

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

January 22, 2021

Action Items



LEGAL

Action

I. LEGAL

A. **Sherwood Oaks Preservation, LP, Century Woods Preservation, LP, College Preservation, LP, Crystalwood Preservation, LP, and Briarwood Preservation, LP, FHFC 2020-074BP (RFA 2020-204)**

1. **Background**

- a) This case regards protests filed against the funding awarded under Request for Applications 2020-204 Housing Credit Financing for the Preservation of Existing Affordable Multifamily Housing Developments (the “RFA”). Petitioners Sherwood Oaks Preservation, LP, (“Sherwood”), Century Woods Preservation, LP (“Century Woods”), College Preservation, LP (“College”), Crystalwood Preservation, LP (“Crystalwood”), and Briarwood Preservation, LP (“Briarwood”) (collectively “Petitioners”) applied for funding through the RFA. The Review Committee determined that Petitioners were ineligible for funding because of outstanding arrearages on the October 28, 2020 Past Due Report.
- b) Petitioners timely filed notices of intent to protest and a consolidated Formal Written Protest and Petition for Administrative Hearing (“Petition”) challenging Florida Housing’s scoring of their applications. A Notice to Bidders was issued by Florida Housing informing all bidders that their substantial interests might be affected by the Petition. No other applicants sought to intervene.

2. **Present Situation**

- a) During scoring, Florida Housing determined that the Petitioners’ Applications failed to meet the RFA requirements for the Financial Arrearage requirement. The RFA states:

An Application will be deemed ineligible for funding if, as of close of business the day before the Committee meets to make a recommendation to the Board, there remains any financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of the Applicant or Developer is in arrears to the Corporation or any agent or assignee of the Corporation as reflected on the most recently published Past Due Report posted to the Corporation’s Website under the link Property Owners & Managers/Past Due Reports (also accessible by clicking here), but not more recently than five business days prior to the date the Committee meets to make a recommendation to the Board.

- b) Based on the notes from the Review Committee meeting, Sherwood Oaks, Century Woods, College, Crystalwood, and Briarwood were deemed ineligible as there were outstanding arrearages on the October 28, 2020 Past Due Report. Changes to the parties’ respective internal procedures related to COVID-19 had an impact on the processing of Florida Housing arrearages.

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- c) In reviewing the Application, the Petition, the requirements of the RFA, and the stipulated facts in the Consent Agreement, and in the interest of avoiding the time, expense, and uncertainty of litigation, the parties entered into a Consent Agreement, attached as [Exhibit A](#). The Consent Agreement results in Century Woods being deemed an eligible application and being selected for funding. Additionally, the Sherwood Oaks, College, Crystalwood, and Briarwood have agreed to dismiss the Petition with prejudice if the Consent Agreement is adopted by this Board. The Consent Agreement does not displace any other applicants recommended for funding at the December 4, 2020 Board meeting.

3. **Recommendation**

- a) Staff recommends that the Board adopt the Consent Agreement and issue a Final Order in accordance with the Consent Agreement.

MULTIFAMILY PROGRAMS ALLOCATIONS

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I. MULTIFAMILY PROGRAMS ALLOCATIONS

A. Consolidated Appropriations Act of 2021 – Additional Allocation Authority in Qualified Disaster Areas

1. Background

- a) The Consolidated Appropriations Act of 2021 (CAA of 2021), signed into law on December 27, 2020, included, among other things, additional 9% Housing Credit Allocation Authority for developments located in qualified disaster zones. Qualified disaster zones are areas deemed to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) during the period between January 1, 2020 through February 25, 2021. [The Consolidated Appropriations Act of 2021](#)
- b) Florida is one of eleven states currently eligible for the additional Allocation Authority. On September 23, 2020 a major disaster declaration was issued pursuant to the Stafford Act due to damage in certain areas of the State of Florida resulting from Hurricane Sally. Currently, the areas of the State eligible for the additional Allocation Authority as a result of being designated individual or individual and public assistance are the following medium and small counties:
 - (1) Bay (Medium County)
 - (2) Escambia (Medium County)
 - (3) Okaloosa (Medium County)
 - (4) Santa Rosa (Medium County)
 - (5) Walton (Small County)See: [DR-4564-FL](#)
- c) Pursuant to the CAA of 2021, the additional Allocation Authority is calculated by multiplying \$3.50 by the population of the of the state located in the qualifying disaster area as of 2020.
- d) The Internal Revenue Service (IRS) has not issued a Revenue Procedure to confirm the population numbers to substantiate the estimated calculation; however, based on census population data for the qualifying disaster areas referenced above, it is anticipated that the additional Allocation Authority provided in CAA of 2021 will total an estimated \$3,367,501. This additional Allocation Authority is limited to awards in the qualifying disaster areas referenced above. The CAA of 2021 requires the credits to be allocated in 2021 or 2022.

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- e) Under Sec. 42. of the Internal Revenue Code, Florida Housing is required to allocate Housing Credits pursuant to a Qualified Allocation Plan (QAP). Section II.M. of the current QAP provides that if a natural disaster is declared by State or Federal government, future year Housing Credit Allocation Authority may be allocated to be used for natural disaster recovery and that that the process for awarding those Housing Credits for disaster recovery will be approved by the Board of Directors. [2020 QAP](#)

2. Present Situation

- a) Request for Applications, 2020-201, Housing Credit Financing For Affordable Housing Developments Located In Medium And Small Counties (RFA 2020-201) was issued on August 26, 2020. Florida Housing received 84 Applications in response to RFA 2020-201. Out of the 84 Applications received, 19 Applications were received from the qualifying disaster areas above. There was no goal or incentive for Florida Housing to fund developments in those qualifying disaster areas in the terms of the RFA. The Review Committee for RFA 2020-201 convened on January 11, 2021, and the Review Committee Recommendations are being presented for Board of Directors consideration on the Multifamily Action Agenda included in the current Board Package.
- b) In order to facilitate an effective and timely administration of the additional natural disaster Allocation Authority set forth in the CAA of 2021, Staff recommends that in accordance with its authority set forth in the QAP, the Board authorize staff to add the \$3,367,501 in additional Allocation Authority to the funding available in RFA 2020-201 to award additional eligible applications in the qualified disaster areas set forth above, subject to county award tally, regardless of county size.
- c) The timing of the CAA of 2021 and the pending RFA 2020-201 presents a unique and efficient opportunity to expedite competitive awards of the additional Allocation Authority to address the Hurricane Sally natural disaster recovery.
- d) If the Board of Directors approves Staff recommendation in this regard, Staff will present the recommendations for the additional eligible applications in the qualified disaster areas in the Action Agenda item for RFA 2020-201.

3. Recommendation

- a) In accordance with authority set forth in the QAP, authorize Staff to add additional Allocation Authority set forth in the Consolidated Appropriations Act of 2021 to the funding available in Request for Applications, 2020-201, Housing Credit Financing For Affordable Housing Developments Located In Medium And Small Counties to award additional highest-ranking eligible applications in qualified disaster areas, subject to county award tally, regardless of county size.

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B. RFA 2020-101 Elderly Housing Community Loan

1. Background

- a) On October 22, 2020, Florida Housing Finance Corporation (Florida Housing) issued RFA 2020-101 offering \$3,146,955 in SAIL funding for the Elderly Housing Community Loan program funding. Funding under this RFA must be used to provide for life-safety, building preservation, health, sanitation, or security-related repairs or improvements to Developments currently serving Elderly residents as defined in 420.503(15), F.S.
- b) The deadline for receipt of Applications was 3:00 p.m., Eastern Time, November 18, 2020.

2. Present Situation

- a) Florida Housing received 2 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Ryan McKinless, Multifamily Programs Manager (Chair), Charles Jones, Multifamily Programs Manager, and Lisa Walker, Multifamily Programs Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its December 16, 2020 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five, B. of the RFA. The individual scores are set forth on the RFA webpage and can be accessed [here](#).
- c) The RFA 2020-101 All Applications chart (provided as [Exhibit A](#)) lists the eligible and ineligible Applications. The Applications are listed in assigned Application Number order. There were no ineligible Applications.
- d) The Review Committee considered the following motions:
 - (1) A motion for the Review Committee to approve the scoring results as set out on Exhibit A and recommendations for funding as set out on [Exhibit B](#):
 - (2) A motion to recommend that the Board approve the scoring results as set out on Exhibit A and recommendations for funding as set out on Exhibit B.
- e) The motions passed unanimously.

3. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 2 Applications (set out on Exhibit A) and authorize the tentative selection of the 2 Applications (set out on Exhibit B) for funding.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Application set out on the Exhibit B.

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- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- d) There is an unallocated balance of \$1,646,955 of SAIL funding remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

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C. RFA 2020-201 Housing Credit Financing For Affordable Housing Developments Located In Medium And Small Counties

1. Background

- a) On August 26, 2020, Florida Housing Finance Corporation (Florida Housing) issued RFA 2020-201 offering \$15,275,810 in 9% Housing Credits for proposed Developments located in small and medium counties.
- b) The deadline for receipt of Applications was 3:00 p.m., Eastern Time, November 5, 2020.

2. Present Situation

- a) Florida Housing received 84 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Ryan McKinless, Multifamily Programs Manager (Chair), Joey Evan, Multifamily Programs Allocations Analyst, and Tracy Willis, Quality Assurance Credit Underwriter Administrator. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its January 12, 2021 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five, B. of the RFA. The individual scores are set forth on the RFA webpage and can be accessed [here](#).
- c) The RFA 2020-201 All Applications chart (provided as [Exhibit C](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- d) The Review Committee considered the following motions:
 - (1) A motion for the Review Committee to approve the scoring results as set out on Exhibit C and recommendations for funding as set out on [Exhibit D-1](#);
 - (2) A motion to recommend that the Board approve the scoring results as set out on Exhibit C and recommendations for funding as set out on Exhibit D-1.
- e) The motions passed unanimously.
- f) Staff has presented a contemporaneous Action Agenda Item for the approval to authorize Staff to add additional Allocation Authority set forth in the Consolidated Appropriations Act of 2021 to the funding available in Request for Applications, 2020-201, Housing Credit Financing For Affordable Housing Developments Located In Medium And Small Counties to award additional eligible applications in qualified disaster areas, subject to county award tally, regardless of county size.

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- g) Pending Board approval of such recommendation, Staff recommends the authorization of the tentative selection of the three Applications set forth at Exhibit D-2 for funding, utilizing a portion of the \$555,550 unallocated balance of funding available in RFA 2020-201 to fully utilize all additional Allocation Authority funding set forth in the Consolidated Appropriations Act of 2021

3. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 84 Applications (set out on Exhibit C) and authorize the tentative selection of the 10 Applications (set out on Exhibit D-1) for funding. Additionally, authorize tentative selection of the three qualified disaster area Applications (set forth at [Exhibit D-2](#)) for funding.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Application set out on the Exhibit D-1.
- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- d) Pending the recommendations above, there is an estimated unallocated balance of \$462,051 of 9% Housing Credits remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

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D. RFA 2020-203 Housing Credit Financing For Affordable Housing Developments Located In Miami-Dade County

1. Background

- a) On August 26, 2020, Florida Housing Finance Corporation (Florida Housing) issued RFA 2020-203 offering \$7,420,440 in 9% Housing Credits for proposed Developments located in Miami-Dade County.
- b) The deadline for receipt of Applications was 3:00 p.m., Eastern Time, November 17, 2020.

2. Present Situation

- a) Florida Housing received 50 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Joey Evans, Multifamily Programs Allocations Analyst (Chair), Rachael Grice, Multifamily Programs Coordinator, and Tracy Willis, Quality Assurance Credit Underwriter Administrator. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its January 13, 2021 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five, B. of the RFA. The individual scores are set forth on the RFA webpage and can be accessed [here](#).
- c) The RFA 2020-203 All Applications chart (provided as [Exhibit E](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- d) The Review Committee considered the following motions:
 - (1) A motion for the Review Committee to approve the scoring results as set out on Exhibit E and recommendations for funding as set out on [Exhibit F](#);
 - (2) A motion to recommend that the Board approve the scoring results as set out on Exhibit E and recommendations for funding as set out on Exhibit F.

- e) The motions passed unanimously

3. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 50 Applications (set out on Exhibit E) and authorize the tentative selection of the 3 Applications (set out on Exhibit F) for funding.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Application set out on the Exhibit F.

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- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- d) There is no unallocated 9% Housing Credits remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

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E. RFA 2020-205 SAIL Financing Of Affordable Multifamily Housing Developments To Be Used In Conjunction With Tax-Exempt Bonds And Non-Competitive Housing Credits

1. **Background**

- a) On October 15, 2020, Florida Housing Finance Corporation (Florida Housing) issued RFA 2020-205 offering \$88,959,045 in SAIL funding to be used in conjunction with Tax-Exempt Bond financing and non-competitive 4% Housing Credits, and \$9,000,000 in National Housing Trust Funds (NHTF) for proposed Developments serving Family or Elderly populations.
- b) The deadline for receipt of Applications was 3:00 p.m., Eastern Time, November 18, 2020.

2. **Present Situation**

- a) Florida Housing received 90 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Elizabeth Crane, Multifamily Programs Manager (Chair), Mitch Englert, Multifamily Programs Manager, and Tim Kennedy, Assistant Director of Multifamily Programs. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its January 13, 2021 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five, B. of the RFA. The individual scores are set forth on the RFA webpage and can be accessed [here](#).
- c) The RFA 2020-205 All Applications chart (provided as [Exhibit G](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- d) The Review Committee considered the following motions:
 - (1) A motion for the Review Committee to approve the scoring results as set out on Exhibit G and recommendations for funding as set out on [Exhibit H](#);
 - (2) A motion to recommend that the Board approve the scoring results as set out on Exhibit G and recommendations for funding as set out on Exhibit H.
- e) The motions passed unanimously.

3. **Recommendation**

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 90 Applications (set out on Exhibit G) and authorize the tentative selection of the 17 Applications (set out on Exhibit H) for funding.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to

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enter credit underwriting to the Application set out on the Exhibit H.

- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- d) There is an unallocated balance of \$1,575,936 in SAIL funding remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

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F. RFA 2020-206 HOME Financing For The Construction Of Small, Rural Developments

1. Background

- a) On October 29, 2020, Florida Housing Finance Corporation (Florida Housing) issued RFA 2020-206 offering \$30,000,000 in HOME funding for proposed Developments located in rural areas.
- b) The deadline for receipt of Applications was 3:00 p.m., Eastern Time, November 19, 2020.

2. Present Situation

- a) Florida Housing received 9 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Nicole Gibson, Assistant Director of Homeownership Programs (Chair), Heather Strickland, Multifamily Programs Coordinator, and David Woodward, Federal Loan Program Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- b) At its January 13, 2021 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Five, B. of the RFA. The individual scores are set forth on the RFA webpage and can be accessed [here](#).
- c) The RFA 2020-206 All Applications chart (provided as [Exhibit I](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- d) The Review Committee considered the following motions:
 - (1) A motion for the Review Committee to approve the scoring results as set out on Exhibit I and recommendations for funding as set out on [Exhibit J](#);
 - (2) A motion to recommend that the Board approve the scoring results as set out on Exhibit I and recommendations for funding as set out on Exhibit J.
- e) The motions passed unanimously.

3. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 9 Applications (set out on Exhibit I) and authorize the tentative selection of the 5 Applications (set out on Exhibit J) for funding.
- b) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Application set out on the Exhibit J.

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- c) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.
- d) There is an unallocated balance of \$1,494,472 in HOME funding remaining. As provided in Section Five, B. of the RFA, any remaining funding will be distributed as approved by the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

I. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request for Qualifications (RFQ) 2020-12 for Real Estate Brokerage Services

1. Background

- a) At the October 16, 2020 meeting, the Board authorized Florida Housing staff to issue a competitive solicitation for Real Estate Brokerage Services and authorized the Executive Director to establish a Review Committee to make a recommendation to the Board.

2. Present Situation

- a) Request for Qualifications (RFQ) 2020-12 was issued on October 19, 2020. The deadline for receipt of responses was 2:00 p.m., November 18, 2020. A copy of the RFQ is provided as [Exhibit A](#).
- b) Two responses were received by the deadline from CBRE, Inc., and Marcus & Millichap Real Estate Investment Services of Florida, Inc.
- c) Members of the review committee were Todd Fowler (Chairperson), Special Assets Director; Tamara Alford, Financial Manager; and Tim Kennedy, Assistant Director of Multifamily Programs.
- d) Each member of the Review Committee individually reviewed the proposals submitted prior to convening for the Review Committee meeting which was held at 10:00 a.m., Wednesday, December 9, 2020.
- e) At the December 9th meeting, the Review Committee provided final scores for each of the responses. The score sheet is provided as [Exhibit B](#).

3. Recommendation

- a) The Review Committee recommends that the Board authorize Florida Housing to enter into contract negotiations with both CBRE, Inc., and Marcus and Millichap Real Estate Investment Services of Florida, Inc., for real estate brokerage services.