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FINANCE CORPORATION

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

HTG OASIS II, LLC,

Petitioner,

CASE NO. 2023-092BP  
Application #2024-152C

v.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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

HTG OASIS II, LLC (“Petitioner”) files this Formal Written Protest and Petition for Administrative Hearing (“Petition”) pursuant to sections 120.57(1) and (3), Florida Statutes, and Rules 67-60 and 28-110.004, Florida Administrative Code (“F.A.C.”), to challenge the eligibility determinations, evaluations and proposed allocations set forth in the Notice of Intended Decision posted on October 27, 2023, by Respondent, Florida Housing Finance Corporation (“Florida Housing”), relative to *Request for Applications 2023-202 Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties* ( the “RFA”).

Parties

1. Petitioner is a Florida limited liability company engaged in the business of providing affordable housing. Petitioner's address is 3225 Aviation Avenue, 6th Floor, Coconut Grove, Florida 33133. Petitioner filed a response to the RFA seeking tax credit funding for its proposed affordable housing project, Oasis at Hollywood which was assigned application number

#2024-152C (“Petitioner’s Application.”) For purposes of this proceeding, Petitioner’s address, telephone number and email address are those of its undersigned counsel.

2. Florida Housing is the affected agency. Florida Housing’s address is 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301. Florida Housing’s RFA number is 2023-202 and Petitioner’s Application was assigned application #2024-152C.

3. Florida Housing is a public corporation created by Section 420.504, Florida Statutes, to administer the governmental function of financing or refinancing affordable housing and related facilities in Florida.

#### Notice

4. Petitioner received notice of Florida Housing’s intended decision to award funding pursuant to the RFA on October 27, 2023, when Florida Housing posted RFA 2023-202 Board Approved Preliminary Awards and the Board Approved Scoring Results on its website. Petitioner’s Application was deemed eligible but was not included in the applications selected for a preliminary funding award. For the reasons set forth below, Petitioner contends that its Application should have been selected for funding.

5. Petitioner timely filed its Notice of Intent to Protest Florida Housing’s intended award decisions on November 1, 2023. See Exhibit A.

#### Background

6. Florida Housing administers several programs aimed at assisting developers in building affordable housing in the state in an effort to protect financially marginalized citizens from excessive housing costs. A portion of the units constructed with funding from these programs must be set aside for residents at or below a specified percentage of area median income.

7. One of the programs through which Florida Housing allocates resources to fund affordable housing is the State Housing Credit Program (the “Tax Credit Program”), which is established in Florida under the authority of Section 420.5093, Florida Statutes. Florida Housing is the designated entity in Florida responsible for allocating federal tax credits to assist in financing the construction or substantial rehabilitation of affordable housing.

#### The RFA

8. Chapter 67-60, F.A.C., establishes “the procedures by which the Corporation shall . . . [a]dminister the competitive solicitation process to implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.” See Rule 67-60.001(2), F.A.C.

9. On July 7, 2023, Florida Housing issued the RFA seeking applications for funding the development of affordable, multifamily housing in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties as specified in the RFA.

10. The RFA was issued by Florida Housing pursuant to and in accordance with Rules 67-60.001 and 67-60.003, F.A.C. as the competitive solicitation method for allocating funding to competing applicants. The RFA anticipates the award of up to an estimated \$24,011,240 of Housing Credits to be awarded to fund proposed developments located in Broward County, Duval County, Hillsborough County, Orange County, Palm Beach County, and Pinellas County. See RFA, p. 2. Applications in response to the RFA were due by 3:00 p.m. on September 13, 2023 (the “Application Deadline”).

11. Petitioner, and numerous other applicants timely submitted responses to the RFA requesting financing for their proposed affordable housing projects. Petitioner’s Application

sought funding for Oasis at Hollywood (“Oasis”), in Broward County. Petitioner’s Application satisfied all of the required elements of the RFA and is eligible for a funding award.

12. The RFA sets forth the information required to be submitted by an applicant and provides a general description of the type of projects that will be considered eligible for funding. All applicants must meet the requirements set forth in the RFA, include as part of their applications the specified exhibits and comply with the requirements of Chapter 67-60, 67-48 and 67-53, Florida Administrative Code. The RFA also delineates the funding selection criteria and specifies that only those applications that meet all of the Eligibility Items will be eligible for funding and considered for funding selection. See RFA, p. 74-75.

13. The RFA has a stated goal to fund a certain number of applications within each of the following goals: Local Government Revitalization Plan, Geographic Areas of Opportunity/ SADDA, and Local Government Areas of Opportunity Designation. More specifically, the RFA provides:

a. Local Government Revitalization Plan

The Corporation has a goal to fund one Application proposing a Development that is part of a Local Government Revitalization Plan, as described in Section Four, A.5.f.(2) above, with a preference that it is a Priority 1 Application.

b. Geographic Area of Opportunity / SADDA

(1) The Corporation has a goal to fund one Family Application proposing a Development located in Broward County that qualifies for the Geographic Areas of Opportunity / SADDA Goal, with a preference that it is a Priority 1 Application.

(2) The Corporation has a goal to fund one Family Application proposing a Development located in Pinellas County that qualifies for the Geographic Areas of Opportunity / SADDA Goal, with a preference that it is a Priority 1 Application.

c. Local Government Areas of Opportunity Designation Goal

(1) The Corporation has a goal to fund one Application proposing a Development located in Duval, Hillsborough, Orange, and Palm Beach County that qualifies for the Local Government Areas of Opportunity Designation, with a preference that it is a Priority I Application.

(2) The Corporation has a goal to fund one Application proposing a Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier, with a preference that it is a Priority I Application.

See RFA, p. 76-77.

14. The RFA set forth a “Sorting Order” when selecting Applications to meet the above-referenced goals as follows:

a. Sorting Order when selecting Applications to meet the Local Government Area of Opportunity Funding Goal

When selecting Applications to meet the Local Government Area of Opportunity Funding Goal, the highest scoring Applications will be determined by first sorting together all eligible Priority 1 Applications that qualify for the goal from highest score to lowest score, with any scores that are tied separated in the following order. This will then be repeated for Priority 2 Applications that qualify for the goal:

(1) First, by the Application’s eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.b.(4) of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(2) Next, by the Application’s Leveraging Classification, applying the multipliers outlined in Item 3 of Exhibit C of the RFA (with Applications having the Classification of A listed above Applications having the Classification of B);

(3) Next, by the Application’s eligibility for the Florida Job Creation Funding Preference which is outlined in Item 4 of Exhibit C of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(4) And finally, by lottery number, resulting in the lowest lottery number receiving preference.

b. Sorting Order when selecting Applications to meet the Local Government Revitalization Plan Goal and the Geographic Area of Opportunity / SADDA Goal

For each goal, the highest scoring Priority 1 Applications within the county will be determined by first sorting together all eligible Priority 1 Applications that qualify for each goal from highest score to lowest score, with any scores that are tied separated in the following order. This will then be repeated for Priority 2 Applications that qualify for each goal:

(1) First, by the Application's eligibility for the Development Category Funding Preference which is outlined in Section Four A.4.b.(4) of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(2) Next, by the Application's Leveraging Classification, applying the multipliers outlined in Item 3 of Exhibit C of the RFA (with Applications having the Classification of A listed above Applications having the Classification of B);

(3) Next, by the Application's eligibility for the Proximity Funding Preference (which is outlined in Section Four A.5.e. of the RFA) with Applications that qualify for the preference listed above Applications that do not qualify for the preference;

(4) Next, by the Application's eligibility for the Florida Job Creation Funding Preference which is outlined in Item 4 of Exhibit C of the RFA (with Applications that qualify for the preference listed above Applications that do not qualify for the preference);

(5) And finally, by lottery number, resulting in the lowest lottery number receiving preference.

See RFA, pp. 78-79.

15. The RFA included the following funding selection process:

a. Local Government Revitalization Plan Goal

The first Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application that qualifies for the Local Government Revitalization Plan Goal.

If there are no eligible Priority 1 Applications that qualify for the Local Government Revitalization Plan Goal, then the highest-ranking eligible Priority 2 Application that qualifies for the Local Government Revitalization Plan Goal will be selected for funding.

b. Geographic Area of Opportunity / SADDA

(1) Broward County

The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development located in Broward County that qualifies for the Geographic Area of Opportunity/ SADDA Goal.

If there are no eligible Priority 1 Applications located in Broward County that qualify for the Geographic Area of Opportunity/SADDA Goal, then the highest-ranking eligible Priority 2 Application for a proposed Development located in Broward County that qualifies for the Geographic Area of Opportunity/ SADDA Goal will be selected for funding.

(2) Pinellas County

The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development located in Pinellas County that qualifies for the Geographic Area of Opportunity / SADDA Goal.

If there are no eligible Priority 1 Applications for a proposed Development located in Pinellas County that qualify for the Geographic Area of Opportunity / SADDA Goal, then the highest-ranking eligible Priority 2 Application located in Pinellas County that qualifies for the Geographic Area of Opportunity / SADDA Goal will be selected for funding.

c. Local Government Areas of Opportunity Designation Goal

(1) Duval, Hillsborough, Orange, and Palm Beach County

The next Application selected for funding will be the highest-ranking eligible unfunded Priority I Application proposing a Development located in Duval County that qualifies for the Local Government Areas of Opportunity Designation. This will be repeated for Hillsborough, Orange and Palm Beach County.

If any of the four counties were not credited with one award because there were no eligible Priority 1 Applications proposing Developments in the county that qualified for the goal, then the highest-ranking eligible Priority 2 Application in those counties without an award will be selected for funding.

(2) Broward County

The next Application selected for funding will be the highest-ranking eligible unfunded Priority 1 Application for a proposed Development

located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

If there are no eligible Priority 1 Applications located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier, then the highest-ranking eligible Priority 2 Application for a proposed Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

- d. If any of the six counties were not credited with at least one award in a., b. or c. above, then the highest-ranking eligible Priority 1 Application in those counties without an award will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

If any of the six counties were still not credited with at least one award in a., b. or c. above, nor were there any eligible Priority 1 Applications in the county, then the highest-ranking eligible Priority 2 Application in those counties without an award will be selected for funding. If this Application cannot be fully funded, the Application may be awarded a binding commitment.

- e. If funding remains, no additional Applications from any county will be selected for funding and any remaining funding will be distributed as approved by the Board.

See RFA, pp. 78-80.

16. The RFA further set forth the following Funding Selection Process:

- a. The first six Applications selected for funding will be the highest-ranking eligible unfunded Priority I Applications that qualifies for the Local Government Area of Opportunity Goal in each of the six counties that can be fully funded.

If there are no eligible Priority I Applications that qualify for the Local Government Area of Opportunity Goal in any of the six counties, then the highest-ranking eligible Priority II Application that qualifies for the Local Government Area of Opportunity Goal in those counties without an award will be selected for funding if the Application can be fully funded.

If any of the six counties were not credited with one award because there were no eligible Applications in the county that qualified for the goal, then the highest-



ranking eligible Priority I Application in those counties without an award will be selected for funding, if the Application can be fully funded.

If any of the six counties were still not credited with one award because there were no eligible Applications in the county that qualified for the goal, nor were there any eligible Priority I Applications in the county, then the highest-ranking eligible Priority II Application in those counties without an award will be selected for funding, if the Application can be fully funded.

b. No additional Applications from any county will be selected for funding and any remaining funding will be distributed as approved by the Board.

See RFA, p. 80.

17. A Review Committee comprised of Florida Housing staff was assigned to conduct the initial evaluation and scoring of the RFA responses. The Review Committee scored the applications and proposed a chart listing the eligible and ineligible applications. See Exhibit B. The Review Committee also applied the funding selection criteria set forth in the RFA to preliminarily allocate funding to eligible participants. The preliminary rankings and allocations were presented to and approved by the Florida Housing Board on October 27, 2023. See Exhibit C.

18. Eight (8) of the applications received in response to the RFA were preliminarily selected for funding. See Exhibit C. Petitioner's Application satisfied all of the required elements of the RFA and is eligible for funding but was not preliminarily selected for an award.

19. The RFA and applicable rules provide an opportunity for applicants to file administrative challenges to the scoring and rankings set forth in the preliminary allocations. After resolution of the administrative challenges, results will be presented to the Florida Housing Board for final approval prior to issuing invitations to the applicants in the funding range to enter the credit underwriting process.

20. A correct determination of the applications eligible for funding under the RFA has not been made. As a result of errors in the eligibility determinations, scoring and ranking process, applications that should have been deemed ineligible were included in the rankings and preliminary funding allocations posted on October 27, 2023.

21. The application submitted for the proposed development of Residences at Foxcroft Cove - application #2024-155C (hereafter “Foxcroft Cove”) was preliminarily deemed eligible and ranked higher than Oasis. Foxcroft Cove was preliminarily selected for funding as the proposed development in Broward County that qualified for the Geographic Areas of Opportunity/SADDA Goal. Foxcroft Cove’s application should be determined to be ineligible because it does not include a properly executed Applicant Certification and Acknowledgement Form, failed to demonstrate site control, and failed to properly disclose its principals.

22. Although not preliminarily selected for a funding award, Ekos Lauderhill - application #2024-143C (hereafter “Ekos”), would fall within the funding range based on the preliminary scores if Foxcroft Cove is determined to be ineligible. Ekos’ application is currently ranked higher than Oasis, but as set forth in more detail below, there are several errors in the scoring and ranking of that application that require either the application be disqualified and/or the points awarded to Ekos be reduced. If the points are reduced and/or Ekos is disqualified, Oasis would be the next highest ranked application eligible for a funding award.

23. The eligibility determinations and preliminary ranking of Foxcroft Cove and Ekos applications failed to take into account the failure of these applicants to meet certain mandatory Eligibility Items set forth in the RFA and applicable Rules and/or that they received the benefit of a funding preference and points in error. Under the terms of the RFA and Florida Housing’s rules,

Foxcroft Cove and Ekos are NOT eligible and Petitioner's Application should be awarded housing tax credits for its proposed development.

Substantial Interests Affected

24. Petitioner's substantial interests are affected because Foxcroft Cove and Ekos should be deemed ineligible for funding. See Madison Highlands, LLC v. Florida Housing Finance Corp., 220 So. 3d 467, 474 (Fla. 1st DCA 2017). If Foxcroft Cove and Ekos are correctly scored and ranked, Petitioner's Application will move into the funding range in Broward County.

I. Foxcroft Cove's Application is Ineligible

A. Foxcroft Cove is Ineligible for Failure to Demonstrate Site Control

25. As an eligibility item, the RFA requires an Applicant to demonstrate site control by including the appropriate documents as part of Attachment 6 to the Application. See RFA pp. 39,

74. The required documents to demonstrate site control are specified in the RFA as follows:

Site Control

Demonstrate site control by providing, as Attachment 6 to Exhibit A, the documentation required in Items (1), (2), and/or (3), as indicated below, demonstrating that it is a party to an eligible contract or lease, or is the owner of the subject property. Such documentation must include all relevant intermediate contracts, agreements, assignments, options, conveyances, intermediate leases, and subleases. If the proposed Development consists of Scattered Sites, site control must be demonstrated for all of the Scattered Sites.

Note: The Corporation has no authority to, and will not, evaluate the validity or enforceability of any site control documentation.

a. Eligible Control

An eligible contract must meet all of the following conditions:

- (1) It must have a term that does not expire before December 31, 2023 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than December 31, 2023;

- (2) It must specifically state that the buyer's remedy for default on the part of the seller includes or is specific performance;
- (3) The Applicant must be the buyer unless there is an assignment of the eligible contract, signed by the assignor and the assignee, which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant; and
- (4) The owner of the subject property must be the seller, or is a party to one or more intermediate contracts, agreements, assignments, options, or conveyances between or among the owner, the Applicant, or other parties, that have the effect of assigning the owner's right to sell the property to the seller.

Any intermediate contract must meet the criteria for an eligible contract in (a) and (b) above.

b. Proof of Ownership through a recorded document such as a Deed or Certificate of Title The documentation must be recorded in the county in which the property is located and show the Applicant as the sole Grantee.

RFA pp. 39-40.

26. In Attachment 6 to its Application, Foxcroft Cove included a document entitled "First Amendment to Agreement of Purchase and Sale dated July 13, 2023," by and between IT Webcam, LLC, the Seller, and Arbor Ridge Housing Partners, LP, the Purchaser. The First Amendment is signed by Michael J. Assis, as Manager for IT Webcam, LLC. See Foxcroft App., p. 54. Also included in Attachment 6 is the initial Agreement of Purchase and Sale executed between IT Webcam, LLC and Nurock Acquisitions Florida, LLC dated May 22, 2023 (the "Agreement"). Michael J. Assis also executed this document on behalf of IT Webcam, LLC. It is unclear whether he signed as "member" or "manager" of IT Webcam, LLC and whether he had either authority on the date he signed the document. See Foxcroft App., p. 72.

27. Based on documentation available on the website maintained by the Department of State, Division of Corporations, it appears that the Seller, IT Webcam, LLC Amended its Articles of Organization on November 14, 2022 in order to remove Michael J. Assis as an Authorized Member, approximately six (6) months before the Agreement was executed between the parties.

In other words, the Agreement was signed after Michael J. Assis was removed as a member of IT Webcam, LLC and it is not evidently apparent that he had authority to bind the Seller for the sale of this land which would leave the applicant with invalid site control documentation.

28. Based on the foregoing it appears that the Seller's representative lacked apparent authority to enter into and execute the Agreement and First Amendment. The documentation included in Foxcroft Cove's application fails to demonstrate site control so the application should be disqualified.

B. Foxcroft Cove's Application Does Not Include A Properly Executed Applicant Certification and Acknowledgement Form

29. As a mandatory eligibility item, the RFA requires an Applicant to identify its Authorized Principal Representative who must review and execute the Applicant Certification and Acknowledgement Form under the penalty of perjury "to indicate the Applicant's certification and acknowledgement of the provisions and requirements of the RFA." See RFA, pp. 16, 74 and RFA Ex. A., pp. 32-33. By executing the Form, the signatory is certifying that they are "authorized to bind the Applicant entity to this certification and warranty of truthfulness and completeness of the Application." See RFA, pp. 73-75.

30. Foxcroft Cove's Applicant Certification and Acknowledgement Form, was executed by Robert Hoskins with his title listed as "its Manager." Foxcroft Cove App., Ex. A, p. 34, while Mr. Hoskins, is a manager of the Applicant's General Partner, NDG Arbor Ridge, LLC, as reflected on the Applicant's Principals Disclosure Form. See Foxcroft Cove App. p. 35. he is not a manager for the Applicant entity Arbor Ridge Housing Partners, LP.

31. As set forth in the RFA, an "Authorized Principal Representative:"

- (a) must be a natural person Principal of the Applicant listed on the Principal Disclosure Form;
- (b) must have signature authority to bind the Applicant entity;

- (c) must sign the Applicant Certification and Acknowledgement section of Exhibit A; and
- (d) if funded, will be the recipient of all future documentation that requires a signature.

See RFA, p. 16.

32. Based on the Applicant Certification and Acknowledgement Form, it does not appear that anyone executed the Form on the behalf of the Applicant entity as required by the terms of the RFA. Foxcroft Cove should be disqualified for failure to properly execute the Applicant Certification and Acknowledgement Form which is a mandatory eligibility item.

C. Foxcroft Cove Failed to Properly Disclose its Principals

33. The RFA requires, as a mandatory eligibility item, that applicants identify the applicant, developer and all affiliates of the proposed development on a properly completed Principals Disclosure Form (the “Disclosure Form”)

34. The Disclosure Form for Foxcroft Cove submitted lists three general partners for the Applicant Entity Arbor Ridge Housing Partners, LP. The general partners listed are NDG Arbor Ridge, LLC, R Howell GP I, LLC and R Block GP I, LLC. The Division of Corporations website, however, lists only NDG Arbor Ridge, LLC as the sole General Partner. R Howell GP I, LLC and R Block GP I, LLC are not listed on the Division of Corporations website as General Partners of Arbor Ridge Housing Partners, LP. See Foxcroft Cove App. p. 34.

35. Failure to properly disclose all Principals on the Disclosure Forms is a material deviation from the requirements of the RFA, which renders Foxcroft Cove’s application ineligible for funding. See HTG Village View, LLC, Petitioner v. Marquis Partners, Ltd., and Florida Housing Finance Corporation, DOAH No. 18-2156BID (DOAH July 27, 2018, FHFC Nov. 17, 2018).

II. Based on the Errors in Review and Scoring, Ekos Should Be Ranked Lower and/or Disqualified

36. Ekos does not qualify for the Proximity Funding Preference, should receive a lower ranking and/or should be disqualified.

A. Ekos is not Entitled to the Proximity Funding Preference for the Tie Breaker

37. The RFA provides applicants with an opportunity to earn proximity points in order to obtain a "Proximity Funding Preference" for the purpose of the tie-breakers. The Proximity Preference is used under the RFA to break ties in the funding selection process but is not added to the total points awarded. See RFA p. 24-25.

38. To obtain the Proximity Funding Preference for Community Services, an applicant needs 12.5 or more Proximity Points. RFA, p. 25. If less than 12.5 are earned by an applicant, then the applicant is not entitled to the preference.

39. An applicant can receive up to 4 points for each of up to three community services identified in the application (i.e., grocery store, medical facility, pharmacy). RFA, p. 97. Ekos sought and received 3.5 proximity points for proximity to a Medical Facility. The definition of "Medical Facility" in the RFA specifically states "facilities that only treat specific classes of patients (e.g., age, gender) will not be accepted." RFA, p.82.

40. Ekos included a Medical Facility in its application that appears to treat only adults and seniors. ([Services – Total Health Medical Centers \(totalhealth4me.com\)](http://totalhealth4me.com)). This Medical facility does not meet the RFA requirements to be entitled to proximity points. Removing the 3.5 proximity points for failure to meet the RFA requirements results in Ekos' score dropping from 14.5 to 11.5 points. As a result, Ekos does not meet the requirement for receiving the Proximity Preference. RFA, pp. 24-25, 97.

41. Ekos and Oasis were tied in the preliminary scoring. Without the benefit of the Proximity Preference, Oasis would move within the funding range ahead of Ekos.

B. The Local Government Verification of Contribution Form is Insufficient to Receive the Additional Points

42. The RFA provides for additional points for applicants that submit a properly completed Local Government Verification of Contribution Form as part of Attachment 11 to the application. To satisfy the requirement, applicants can either submit a properly executed Local Government Verification of Contribution – Loan Form or Local Government Verification of Contribution – Grant Form as adopted by Florida Housing. See RFA, p. 66.

43. Ekos submitting a completed Local Government Verification of Contribution – Grant Form documenting a commitment for a \$100,000 grant (“Grant Form”). The Form provides as follows:

**LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – GRANT FORM**

Name of Development: Ekos Lauderhill  
Development Location: South side of W Commercial Blvd, East of the intersection of Rev Herron Ave and W. Commercial Blvd, Lauderhill  
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county). If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)

The City/County of Lauderhill, Broward commits \$ 100,000.00 as a grant to the Applicant for its use solely for assisting the proposed Development referenced above. The City/County does not expect to be repaid or reimbursed by the Applicant, or any other entity, provided the funds are expended solely for the Development referenced above. No consideration or promise of consideration has been given with respect to the grant. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this grant must be effective as of the Application Deadline for the applicable RFA, and is provided specifically with respect to the proposed Development.

The source of the grant is: Broward County Housing Finance Authority  
(e.g., SHIP, HOME, CDBG)

**CERTIFICATION**

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

[Signature]  
Signature  
County Administrator  
Print or Type Title

Monica Cepero  
Print or Type Name  
9/7/23  
Date Signed



44. The instant Grant Form is ambiguous as completed. The Grant Form appears to indicate that the commitment for the grant is by the City of Lauderhill, not Broward County.



However, the Grant Form is signed by Broward County. The Grant Form as submitted does not comply with the requirements of the RFA. As such, Ekos is not entitled to the additional 5 pts awarded for this Form and its total points should be reduced by 5 points.

C. Ekos Misidentified the Management Company Used to Qualify for Experience

45. The RFA requires an applicant to identify its Management Company as follows:

Identify the Management Company and complete the prior experience chart for the Management Company or a principal of Management Company demonstrating experience in the management of at least two affordable rental housing properties (i.e., properties funded through an affordable housing program such as Housing Credits, Tax-Exempt Bonds, HOME, SAIL, etc.), at least one of which consists of a total number of units no less than 50 percent of the total number of units in the proposed Development, for at least two years each.

Note: The Management Company contact person identified in Exhibit A is not required to be the Principal of the Management Company identified in the Prior General Management Experience Chart.

See RFA, p. 16.

46. First, Ekos identified JMG Realty, LLC as its Management Company, however, JMG Realty, LLC was acquired by Asset Living in late 2021. See [Asset Living Acquires JMG Realty - Multi-Housing News \(multihousingnews.com\)](#). As JMG Realty no longer exists or is operational, Ekos failed to utilize the management company with the correct experience as they should have utilized Asset Living. Even if permissible, JMG Realty, LLC is not the property management company that has the requisite experience, it is JMG Realty, Inc. While these entities may be affiliated, JMG Realty, Inc. is the experienced property management company that Ekos would have needed to utilize to meet the eligibility requirements under the terms of the RFA. As Ekos did not utilize a qualified management company with the requisite experience needed in order to meet the RFA eligibility item, the application should be deemed ineligible for funding.

Reservation to Amend

47. In addition to the grounds set forth above, there may be other grounds for reranking which may result in Petitioner being ranked in the funding range. Petitioner reserves the right to identify and raise additional scoring and ranking errors based upon information revealed during the protest process.

48. Petitioner is entitled to a formal administrative hearing pursuant to Sections 120.57(1) and 120.57(3), Florida Statutes, to resolve the issues set forth in this Petition.

Disputed Issues of Material Fact and Law

49. Disputed issues of fact and law include, but are not limited to the following:
- a. Whether the Applicant Certification and Acknowledgement Form was properly executed by an Authorized Principal Representative on behalf of the Foxcroft Cove.
  - b. Whether Foxcroft Cove application demonstrated the requisite site control in accordance with the RFA,
  - c. Whether Foxcroft Cove's application properly disclosed its principals.
  - d. Whether Foxcroft Cove's application met the requirements of the RFA.
  - e. Whether Foxcroft Cove is eligible for funding under the RFA.
  - f. Whether Ekos' Local Government Verification of Contribution – Grant Form meets the requirements of the RFA.
  - g. Whether Ekos' score should be reduced by 3.5 points for failure to submit a compliant Local Government Verification of Contribution – Grant Form .
  - h. Whether Ekos was entitled to the Proximity Funding Preference.
  - i. Whether Ekos' application should be disqualified for failure to identify the correct management company entity.
  - j. Whether Ekos utilized a management company with the requisite experience to meet the requirements of the RFA.

- k. Whether Ekos' application met the requirements of the RFA.
- l. Whether Ekos' application is eligible for funding under the RFA.
- m. Whether the proposed awards are consistent with the RFA and the grounds on which the tax credits are to be allocated.
- n. Whether the proposed awards are based on a correct determination of the eligibility of applicants.
- o. Whether Florida Housing's proposed award of funding to Foxcroft Cove is clearly erroneous, arbitrary and capricious and/or contrary to competition.
- p. Whether Florida Housing's proposed award of funding to Ekos is clearly erroneous, arbitrary and capricious and/or contrary to competition.
- q. Whether Florida Housing's determination that Foxcroft Cove is an eligible Applicant is erroneous, arbitrary and capricious and/or contrary to competition.
- r. Whether Florida Housing's determination that Ekos is an eligible Applicant is erroneous, arbitrary and capricious and/or contrary to competition.
- s. Such other issues as may be revealed during the protest process.

Concise Statement of Ultimate Facts

47. Petitioner is competing for an award of tax credits with other developers based on the criteria set forth in the RFA and scoring and ranking of the application conducted in accordance with the requirements in the RFA. Other applicants, in particular Foxcroft Cove and Ekos were incorrectly deemed eligible and unjustifiably elevated ahead of the Petitioner.

48. Unless the eligibility determinations are corrected and preliminary allocations are revised, Petitioner may erroneously be excluded from funding and developers may be awarded tax credits contrary to the provisions of the RFA and Florida Housing's governing statutes and rules.

49. The process set forth in the RFA for determining eligible projects compels a determination that Foxcroft Cove and Ekos should be deemed ineligible for funding based on the failure to meet the requirements set forth in the RFA.

50. Petitioner's Application for Oasis at Hollywood should be selected for funding.

Reservation to Amend

51. Petitioner reserves the right to amend its Petition based upon information that became available through discovery and the protest process.

Statutes and Rules Entitling Relief

52. The statutes and rules which are applicable in this case and that require modification of the proposed allocations include, but are not limited to, Section 120.57(3) and Chapter 420, Part V, Florida Statutes, and Chapter 28-110 and 67-60, F.A.C.

Demand for Relief

53. Pursuant to Section 120.57(3), Florida Statutes, and Rules 28-110.004, F.A.C., the Petitioner requests the following relief:

- a. An opportunity to resolve this protest by mutual agreement within seven days of the filing of this Petition as provided by Section 120.57(3)(d)1., Florida Statutes.
- b. If this protest cannot be resolved by mutual agreement, that the matter be referred to the Division of Administrative Hearings for a formal hearing to be conducted before and Administrative Law Judge pursuant to Section 120.57(1) and (3), Florida Statutes.
- c. Recommended and Final Orders be entered determining that Foxcroft Cove and Ekos are ineligible for an award of funding pursuant to RFA 2023-202 and that Oasis at Hollywood be awarded funding and invited to credit underwriting.

Respectfully submitted this 13<sup>th</sup> day of November 2023.

/s/ J. Stephen Menton  
J. Stephen Menton  
Florida Bar No. 331181  
Tana D. Storey  
Florida Bar No. 514472  
Rutledge Ecenia, P.A.  
119 South Monroe Street, Suite 202  
Tallahassee, FL 32301  
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[tana@rutledge-ecenia.com](mailto:tana@rutledge-ecenia.com)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this original has been filed with the Agency Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000 Tallahassee, Florida 32301 via email at: [CorporationClerk@floridahousing.org](mailto:CorporationClerk@floridahousing.org) and an electronic copy provided to Ethan Katz, Counsel, Florida Housing Finance Corporation, [ethan.katz@floridahousing.org](mailto:ethan.katz@floridahousing.org), via email, this 13<sup>th</sup> day of November, 2023.

/s/ J. Stephen Menton  
Attorney

Via Email  
November 1, 2023

RECEIVED

Ms. Ana McGlamory ([Ana.McGlamory@Floridahousing.org](mailto:Ana.McGlamory@Floridahousing.org))  
Corporation Clerk  
Florida Housing Finance Corporation  
227 North Bronough, Suite 5000  
Tallahassee, FL 32301

NOV 1 2023 9:58 AM

FLORIDA HOUSING  
FINANCE CORPORATION

**RE: Notice of Intent to Protest, Request for Applications (RFA) 2023-202 Proposed Funding Selections**

Dear Corporation Clerk:

On behalf of Applicant, HTG Oasis II, LLC, Application No. 2024-152C, we hereby give notice of our intent to protest the Award Notice and Scoring and Ranking of RFA 2023-202 posted by Florida Housing Finance Corporation on October 27, 2023, at 9:58am concerning *Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach, And Pinellas Counties*.

A formal written petition will be submitted within ten (10) days of this Notice as required by law.

  
Respectfully Submitted

Cc Hugh Brown, General Counsel

EXHIBIT A

RFA 2023-202 Board Approved Scoring Results

Application Number	Name of Development	County	Name of Authorized Principal Representative	Developers	Demo	Total Units	HC Funding Amount	Eligible For Funding?	Priority Level	Qualifies for the Revitalization Goal	Qualifies for the Geographic Areas of Opportunity / SADD Goal	Qualifies for the LGAO Goal	If Broward LGAO, demonstrates continuous LGAO support since 2022 or earlier	Total Points	Development Category Funding Preference	Leveraging Classification	Proximity Funding Preference	Florida Job Creation Preference	Lottery Number
2024-137C	Avalon Apartments	Hillsborough	Mara S. Mades	Cornerstone Group Partners, LLC	F	90	\$2,992,490	Y	1	Y	N	N	N	20	Y	B	Y	Y	4
2024-138C	Berkshire Square	Pinellas	Jonathan L. Wolf	Berkshire Square Developer, LLC	F	71	\$2,353,680	Y	1	N	Y	N	N	20	Y	B	Y	Y	5
2024-139C	Cardinal Pointe	Orange	Deion R. Lowery	DDER Development, LLC	E, Non-ALF	120	\$2,992,500	Y	1	N	N	Y	N	20	Y	A	Y	Y	25
2024-140C	Cathedral Apartments	Duval	Darren Smith	SHAG Cathedral Developer, LLC	E, Non-ALF	80	\$2,353,680	Y	1	Y	N	N	N	20	Y	A	Y	Y	27
2024-141C	District House	Hillsborough	Brett Green	District House Developer, LLC; THA Developer, LLC;	F	86	\$2,992,500	Y	1	N	N	N	N	15	Y	A	Y	Y	28
2024-142C	Ekos at Progresso Village	Broward	Christopher L. Shear	MHP Broward III Developer, LLC	F	90	\$3,175,000	Y	1	N	Y	N	N	20	Y	A	Y	Y	26
2024-143C	Ekos Lauderhill	Broward	Christopher L. Shear	MHP Broward II Developer, LLC	F	120	\$3,458,400	Y	1	N	Y	N	N	20	Y	A	Y	Y	18
2024-144C	Ekos on Pinellas	Pinellas	Christopher L. Shear	MHP Pinellas I Developer, LLC	F	96	\$2,353,680	Y	1	N	N	N	N	15	Y	A	Y	Y	1
2024-145C	Gavin Point	Duval	James R. Hoover	TVC Development, Inc.	F	105	\$2,353,680	Y	1	N	N	Y	N	20	Y	A	N	Y	17
2024-146C	Grand Oaks	Pinellas	Brian Evjen	Newstar Development, LLC; PCHA Development, LLC	F	82	\$2,353,680	Y	1	Y	N	N	N	20	Y	A	Y	Y	15
2024-147C	Hollywood Vista	Broward	Matthew A. Rieger	HTG Vista Developer, LLC	E, Non-ALF	84	\$3,455,000	Y	1	Y	N	N	N	20	Y	A	Y	Y	30
2024-148C	Las Brisas	Orange	Mara S. Mades	Cornerstone Group Partners, LLC	F	90	\$2,992,500	Y	1	N	N	N	N	20	Y	B	Y	Y	9
2024-149C	Madison Highlands II	Hillsborough	Patrick E. Law	American Residential Communities, LLC; New	E, Non-ALF	88	\$2,650,000	Y	1	N	N	Y	N	20	Y	A	Y	Y	13
2024-150C	Madison Terrace	Palm Beach	Patrick E. Law	American Residential Communities, LLC; New	E, Non-ALF	91	\$2,800,000	Y	1	N	N	Y	N	20	Y	A	N	Y	7
2024-151C	Madison Trails	Orange	Patrick E. Law	American Residential Communities, LLC; New	E, Non-ALF	110	\$2,950,000	Y	1	N	N	N	N	15	Y	A	Y	Y	20
2024-152C	Oasis at Hollywood	Broward	Matthew A. Rieger	HTG Oasis II Developer, LLC	F	82	\$3,175,000	Y	1	N	Y	N	N	20	Y	A	Y	Y	24
2024-153C	Palm Lake Urban Sanctuary	Pinellas	Brian Evjen	Newstar Development, LLC; PCHA Development, LLC;	F	86	\$2,353,680	Y	1	N	Y	N	N	20	Y	A	Y	Y	6
2024-154C	Pine Island Park	Broward	Lewis V Swezy	RS Development Corp	F	120	\$3,290,000	Y	1	N	Y	N	N	15	Y	A	Y	Y	23
2024-155C	Residences at Foxcroft Cove	Broward	Robert Hoskins	NuRock Development Partners Inc.; R Howell	F	84	\$2,868,450	Y	1	N	Y	N	N	20	Y	A	Y	Y	3
2024-156C	Residences at Marina Village	Palm Beach	Alberto Milo, Jr.	Residences at Marina Village Developer, LLC	E, Non-ALF	120	\$2,992,500	Y	1	N	N	Y	N	20	Y	A	Y	Y	8
2024-157C	Residences at Mirror Tower	Pinellas	Robert Hoskins	NuRock Development Partners Inc.; R Howell	F	72	\$2,353,680	Y	1	N	Y	N	N	20	Y	A	Y	Y	22
2024-158C	Ridgecrest Oaks	Pinellas	Brian Evjen	Newstar Development, LLC; PCHA Development, LLC	E, Non-ALF	80	\$2,353,680	Y	1	Y	N	N	N	20	Y	A	Y	Y	2
2024-159C	Roseland Gardens Phase II	Palm Beach	Darren Smith	SHAG Roseland Gardens Phase II Developer, LLC;	F	124	\$2,992,500	Y	1	N	N	Y	N	20	Y	A	Y	Y	12
2024-160C	Tallman Pines - Phase I	Broward	Matthew A. Rieger	HTG Tallman Villas Developer, LLC; Building	F	80	\$2,750,000	Y	1	N	N	N	Y	20	Y	A	Y	Y	29
2024-161C	The Flats on Main Street	Pinellas	Brett Green	The Flats on Main Street Developer, LLC	F	72	\$2,353,680	Y	1	N	Y	N	N	20	Y	B	Y	Y	14
2024-162C	The Pantry Lofts	Broward	Maureen E Luna	The Pantry Lofts GM Dev, LLC ; The Pantry Lofts NP Dev, LLC	E, Non-ALF	90	\$3,458,400	Y	1	N	N	N	Y	20	Y	A	Y	Y	21
2024-163C	Thornton Place	Orange	Julie von Weller	Thornton Place Developer, LLC	E, Non-ALF	82	\$2,900,000	Y	1	N	N	N	N	20	Y	B	Y	Y	11
2024-164C	Union Senior Apartments	Palm Beach	Matthew A. Rieger	HTG Union Baptist Developer, LLC	E, Non-ALF	75	\$2,992,500	Y	2	Y	N	N	N	20	Y	A	Y	Y	10

RFA 2023-202 Board Approved Scoring Results

Application Number	Name of Development	County	Name of Authorized Principal Representative	Developers	Demo	Total Units	HC Funding Amount	Eligible For Funding?	Priority Level	Qualifies for the Revitalization Goal	Qualifies for the Geographic Areas of Opportunity / SADDA Goal	Qualifies for the LGAO Goal	If Broward LGAO, demonstrates continuous LGAO support since 2022 or earlier	Total Points	Development Category Funding Preference	Leveraging Classification	Proximity Funding Preference	Florida Job Creation Preference	Lottery Number
2024-165C	Waterview Appartments	Palm Beach	Joseph Glucksman	McCurdy Waterview, LLC; Richbody Inc.	E, Non-ALF	113	\$2,992,500	Y	1	N	N	Y	N	15	Y	A	Y	Y	19
2024-166C	Zion Village	Hillsborough	Darren Smith	Zion Village Developer, LLC	E, Non-ALF	75	\$2,400,000	Y	1	N	N	N	N	20	Y	A	Y	Y	16

On October 27, 2023, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee’s motion to adopt the scoring results above.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.



RFA 2023-202 Board Approved Preliminary Awards

Total HC Available for RFA	24,011,240
Total HC Allocated	21,830,390
Total HC Remaining	2,180,850

Application Number	Name of Development	County	Name of Authorized Principal Representative	Developers	Demo	Total Units	HC Funding Amount	Eligible For Funding?	Priority Level	Qualifies for the Revitalization Goal	Qualifies for the Geographic Areas of Opportunity / SADDA Goal	Qualifies for the LGAO Goal	If Broward LGAO, demonstrates continuous LGAO support since 2022 or earlier	Total Points	Development Category Funding Preference	Leveraging Classification	Proximity Funding Preference	Florida Job Creation Preference	Lottery Number
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One Application proposing a Development that is part of a Local Government Revitalization Plan

2024-158C	Ridgecrest Oaks	Pinellas	Brian Evjen	Newstar Development, LLC; PCHA Development, LLC	E, Non-ALF	80	\$2,353,680	Y	1	Y	N	N	N	20	Y	A	Y	Y	2
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One Family Application proposing a Development located in Broward County that qualifies for the Geographic Areas of Opportunity / SADDA Goal

2024-155C	Residences at Foxcroft Cove	Broward	Robert Hoskins	NuRock Development Partners Inc.; R Howell	F	84	\$2,868,450	Y	1	N	Y	N	N	20	Y	A	Y	Y	3
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One Family Application proposing a Development located in Pinellas County that qualifies for the Geographic Areas of Opportunity / SADDA Goal

2024-153C	Palm Lake Urban Sanctuary	Pinellas	Brian Evjen	Newstar Development, LLC; PCHA Development, LLC;	F	86	\$2,353,680	Y	1	N	Y	N	N	20	Y	A	Y	Y	6
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One Application proposing a Development located in Duval County that qualifies for the Local Government Areas of Opportunity Designation

2024-145C	Gavin Point	Duval	James R. Hoover	TVC Development, Inc.	F	105	\$2,353,680	Y	1	N	N	Y	N	20	Y	A	N	Y	17
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One Application proposing a Development located in Hillsborough County that qualifies for the Local Government Areas of Opportunity Designation

2024-149C	Madison Highlands II	Hillsborough	Patrick E. Law	American Residential Communities, LLC; New	E, Non-ALF	88	\$2,650,000	Y	1	N	N	Y	N	20	Y	A	Y	Y	13
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One Application proposing a Development located in Orange County that qualifies for the Local Government Areas of Opportunity Designation

2024-139C	Cardinal Pointe	Orange	Deion R. Lowery	DDR Development, LLC	E, Non-ALF	120	\$2,992,500	Y	1	N	N	Y	N	20	Y	A	Y	Y	25
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One Application proposing a Development located in Palm Beach County that qualifies for the Local Government Areas of Opportunity Designation

2024-150C	Madison Terrace	Palm Beach	Patrick E. Law	American Residential Communities, LLC; New	E, Non-ALF	91	\$2,800,000	Y	1	N	N	Y	N	20	Y	A	N	Y	7
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One Application proposing a Development located in Broward County that qualifies for the Local Government Areas of Opportunity Designation and demonstrates continuous Local Government Area of Opportunity support since 2022 or earlier

2024-162C	The Pantry Lofts	Broward	Maureen E Luna	The Pantry Lofts GM Dev, LLC; The Pantry Lofts NP	E, Non-ALF	90	\$3,458,400	Y	1	N	N	N	Y	20	Y	A	Y	Y	21
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On October 27, 2023, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee’s motion and staff recommendation to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.