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FLORIDA HOUSING FINANCE CORPORATION

BAYTOWN APARTMENTS, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

FHFC Case No. 2020-037BP

RFA No. 2020-106

Application No. 2020-454CG

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

Petitioner, Baytown Apartments, LLC ("Baytown"), pursuant to sections 120.57(3), Florida Statutes, and Florida Administrative Code Chapters 28-110 and 67-60, hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the Award Notice and Scoring and Ranking decisions of Respondent, Florida Housing Finance Corporation ("Florida Housing") in awarding funding to responsive bidders pursuant to Request for Applications 2020-106 (the "RFA"). In support, Baytown states as follows:

I. Introduction and Background

1. Baytown is a Florida limited liability corporation in the business of providing affordable housing. Baytown is located at 1910 W. Cass Street, Tampa, Florida, FL 33606. For purposes of service in this proceeding, Baytown may be contacted through its counsel Seann M. Frazier, Marc Ito, and Kristen Bond, of Parker, Hudson, Rainer & Dobbs, LLP, 215 S. Monroe Street, Suite 750, Tallahassee, Florida 32301, (850) 681-0191, sfrazier@phrd.com.

2. Florida Housing is the allocating agency for the State of Florida that was granted the authority to issue the RFA for the purpose of new construction, redevelopment, or

rehabilitation of much needed affordable housing. Florida Housing's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

3. This is a bid protest under Section 120.57(3), Florida Statutes.

4. On February 25, 2020, Florida Housing issued the RFA which offered funding as follows:

This Request for Applications (RFA) is open to Non-Profit Applicants proposing the development of independent Permanent Supportive Housing for either (i) persons with a Disabling Condition that also includes a portion of units for Homeless individuals and families; or (ii) Persons with Developmental Disabilities. Non-Profit Applicant entities may consist of either 100 percent Non-Profit entities or joint ventures between Non-Profit and for-profit entities, if the Applicant meets the definitions of Non-Profit, as defined in Rule Chapter 67-48, F.A.C.

The intent of this RFA is to help communities address the significant need for independent Permanent Supportive Housing for some of their most vulnerable individuals with a disabling condition who are living in more restrictive settings due to the lack of stable housing and coordinated access to appropriate community-based healthcare and supportive services. This RFA proposes to utilize Competitive Housing Credits (HC) in conjunction with State Apartment Incentive Loan (SAIL) funding, or grants.

5. Through the issuance of the RFA, Florida Housing sought to solicit proposals from qualified Applicants that would provide housing consistent with the terms and conditions of the RFA, applicable laws, rules, and regulations.

6. On March 26, 2020, Baytown submitted its Application in response to the RFA that included information concerning the development of an affordable, inclusive, supportive permanent housing community for adults with Intellectual and Developmental Disabilities (I/DD) in Hillsborough County. As set forth in Baytown's Application, residents of the proposed housing community would be individuals who are diagnosed as having a severe, chronic disability attributed to a mental/cognitive or physical impairment or combination of mental and physical impairments that become obvious before the age of 22. Residents would

have such diagnoses as brain injury, genetic disorders like Autism, Cerebral Palsy, Down Syndrome, Spina Bifida, Prader-Willi disease, or other intellectual disability not otherwise specified.

7. As the owner and developer of a project seeking funding through the RFA, Baytown is substantially affected by the Award Notice, Scoring, and Ranking of the responses to the RFA.

8. Consistent with the primary mission and goal of the RFA, Baytown will provide much needed affordable housing to individuals with I/DD in Hillsborough County. Without the funds provided by the RFA, Baytown will be unable to provide this much needed housing. Accordingly, Baytown's substantial interests are affected by the decisions made by Florida Housing.

9. On May 12, 2020, the designated Review Committee met and considered the five (5) Applications that responded to the RFA. The Review Committee consisted of Florida Housing staff. Ultimately, the Review Committee recommended funding Application Number 2020-450CG, submitted by Independence Landing. The Review Committee deemed Baytown's Application ineligible.

10. At the June 11, 2020, Board meeting, the Review Committee submitted its scoring results and preliminary funding recommendation for approval by the Florida Housing Board. The Board approved the Review Committee's scoring results and recommendation to preliminarily fund Independence Landing's Application (attached as **Exhibit A**).

11. Also at that June 11, 2020, Board meeting, Florida Housing staff recommended that the Board approve the preliminary selection of two other Applications—Application Number 2020-453CS submitted by Valor Preserve at Lake Seminole ("Valor Preserve") and

Application Number 2020-451CS submitted by Jacaranda Place. The Board preliminarily approved that recommendation as well.

12. On June 11, 2020, Florida Housing posted its decision on the Florida Housing website. Baytown received notice of the Board's decision through this notice posted on Florida Housing's website. That notice is attached as **Exhibit B**.

13. Accordingly, the Applications submitted by Independence Landing, Jacaranda Place, and Valor Preserve were all preliminarily approved for funding.

14. On June 16, 2020, Baytown timely filed its Notice of Protest. This Formal Written Protest is also timely filed, and Florida Housing has waived the bid protest bond requirement for the RFA. *See Fla. Admin. Code R. 67-60.009(5)*.

15. As a Developer of affordable housing in need of supplemental funding, Baytown's substantial interests are affected by Florida Housing's decision not to award Baytown the necessary funding pursuant to the RFA.

16. In this action, Baytown is challenging the Award Notice and Scoring and Ranking of RFA 2020-106. Specifically, Baytown challenges (1) Florida Housing's determination that Baytown's Application was ineligible for funding; and (2) Florida Housing's decision to fund the Applications submitted by Jacaranda Place and Valor Preserve.

II. Florida Housing Erroneously Deemed Baytown's Application Ineligible.

17. Florida Housing determined that Baytown's Application was ineligible. This determination was contrary to the clear terms of the RFA, clearly erroneous, arbitrary, and capricious. Had this erroneous determination not been made, Baytown would have been the only Applicant that could be fully funded with the remaining funds after the award to

Independence Landing.

18. Both Jacaranda Place and Valor Preserve requested more in Housing Credits than remained after Independence Landing was awarded funding, and neither Jacaranda Place nor Valor Preserve's Applications would be financially feasible if the remaining Housing Credits and SAIL funds were awarded to them, as the funding shortfall would be too large to fill through deferral of the developer fee. By contrast, if Baytown was awarded the balance of Housing Credits alone, the remaining funding gap could be covered by deferral of the developer fee.

19. Under the terms of the RFA, only non-profit applicants are entitled to funding. Section 3.a.(3) of the RFA provides as follows:

- (3) **Only Non-Profit Applicants are eligible for funding.** To qualify as a Non-Profit Applicant for purposes of the RFA, the Applicant must (i) answer the question demonstrating that it meets the definition of Non-Profit as set out in Rule 67-48, F.A.C.; and (ii) provide the required information stated below.

The Applicant's Non-Profit status will be verified during credit underwriting. If this cannot be verified, the Applicant will no longer be considered a Non-Profit Applicant and funding awarded under this RFA will be rescinded.

Provide the following information for the Non-Profit entity that meets the definition stated in Rule Chapter 67-48, F.A.C. as **Attachment 3**:

- (a) The IRS determination letter;
- (b) A description/explanation of how the Non-Profit entity is substantially and materially participating in the management and operation of the Development (i.e., the role of the Non-Profit);
- (c) The names and addresses of the members of the governing board of the Non-Profit entity; and
- (d) The articles of incorporation or the IRS Form 990 most recently filed with the IRS, but no earlier than 2018, demonstrating that, as of the Application Deadline, one of the purposes of the Non-

Profit entity is to foster low-income housing.

The Applicant must remain a Non-Profit entity and the Non-Profit entity must (i) receive at least 25 percent of the Developer's fee, exclusive of the portion of the Developer Fee that will fund the Operating Deficit Reserve; and (ii) contractually ensure that it substantially and materially participates in the management and operation of the Development throughout the Compliance Period.

RFA, pp. 10-11 of 132 (emphasis in original).

20. Thus, under Section 3.a.(3) of the RFA, an Applicant had to prove that it is a non-profit applicant by affirmatively stating so in its Application and providing information to support that affirmation in Attachment 3 to its Application.

21. As provided in Florida Administrative Code Rule 67-48.002(84):

“Non-Profit” means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer Fee, and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing, as further described in rule 67-48.0075, F.A.C.

22. Baytown has as its sole Non-Investor Member, CDS Monarch, Inc., a qualified 501(c)(3) organized under the laws of the State of New York to provide housing and other services on a not-for-profit basis (CDS). Thus, Baytown properly answered in its Application the question in the RFA demonstrating that it meets the definition of Non-Profit as set out in Florida Administrative Code Rule 67-48.002. *See* Baytown Application, p. 5 of 19. Thus, Baytown clearly met the first requirement of Section 3.a.(3).

23. In Attachment 3 to Baytown's Application, Baytown provided (a) an IRS Determination Letter, (b) a description/explanation of the Role of the Non-Profit Entity; and

(c) the names and addresses of the members of the governing board of the Non-Profit entity, CDS. *See* Attachment 3 to Baytown Application.

24. Attachment 3 to Baytown's Application also included Baytown's original Certificate of Incorporation as a Non-Profit entity. *See* Attachment 3 to Baytown Application. Additionally, Attachment 3 included a Certificate of Amendment of Certificate of Incorporation from 2011. *See id.* However, due to a misfeed during the scanning of the All Attachments Document prior to upload, the most recent amendment to the Certificate of Incorporation from 2017 did not make it into Baytown's Application that was electronically submitted to Florida Housing. The 2017 amendment to the Certificate of Incorporation contained language making it clear what was already evident in practice—that a core purpose of CDS was to provide housing and other services to persons with I/DD on a not-for-profit basis. That 2017 amendment is attached to this Petition as **Exhibit C**.

25. Ordinarily, Baytown would have submitted both an electronic copy and a hard copy of its Application to Florida Housing. Submission of both an electronic and hard copy of an Application would have avoided the kind of electronic transmission issue that occurred here, because the hard copy would have included the missing Certificate of Incorporation.

26. However, due to the outbreak of COVID-19, a hard copy of Baytown's Application—which was due March 26, 2020—was not submitted to Florida Housing.¹

27. Although the electronically-filed copy of Baytown's Application did not contain

¹ On March 9, 2020, Governor Ron DeSantis declared a state of emergency in the State as a result of the COVID-19 outbreak. *See* Office of the Governor, Executive Order No. 20-52 (issued Mar. 9, 2020), https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf. The Governor has since extended that state of emergency. *See* Office of the Governor, Executive Order No. 20-114 (issued May 8, 2020), https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-114.pdf.

the most recent Certificate of Incorporation, Attachment 3 to Baytown's Application included the previously mentioned original Certificate of Incorporation as a Non-Profit entity and Certificate of Amendment of the Certificate of Incorporation from 2011.

28. Attachment 3 also included a chart of Baytown's experience developing affordable housing for individuals with I/DD and a Services Coordinator or Principal of Services Coordinator Certification, as required by Section 3.a.(4) of the RFA. Florida Housing correctly determined that Baytown satisfied the requirement in Section 3.a.(4) of the RFA.

29. In its narrative response describing the Non-Profit's experience, Baytown provided detailed information regarding CDS—Manager and Member of Baytown—making it clear that CDS is a mission-based non-profit organization with an extensive history delivering high quality supportive services and housing options for individuals with I/DD. As noted in Baytown's narrative, during the past 7 years, CDS has been awarded more than \$55 million in project financing from the New York State Office of Homes and Community Renewal (HCR) and the New York State Office for People with Developmental Disabilities (OPWDD) to develop several new affordable and integrated supportive housing communities in upstate New York, including Spring Village Apartments (Cicero, NY), Maple Avenue Apartments (Elmira, NY), and Azalea Village (Webster, NY), each of which has 10 I/DD set-aside units integrated in a 50-unit development.

30. Thus, because it was abundantly clear within the four corners of Baytown's Application that Baytown met the requirements of Section 3.a.(3), the missing documentation amounts to nothing more than a waivable minor irregularity. Baytown's Application should not have been deemed ineligible.

III. Florida Housing Erroneously Awarded Funding to Jacaranda Place and Valor Preserve.

31. Based on the Review Committee's Scoring Results, the Review Committee recommended that the Board preliminarily award funding to Independence Landing. Florida Housing Staff went a step further and recommended that the Board "add[] the necessary amount of available Housing Credits and SAIL financing" to fund the Applications submitted by Jacaranda Place and Valor Preserve. See Fla. Housing Fin. Corp., June 11, 2020 Board Meeting Action Items, p. 6. As explained below, this was contrary to the RFA specifications, clearly erroneous, arbitrary, and capricious.

32. Under the plain terms of the RFA, the funding available was as follows:

1. Funding Available

- a. Competitive Housing Credits: \$2,980,000
- b. SAIL: \$4,000,000
- c. Grant Funding: \$4,000,000.

RFA, p. 66 of 132.

33. Independence Landing sought \$1,620,000 in Housing Credits and \$4,000,000 in Grant Funding. Independence Landing was awarded the full amount of funding it sought.

34. Thus, after Independence Landing was awarded funding, there remained available \$4,000,000 in SAIL funds and \$1,360,000 in Housing Credits.

35. Under the RFA, any remaining funding was to be distributed as follows:

b. Remaining Funding

If funding remains, then the highest ranking eligible unfunded Applications **that can be fully funded** will be selected for funding, subject to the County Award Tally. If no eligible unfunded Applications can be fully funded, then no further Applications will be selected for funding and the remaining Housing Credits, and SAIL funding will be distributed as

approved by the Board.

RFA, p. 68 of 132 (emphasis added).

36. Jacaranda Place sought \$1,700,000 in Housing Credits and \$4,000,000 in SAIL funds. Valor Preserve likewise sought \$1,700,000 in Housing Credits and \$4,000,000 in SAIL funds. Thus, both sought funding that exceeds the remaining funding after the award to Independence Landing and neither application would be financially feasible without additional funds beyond those remaining under the RFA because the funding shortfall for each could not be fully covered by deferral of the developer fee.

37. Because there was not enough remaining funding to fully fund either Jacaranda Place or Valor Preserve (let alone both), Florida Housing's decision to award funding to Jacaranda Place and Valor Preserve was contrary to the RFA's specifications, clearly erroneous, arbitrary, and capricious.

38. Baytown, on the other hand, sought only \$948,982 in Housing Credits and \$900,000 in Grant Funding. The \$4,000,000 in remaining SAIL funds after the award to Independence Landing could be used to replace the Grant Funding sought by Baytown, leaving \$3.1 million in SAIL funds and over \$400,000 in Housing Credits. However, even without the award of SAIL funds, Baytown could still develop the affordable housing units as proposed, as it could defer the Developer Fee to make up for the missing \$900,000 in Grant Funds.

39. Thus, Baytown is the only Application that could be fully funded with the Remaining Funds, as set forth by the clear terms of the RFA.

IV. Disputed Issues of Material Fact.

40. The material issues to be resolved are:

- a. Whether Florida Housing's review and scoring of Baytown's Application was

contrary to the RFA specifications, clearly erroneous, arbitrary, or capricious;

- b. Whether the Application submitted by Baytown met the requirements of the RFA;
- c. Whether Florida Housing's determination that Baytown's Application was ineligible was contrary to the RFA specifications, clearly erroneous, arbitrary, or capricious; and
- d. Whether Florida Housing's decision to award funding to Jacaranda Place and Valor Preserve was contrary to the RFA specifications, clearly erroneous, arbitrary, or capricious.

V. Concise Statement of Ultimate Facts.

41. As a matter of ultimate fact, Baytown's Application should not have been found ineligible as Baytown's Application satisfied all requirements of the RFA. Had Baytown's Application not been found ineligible, Baytown is the only Applicant after Independence Landing was awarded funding that could be fully funded with the Remaining Funds under the clear specifications of the RFA. Florida Housing's actions in finding Baytown's Application ineligible and awarding funding to Jacaranda Place and Valor Preserve were contrary to the RFA specifications and to Florida Housing's governing statutes, rules, and policies, clearly erroneous, arbitrary, and capricious.

VI. Specific Statutes and Rules Entitling Baytown to Relief.

42. Baytown is entitled to relief pursuant to sections 120.569 and 120.57, Florida Statutes, and Florida Administrative Code Chapters 28-106, 28-110, and 67-60.

VII. Statement of the Relief Sought.

WHEREFORE, Baytown respectfully requests:

- a. That Florida Housing forward this matter to the Division of Administrative

Hearings for the assignment of an Administrative Law Judge to conduct a formal administrative proceeding;

b. That the Administrative Law Judge enter a Recommended Order (1) determining that Florida Housing's review and scoring of Baytown's Application was contrary to the RFA specifications and to Florida Housing's governing statutes, rules, and policies to such an extent as to be clearly erroneous, arbitrary, and capricious, as the absence of the 2017 amendment to the certificate of incorporation constituted nothing more than a minor irregularity; (2) determining that Florida Housing's decision to award funding to Jacaranda Place and Valor Preserve was contrary to the RFA specifications and to Florida Housing's governing statutes, rules, and policies to such an extent as to be clearly erroneous, arbitrary, and capricious; and (3) recommending that Florida Housing award funding to Baytown; and

c. Grant any other relief as may be deemed just, appropriate, or necessary.

Respectfully submitted this 26th day of June 2020.

PARKER, HUDSON, RAINER & DOBBS, LLP



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215 South Monroe Street, Suite 750
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(850) 681-0191

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a copy of the foregoing has been filed by Hand Delivery to Ana McGlamory, Corporation Clerk, Florida Housing Finance Corporation, 228 N. Bronough Street Suite 5000, Tallahassee, FL 32301, this 26th day of June, 2020.

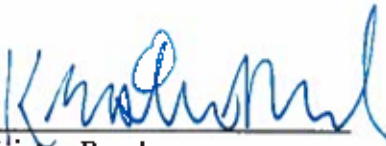

Kristen Bond

EXHIBIT A

RFA 2020-106 Board Approved Scoring Results

App System Number	Name of Developer	Locality	Number of Units/Bedrooms	Name of Developer	Demographic Experience	Total Units (Single/Family/Grouped)	MC Request Amount	MC Request Range	MC Loan Program Amount	Total MC Request Amount (MC1 + MC2)	MC1 Requested	Eligible for Funding?	Total Points	Manager Approved/Logically Feasible/Unapproved	Total Prop Funding/Per Cent	Qualifying Federal Assistance Programs	Per Unit Contribution Funding Preference	Employment Creation Preference	Other Preferences
Eligible Applications																			
2020-106-01	Valencia Home Loans Inc	West	12 Units	Valencia Home Loans Inc 1000 Valencia Drive, Suite 100	GD	12	1,000,000			1,000,000		Y	101	83	5,280,000.00	A	Y	Y	Y
2020-106-02	Carrollville Pk	West	200 Units	Carrollville Pk 1000 Carrollville Drive, Suite 100	GL	200	2,000,000	1,000,000		1,000,000		Y	97	83	5,215,000.00	A	Y	Y	Y
2020-106-03	Valencia	West	100 Units	Valencia Home Loans Inc 1000 Valencia Drive, Suite 100	GL	100	2,000,000			4,000,000		Y	98	81	5,315,000.00	A	Y	Y	Y
2020-106-04	Valencia Home Loans Inc	West	100 Units	Valencia Home Loans Inc 1000 Valencia Drive, Suite 100	GL	100	1,000,000	1,000,000	2,000,000	3,000,000		Y	97	83	5,215,000.00	A	Y	Y	Y
Uneligible Applications																			
2020-106-05	Valencia Home Loans Inc	West	100 Units	Valencia Home Loans Inc 1000 Valencia Drive, Suite 100	GD	100	1,000,000			1,000,000		N	100	83	5,280,000.00	A	Y	Y	Y

*The total request amount for MC1 and MC2 is 4,000,000.00. The total request amount is 7,000,000.00.

Notes: (1) 2020-106-01, 2020-106-02, 2020-106-03, 2020-106-04, 2020-106-05 are approved by the Board. 2020-106-05 is not approved by the Board.

Applicant shall be responsible for all costs related to the development of the project. If Section 202(2)(b) of the F.A.C. and/or 60A-01.001(1)(a) of the F.A.C. apply, the applicant shall be responsible for the costs of the development. The applicant shall be responsible for the costs of the development. The applicant shall be responsible for the costs of the development.

EXHIBIT B

RFA 2020-108 Board Approved Preliminary Awards

Application Number	Name of Development	County	Name of Applicant/Principal	Name of Developer	Demographic Concentration	Total Cost (After HUD Adjustment)	HCRA Request Amount	Total HUD Request (\$44,700)	Grants Requested	Eligible for Funding?	Total Points	Manager Personnel Experience Housing Experience (Years)	Total Cost Funding Per Set-Aside	Diversity Goals/Initiatives Preference	Per User Concentration Preference	Historic Preservation Preference	Priority Award
1022-2020	Highway Street Land	Orlando	SA 2020	Highway Street Community Development, LLC Highway Street Development, LLC	III	0	1,600,000	1,600,000	1,600,000	Y	171	20	\$1,600,000	II	+	Y	1
1022-2020	Acropolis Place	Orlando	Shawn Wilson	Shawn Wilson LLC Shawn Wilson LLC	IV	0	2,400,000	4,000,000	4,000,000	Y	157	5	\$2,400,000	II	+	Y	1
1022-2020	Westchester at Lake Umbagog	Orlando	John Johnson	Westchester at Lake Umbagog LLC Westchester Property Management Company, LLC	IV	0	1,300,000	2,900,000	2,900,000	Y	157	3	\$1,300,000	II	+	Y	1

On June 11, 2020, the Board of Directors of Florida Housing Finance Corporation (FHFC) approved the following preliminary awards for the above applications for funding and awarded the grants to the following applicants:

Any amounts of funding may be reduced pursuant to a final award notice provided in accordance with Section 218.001(2)(b), Florida Statutes, and Chapter 28, Part 1, Article 1, Section 1000.01(1), Florida Administrative Code, which have the effect of reducing the amount of funding to the amount of the award.

EXHIBIT C

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on September 11, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

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**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CDS MONARCH, INC.**

Under Section 803 of the Not-for-Profit Corporation Law

The undersigned President of CDS Monarch, Inc. does hereby certify as follows:

1. The name of the Corporation is CDS Monarch, Inc. (the "Corporation").
2. The Certificate of Incorporation was filed by the New York Secretary of State on May 23, 1997 under the original name of Continuing Developmental Services, Inc.
3. The Corporation was formed under Section 402 of the Not-for-Profit Corporation Law.
4. The Corporation is a corporation as defined in Section 102(a)(5) of the Not-for-Profit Corporation Law.
5. The Certificate of Incorporation is amended to broaden who will receive services provided by the Corporation. Paragraph 3 with respect to the purposes, is amended to read in its entirety as follows:

"3. The purposes for which the Corporation is formed are exclusively charitable, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as follows:

- to promote the general welfare of persons handicapped with mental retardation, developmental impairments and related disabilities;
- to establish, own, lease, mortgage, maintain and operate community residences and camps for the purposes of providing programs of care, habilitation, rehabilitation, education, training, counseling, recreation, therapy, homelike environment and social activities for such mentally disabled persons;
- to establish, own, lease, mortgage, maintain and operate nonresidential facilities for the providing of care, habilitation, rehabilitation, treatment, training, counseling, education, recreation and social activities for such mentally disabled persons;

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- to provide all ancillary services necessary and appropriate for carrying out these programs;
- to educate the general public of the problems and needs of such mentally disabled persons;
- to solicit contributions of money, property and services for the purpose of carrying out these programs;
- to take any and all action which is necessary and appropriate to promote the needs of such mentally disabled persons and to carry out the foregoing purposes;
- to provide Preschool Special Education and Evaluation Program with the New York State Department of Education; and
- to develop, on a non-profit basis, one or more affordable housing projects for families, elderly persons, persons who are developmentally disabled and other persons who qualify for affordable housing.

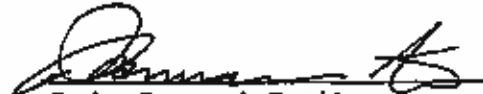
The Corporation shall not carry on any activities that are not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent federal tax law."

6. The foregoing amendment was authorized by the affirmative vote of the directors of the Corporation. The Corporation has no members.

7. The Secretary of State of New York is designated as the agent of the Corporation upon whom process against it may be served and the post office address to which the Secretary of State shall mail a copy of any process is in care of the Corporation, 860 Hard Road, Webster, New York 14580.

[signature page follows]

IN WITNESS WHEREOF, the undersigned hereby subscribes and affirms that this certificate is true and correct under penalties of perjury on this 11th day of May, 2017.


Sankar Sewnauth, President



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF REGIONAL OFFICES
ROCHESTER REGIONAL OFFICE

The Attorney General hereby approves pursuant to N-PCL §804(a)(ii)(A) the Certificate of Amendment for CDS Monarch, Inc. to which this approval is annexed. This approval is conditioned on submission of the Certificate of Amendment to the Department of State for filing within sixty (60) days hereof. Demand is hereby made for a copy of the filed certificate.

Dated: May 12, 2017

ERIC T. SCHNEIDERMAN,
ATTORNEY GENERAL OF
THE STATE OF NEW YORK

By: 
Audrey Cooper,

Assistant Attorney General
New York State Department of Law
Rochester Regional Office
144 Exchange Boulevard, Suite 200
Rochester, New York 14614

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FILED

2017 MAY 17 PM 3:43

**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CDS MONARCH, INC.**

Under Section 803 of the Not-for-Profit Corporation Law

RECEIVED

2017 MAY 17 PM 13:10

100
STATE OF NEW YORK
DEPARTMENT OF STATE
FILED MAY 17 2017
TAX \$ _____
BY: *[Signature]*

**LCS
DRAWDOWN - #AL**

WOODS OVIATT GILMAN LLP
700 CROSSROADS BUILDING
2 STATE STREET
ROCHESTER, NEW YORK 14614

Customer Ref.# 71260

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