NOPSE	

19. The March 2012 Scoring Summary Report provides the following additional comment regarding the final scoring of the Application:

> The Applicant attempted to cure Item 11S. However, the Local Government Contribution – Loan form does not indicate if the funding commitment is from the city or county and it is still signed by the St. Petersburg Housing Authority. Therefore, zero points were awarded. The Applicant does not qualify for automatic points.

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
5C	IV.	A.		Local Government Contributions	The Applicant attempted to cure item 11S. However, the Local Government Contribution - Loan form does not indicate if the funding commitment is from the city or county and it is still signed by the St. Petersburg Housing Authority. Therefore, zero points were awarded. The Applicant does not qualify for automatic points.	Final	

20.

Exhibit 25-Medical Facility

21. Part III, Section A, Subsection 10, of the 2011 Universal Application addresses proximity points and applies only to the competitive Housing Credit Program. Proximity points are used by FHFC as tie-breaker points.

22. Subsection 10. a. addresses Tier One services. One of the eligible Tier One services is "Medical Facility." A "Medical Facility" is defined in the Instructions, in relevant part, as follows:

> For purposes of proximity tie-breaker points, a Medical Facility means a hospital, state or county health clinic or walk-in clinic (that does not require a prior appointment) that provides general medical treatment or general surgical services at least five days per week to any physically sick or injured person. This service

may be selected by all Applicants regardless of the Demographic Commitment selected at Park III.D. of the Application.

23. The Application identifies and describes the "Richard E. Hosking Health Center" ("Hosking Health Center") as qualifying for Medical Facility proximity tie-breaker points. Exhibit 25 of the Application is a completed Form 25 entitled "SURVEYOR CERTIFICATION FOR COMPETITIVE HC APPLICATIONS."

24. Exhibit 25 was executed by Greg Nipper, a Florida licensed surveyor. Included in Exhibit 25 is a map depicting various proximate eligible services, including a Proximity Sketch showing that the Hosking Health Center is located 0.087 miles from the Merritt at Highland Park project site.

25. The Application received a preliminary score of the maximum four points for the Medical Facility portion of the proximity tie-breaker points.

26. After the preliminary scoring, the Application received a NOPSE disputing whether the Hosking Health Center qualifies as a Medical Facility. In its NOPSE, Application 2011-182C contends that the Health Center "is a county medical clinic, but does not provide general medical treatment to any physically sick or injured person." The NOPSE includes information from the Pinellas County Health and Services ("PCHS") website about the County's health plan. The PCHS website provides a description of the Pinellas County Health Plan, including its one stop health care "medical home" program; lists qualification criteria for Pinellas County Health Plan services; and provides addresses of "medical homes" and "Health Department sites."

27. After review of the NOPSE, FHFC revised the Medical Facility score from a proposed award of four points to zero points.

28. The Cure also includes Substitute Exhibit 25, which is an alternative "SURVEYOR CERTIFICATION FOR COMPETITIVE HC APPLICATIONS" executed by Surveyor Greg Nipper that includes information about St. Anthony's Hospital. The substitute exhibit was submitted by DDC for consideration in the event that FHFC determined that the Hosking Health Center did not qualify for proximity tie-breaker points.

29. After the Cure was filed, Application 2011-182C filed a Notice of Additional Deficiencies ("NOAD") arguing that the Cure submitted two different locations for consideration and that the Instructions prohibit multiple locations. The NOAD did not dispute or otherwise address the substantive information provided in the Cure about the Hosking Health Center.

30. In the March 2012 Scoring Summary Report, Merritt at Highland Park received 3.5 points for Medical Facility proximity tie-breaker points.

31. Although the Scoring Summary Report does not state that FHFC awarded proximity points based on St. Anthony's Hospital, the revised final score of 3.5 reflects an award based on the distance between St. Anthony's Hospital and the proposed project site. The scoring sheet attributes the revised scoring to have been created as a result of NOPSE because "Evidence provided in a NOPSE calls into question whether the Medical Facility listed on the Surveyor's Certification for Competitive HC Applications form provides general medical treatment or general surgical services to any physically sick or injured person."

32. The information provided in the NOPSE is facially misleading. It provides qualification criteria for a particular health plan offered by the Pinellas County Health Plan services, its Medical Home Health Plan, which is accepted at the Hosking Health Center. The NOPSE does not provide information about the full range of medical services provided by the Hosking Health Center, including to those not covered by the Medical Home Health Plan.

33. As stated in the Cure, the Hosking Health Center is available to individuals who are not enrolled in the Medical Home Health Plan, provides a wide range of medical services that qualify it as a "full health clinic," does not require a prior appointment, and is open Monday through Friday from 7:30 a.m. to 5:00 p.m. Exhibit A to the Cure is a page from the Pinellas County Health Department that describes the Hosking Health Center and lists its range of medical services. It does not state that its services are limited to those that are enrolled in the Medical Home Health Plan. Based on information provided in the Cure, the Hosking Health Clinic qualifies as a "Medical Facility," as that term is described in the Instructions.

34. The Instructions provide, at page 33: Applicants are limited to one (1) of each type of Tier 1 Service. If the Applicant provides information for more than one (1) of each type of Tier 1 Service, the Tier 1 Service will not be scored and the Applicant will not receive any proximity tie-breaker points for that Tier 1 Service. A medical facility is a Tier 1 service.

35. Rule 67-48.004(6), F.A.C., provides: Each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate ("cures") to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available.

36. Rule 67-48.004(6), F.A.C, further provides that '[a] new form, page or exhibit provided to the Corporation during this period shall be considered as a replacement of that form if such form, page or exhibit was previously submitted in the Applicant's Application."

37. In its Cure, Petitioner was careful to note that the information provided regarding St. Anthony's Hospital is a "Substitute Exhibit 25" "Should FHFC reject Richard E Hosking Health

Center." Alternate Exhibit 25's explanatory text clarified that Florida Housing was first to reconsider original exhibit.

38.

OFFICIAL RECOGNITION OF RULES

40. The parties request the Honorable Hearing Officer take official recognition (judicial notice) of Rule Chapter 67-48, Fla. Admin. Code, as well as the incorporated Universal Application Package or UA1016 (Rev. 2-11) which includes the forms and instructions.

41. The parties stipulate, subject to arguments on the grounds of relevance, to the official recognition of any Final Orders of the Florida Housing Finance Corporation and to any Rules promulgated by the Florida Housing Finance Corporation, including past and present versions of the Universal Cycle Application, Instructions, and any forms and exhibits attached thereto or incorporated by reference therein.

EXHIBITS

The parties offer the following joint exhibits into evidence and stipulate to their authenticity, admissibility and relevance in the instant proceedings, except as noted below:

Exhibit J-1: This Joint Stipulation of Facts and Exhibits.

Exhibit J-2: Petitioner's Exhibit 38 to original Application (Local Government Verification of Contribution-Loan)

Exhibit J-3: Petitioner's Exhibit 25 to original Application (Surveyor Certification for Competitive HC Applications)

Exhibit J-4: 2011 Universal Cycle Scoring Summary Report (Preliminary), dated January 19, 2012.

Exhibit J-5: Notices of Possible Scoring Error (NOPSE's) 387, 435, and 516 filed on Application No. 136C

Exhibit J-6: Petitioner's Cures and alternative Exhibits 38 and 25 (Local Government Verification of Contribution-Loan; Surveyor Certification for Competitive HC Applications)

Exhibit J-7: Notices of Alleged Deficiency (NOAD's) 841, 875, and 933 filed regarding Petitioner's Application Exhibits 38 and 25

Exhibit J-8: 2011 Universal Cycle Scoring Summary Report (Final), dated March 27, 2012.

Petitioners' Exhibits:

Composite Exhibit 1: Silver Sands 2007 Universal Cycle documents (Application Ex. 43; NOPSE; Cure; 2011 Universal Cycle Scoring Summary Report Dated May 9, 2007)

Respectfully submitted this 10th day of May, 2012.

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