FLORIDA HOUSING FINANCE CORPORATION
Telephonic Board Meeting
April 1, 2022
Action Items

I. MULTIFAMILY PROGRAMS

A. Total Development Cost Per Unit Limitations

1. Background

a) Florida, along with the rest of the United States, is continuing to experience unprecedented increase in the federal inflation rate and various material supply chains and their labor forces have experienced prolonged shortages creating stress in the supply and demand equilibrium nationwide.

b) Construction costs have been increasing with such uncertainty about future prices that construction contracts continue to escalate at an unprecedented pace. Finalizing general contractor construction contracts have been difficult and once contract pricing has been determined, current pricing has proven to have increased at a greater pace than expected beginning at the time the respective Request for Applications (RFAs) were issued through construction completion.

c) There are many Applicants that had applied to Florida Housing for funding since the 2019-2020 RFA cycle and have received an Active Award, but have not yet started construction or rehabilitation of their proposed developments. As proposed development costs are being finalized, developers are required to address the need to obtain additional funding sources as well as the need to comply with RFA requirements.

d) The majority of Florida Housing's RFAs incorporate a Total Development Cost Per Unit (TDC PU) Limitation requirement that is tested at time of application, credit underwriting and, if applicable, final cost certification.

e) As Applicants finalize their development cost budgets and arrange for adequate sources of financing to pay these higher development costs, many find themselves in non-compliance with the TDC PU Limitation test set-forth in their respective RFA under which it applied. Non-compliance is established when an Applicant's development costs exceed the relative TDC PU Limitation and if the non-compliant excess costs exceed five percent of the TDC PU Limitation after implementing all mandated cost saving measures, the credit underwriter must provide a negative recommendation to the Board when submitting the Credit Underwriting Report (CUR). Developer fee may be reduced to achieve compliance with the limitation restriction.

2. Present Situation

a) Florida Housing has made efforts to maintain the viability of the developments in this predicament and continues to believe it is beneficial to deliver these much-needed affordable housing units and communities in a timely manner. An important hurdle that remains to be addressed is to reasonably accommodate a request by the stakeholders to reduce the burden of the TDC PU Limitations which would otherwise create an unreasonable financial burden on the development and its Principals or even stop development delivery.

b) Cost increases experienced after application submission is a normal development process. Developers acknowledge the risk, plan for the inevitable, and have found ways to adapt. Developers that have the capacity to move timely towards construction commencement post board-action limit risks. There are some Applicants during this period that were better positioned to execute a general contractor agreement, finalize and close on its funding sources and start construction. Florida Housing does not desire to have Applicants that could complete this process timelier to have a higher standard of delivery than those who found themselves delayed in this process.

c) Based on the assumptions that the TDC PU Limitation process inherent in the competitive RFA process at Florida Housing exists to limit controllable development costs and construction costs for fundamental affordable housing developments are creating non-viable developments for no other reason, the general proposal is to allow a process for Applicants to voluntarily elect to include this board updated limitation process and to give those developments that are close to commence construction or even approval of a final credit underwriting report, a chance to continue with delivery of units.

d) The proposal is to move approval of an increase the TDC PU Limitation limits by 20%, in addition to the recommendations in 3. Below.

3. <u>Recommendation</u>

a) Staff recommends the Board to authorize an increase to the TDC PU Limitation requirements for all RFAs beginning with the 2019-2020 RFA funding cycle by 20 percent over the post-application limits implemented at the July 30, 2021 Board meeting, exclusive of any TDC Add-Ons.

b) Staff recommends the Board to authorize a post-application escalation rate related to the same RFAs of 8 percent.

c) Staff recommends the Board to authorize an increase to the TDC Add-Ons from the current $5,000 per unit to $7,500 per unit.

d) Staff recommends the Board to authorize allowing development costs associated with demolition and tenant relocation to be excluded from the TDC PU Limitation process for all Applicants, not just ones associated with a Public Housing Authority.

e) Staff recommends the Board to authorize a re-examination of credit underwriting reports and final cost certifications previously completed relative to awards in the above referenced RFAs and to re-evaluate any applicable developer fee penalties for non-compliance of the TDC PU Limitation requirements utilizing the adjusted amounts in the table above if the Applicant elects to accept the change.

B. Delegation of Authority

1. Background/Present Situation

a) The federal inflation rate has increased in recent months at an unprecedented pace, causing an increase in construction costs outside of Applicants' control. This increase in the inflation rate is also creating longer construction timelines, higher insurance costs and operating expenses for projects in the development pipeline. Developers are exploring different avenues to close funding gaps, including development redesign and seeking non-Corporation funding sources. These methods, when occurring after an application and after credit underwriting approval, often invoke requirements in Florida Housing's administrative rules that necessitate Board approval for certain development changes. The Board approval process adds further expense and delays for the development.

b) Florida Housing has made efforts to maintain the viability of developments in this predicament and continues to believe it is beneficial to deliver these much-needed affordable housing units and communities in a timely manner.

c) Through the current rule development process, Florida Housing has explored opportunities to create efficiencies in the rule requirements. In conjunction with stakeholder feedback, staff has identified certain rules it proposes to amend and include a delegation of approval authority from the Board to Corporation Staff.

d) While the proposed rules will be presented in totality at the April 29, 2022 Board Meeting, the rules have a rigid timeline for certain benchmarks before they are officially adopted in June. Based on the unprecedented extreme inflation issues impacting developments, staff is recommending that some of rule development proposals involving a delegation of Board authority staff to approve certain changes to take effect immediately. Approving such changes now will facilitate developments' proceeding to underwriting report approvals and closings without additional delay.

e) Staff recommends that the Board allow staff discretion in approving the following requests:

(1) Allow staff to approve changes to the development that occur after the Credit Underwriting Report is finalized that would normally require Board approval (such as increasing the principal amount, refinancing, or altering any terms or conditions of any mortgage superior or inferior to a Corporation mortgage);

(2) Allow staff to approve changes to the Development type (e.g. garden style, mid-rise, high-rise); and

(3) Allow staff to approve contingency reserves increases upon recommendation by the Credit Underwriter.

f) Such requests will be reviewed by staff in conjunction with a recommendation by the Credit Underwriter prior to approval. Additionally, staff will report to the Board through an information item at the following Board meeting when such requests are approved. These changes may apply to any project in the development pipeline that merits relief.

g) Rule Chapters 67-21 and 67-48, F.A.C. are currently open. Staff will propose changes in certain rules to allow for Corporation approval of the requests outlined above. Proposed rule amendments to these items are attached as Exhibit A. Staff expects to present the Notice of Proposed Rules to the Board for approval at the April 29, 2022 Board meeting. However, the rules would not be effective until at least the end of June. Given the current volatility in construction costs, staff recommends the Board grant authority to staff at this time in order to avoid further delays.

2. Recommendation

a) Approve staff's request to allow for the delegation of authority for staff approval of the items outlined above, in conjunction with a recommendation from the Credit Underwriter.

C. National Housing Trust Fund (NHTF) Financing for Development Pipeline Active Awards

1. <u>Background/Present Situation</u>

a) The federal inflation rate has increased in recent months at an unprecedented pace, causing an increase in construction costs outside of Applicants' control. The demand for building materials and labor has increased as well. Construction costs have been increasing over this period with such uncertainty about future prices that construction contracts have escalated at an unprecedented pace. Finalizing general contractor construction contracts has been difficult for Applicants with active Request for Application (RFA) awards and once contract pricing has been determined, current pricing has proven to increase at a greater pace than expected at the time certain RFAs were issued.

b) Applicants have indicated that due to these volatile market circumstances, without any reasonable assurance of market stabilization, active RFA awards in the pipeline are experiencing issues that impacting the feasibility of developments. As proposed development costs are being finalized, developers are required to address the need to obtain additional funding sources as well as the need to comply with RFA and administrative rule requirements.

c) Florida Housing has made efforts to maintain the viability of developments in this predicament and continues to believe it is beneficial to deliver these much-needed affordable housing units to communities in a timely manner. Florida Housing has identified the NHTF program as financial source opportunity for certain developments with competitive active awards experiencing feasibility concerns.

d) The NHTF program has a per unit award limit for units that are designated at or below 22 percent Area Median Income (AMI) for 30 years. The fund was created to increase and preserve the supply of rental housing for extremely low-income households. It is funded with dedicated sources of revenue from Freddie Mac and Fannie Mae. NHTF is currently offered through certain competitive RFAs. It has significant unique environmental regulatory requirements.

e) Florida Housing currently has a robust NHTF allocation, providing FHFC with the opportunity to offer awards to developments that can meet the regulatory guidelines for the program and commit to set aside units previously set aside at or above 60 percent AMI to serve set aside at or below 22 percent AMI for 30 years. Florida Housing proposes to award NHTF funding to Active Award developments under the following conditions:

(1) The Active Award must be New Construction and associated with a competitive RFA cycle.

(2) The Active Award must not have closed on original funding or proceeded with construction commencement.

(3) Active Awards in the HOME and CDBG-DR programs will not be eligible for this relief due to complex overlays of federal regulatory requirements.

(4) The Active Award must demonstrate verifiable cost increases since original Active Award RFA Application.

(5) The Active Award will be limited to an award of no greater than 10 total NHTF Units.

(6) The NHTF Units cannot already be set aside as Active Award ELI units. Any NHTF Units that are awarded will be in addition to existing ELI unit set aside commitments for the Active Award.

(7) Applicant will bear the risk and cost of all environmental and other regulatory requirements, and if the development cannot comply with regulatory requirements the award will be returned to Florida Housing at the Applicant's expense.

(8) All NHTF Units will also be Link Units.

(9) Staff will employ a conservative approach to the allocation of these funds, the need will be determined and sized in credit underwriting, with each award recommendation presented to the board for approval through an underwriting report or underwriting update letter. Additional development specific criteria may apply to the NHTF award.

(10) The NHTF per unit award limits will be those in place for the RFA the active award participated in if the RFA included NHTF as a funding source. If the Active Award RFA did not include NHTF as a funding source, the per unit limits will be those in place at the time of the current request.

2. <u>Recommendation</u>

a) Approve the use of NHTF funds for development pipeline active awards and authorize staff to work with the credit underwriters to determine appropriate award amount. Staff will process requests for NHTF funds on a rolling basis and stop accepting requests for the use of NHTF at a point in time to ensure there is available NHTF funding to include in prospective RFAs for the 2022-2023 funding cycle.