

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FHFC CASE NO. 2020-001VW
APPLICATION NO. 2015-119C

HOUSTON STREET MANOR
LIMITED PARTNERSHIP,

Petitioner

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FINANCE CORPORATION

**PETITION FOR WAIVER OF RULES 67-48.023(5), 67-48.023(7), Exhibit C Paragraph
12(c) of RFA 2014-115 & 67-48.0072(17)(f), F.A.C.**

Houston Street Manor Limited Partnership, a Florida limited partnership (the “**Petitioner**”) by and through its undersigned counsel submits its Petition to Respondent, Florida Housing Finance Corporation (the “**Corporation**”), for a waiver of Rules 67-48.023(5), 67-48.023(7), F.A.C. (2014) and Exhibit C, Paragraph 12(c), of RFA 2014-115, to allow Petitioner to submit its Form FCCAP (defined below) with a GCCC (defined below) that is not executed by the general contractor and without an unqualified opinion; and Rule 67-48.0072(17)(f), F.A.C. (2014), to allow Petitioner to pay a sub-contractor that has been contracted to deliver the buildings shell in excess of 31 percent of the total construction costs. (collectively, Rules 67-48.023(7) and 67-48.0072(17)(f) are herein referred to as the “**Rules**”). This Petition is filed pursuant to Section 120.542 of the Florida Statutes (2019) and Chapter 28-104 of the Florida Administrative Code (2019). In support of this Petition for Rule Waiver of Rules 67-48.023(5),

67-48.023(7), Exhibit C, Paragraph 12(c), of RFA 2014-115, and 67-48.0072(17)(f), F.A.C. (the “**Petition**”), Petitioner states as follows:

A. PETITIONER AND DEVELOPMENT

1. The address, telephone number, facsimile number and e-mail address of the Petitioner are:

Houston Street Manor Limited Partnership
2 North Tamiami Trail, Suite 800
Sarasota, Florida 34236
Attn: Don W. Paxton
Telephone: (941) 929-1270
Email: dpaxton@beneficialcom.com

2. For purposes of this Petition, the address, telephone number, facsimile number and e-mail address of Petitioner’s counsel is:

David F. Leon, Esq.
Nelson Mullins Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801
Telephone: (407) 839-4200
Facsimile: (407) 650-0918
Email: David.Leon@nelsonmullins.com

3. On February 2, 2015, Petitioner submitted an application to the Corporation for housing tax credits in the amount of \$1,587,818 in response to RFA 2014-115 to finance a portion of the construction of a 72-unit, seven story building, with two levels of parking located in Jacksonville, FL (the “**Development**”). In connection therewith, Petitioner entered into that certain Construction Loan Agreement by and between Petitioner and Bank of America in the principal amount of \$12,739,675 and that certain County Loan Note executed by the Petitioner in favor of Jacksonville Housing Finance Authority in the principal amount of \$115,000.

4. In order to obtain the Final Housing Credit Allocation for the Development, Rule 67-48.023(7) requires Petitioner to submit the Final Cost Certification Application Package (hereinafter “**Form FCCAP**”), which itemizes all expenses incurred in connection with the construction of the Development. Form FCCAP is required of all Housing Credit (“**HC**”) developments. The Form FCCAP, which is incorporated by the Rule 67-48.023(7), requires that a General Contractor Cost Certification form (“**GCCC**”) be included in the submission package to the Corporation, together with a certified public accountant (“**CPA**”) opinion letter and audit report for the GCCC (collectively, the “**Audit**”).

5. The GCCC instructions set forth specific requirements and audit procedures to be followed by the CPA when performing an audit of the GCCC. Such audit procedures include, but are not limited to, the following:

- a. CPA must report its findings of its audit in the GCCC;
- b. CPA’s unqualified audit report must state that the GCCC was completed in accordance with the proper regulatory procedures and professional standards;
- c. Verify the names and amounts paid to sub-contractors (i.e., verify the top three sub-contractors in terms of dollar amounts as well as randomly selecting five sub-contractors); and
- d. Test the general contractor’s job cost detail and change orders; and test general contractor’s processes and internal controls.

6. At this time, the construction of the Development has been completed, all final certificates of occupancy have been received, and the Initial Occupancy Date has been met. However, Petitioner is in litigation with the general contractor regarding disputes over amounts

owed under the construction contract. A summary of such litigation is attached as Exhibit A. As a result, the general contractor is unwilling to execute the GCCC needed for the CPA to issue the unqualified opinion letter and audit report for the GCCC. Pursuant to the provisions of Petitioner's First Amended and Restated Agreement of Limited Partnership, receipt of the third, fourth, and fifth capital contributions from the tax credit investor (totaling approximately \$12,598,077) is dependent upon the receipt of Form 8609 from Corporation (issued after receipt and review of Form FCCAP). Petitioner needs the additional capital contributions to pay all costs and expenses incurred in connection with the construction of the Development.

B. WAIVER IS PERMANENT

7. The waiver being sought is permanent in nature.

C. THE RULES FROM WHICH WAIVER IS REQUESTED

8. Petitioner requests a waiver of Rule 67-48.023(5), which provides, in relevant part, as follows:

(5). Each Housing Credit Development shall complete the final cost certification process as required in a competitive solicitation.

9. Petitioner requests a waiver of Rule 67-48.023(7), which provides, in relevant part, as follows:

(7). Final cost certification documentation shall be submitted by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C., along with the executed Extended Use Agreement, IRS Tax Information Authorization Form 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, **the required certified public accountant opinion letter, an unqualified audit report prepared by an independent certified public accountant**, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the competitive solicitation. **The**

Final Housing Credit Allocation will not be issued until such time as all items required by a competitive solicitation are received and processed by the Corporation.

(Emphasis added).

10. Petitioner requests a waiver of Exhibit C, Paragraph 12(c) of the RFA, which provides, in relevant part, as follows:

(12(c)). Final Cost Certification Application Package (Form FCCAP):

In accordance with Rule 67-48.023, F.A.C., the Final Cost Certification Application Package (Form FCCAP), Rev. October 2014, shall be used by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C., and shall be submitted to the Corporation by the earlier of the following two (2) dates: (1) The date that is 75 Calendar Days after all the buildings in the Development have been placed in service, or (2) The date that is 30 Calendar Days before the end of the calendar year for which the Final Housing Credit Allocation is requested. The Corporation may grant extensions for good cause upon written request. The FCCAP shall be completed, executed and submitted to the Corporation in both hardcopy format and electronic files of the Microsoft Excel spreadsheets for the HC Development Final Cost Certification (DFCC) and the General Contractor Cost Certification (GCCC) included in the form package, along with the executed Extended Use Agreement and appropriate recording fees, IRS Tax Information Authorization Form 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the required certified public accountant opinion letter for both the DFCC and GCCC, an unqualified audit report prepared by an independent certified public accountant for both the DFCC and GCCC, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the Form FCCAP instructions. The Final Housing Credit Allocation will not be issued until such time as all required items are received and processed by the Corporation. Form FCCAP, Rev. October 2014, is available on the Corporation's Website.

11. Petitioner also requests a waiver of Rule 67-48.0072(17)(f), which provides, in relevant part, as follows:

(17). The General Contractor must meet the following conditions:

(f). Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity, **with the exception of a subcontractor contracted to deliver the building shell of a building of at least five (5) stories which may not have more than 31 percent of the construction cost in a subcontract, unless otherwise approved by the Board for a specific Development. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant’s request, inclusive of construction costs and the General Contractor’s fees.**

(Emphasis added).

D. STATUTES IMPLEMENTED BY THE RULES

12. The Rules for which a waiver is requested is implementing, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statute that governs the allocation of federal low-income housing tax credits. *See* Section 420.5099, Florida Statutes (2019).

13. Pursuant to Chapter 120.542(1), Florida Statutes, “[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation.” Therefore, under Section 120.542(1), Florida Statutes and Chapter 28-104, F.A.C., the Corporation has the authority to grant waivers to its requirements when strict application of these requirements would lead to unreasonable, unfair, and unintended consequences in particular instances. Specifically, Section 120.542(2) states:

“Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, “principles of fairness” are violated when the literal application of a rule

affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.”

14. In this instance, Petitioner meets the standards for a waiver.

E. JUSTIFICATION FOR GRANTING THE WAIVER OF THE RULES

15. Petitioner was able to obtain a release from the contractor’s lien by funding the local court \$3,124,721 to remove the contractor’s lien which thereby insulated the Development from any further contractor action. In good faith, Petitioner funded more with the local court than the likely outcome of the litigation, in order to move forward with the Development and allow more affordable housing in the state.

16. Petitioner engaged Dauby, O’Conner & Zaleski, LLC (“**DOZ**”) to serve as the CPA for rendering the Audits. However, DOZ has been unable to obtain the general contractor’s accounting records and sub-contractor bids. Moreover, DOZ has been unable to obtain the completed the GCCC forms, including any required descriptions of cost; a list of all other costs and fees paid and/or incurred by the HC Development by the general contractor (collectively the “**Missing Documentation**”). Since DOZ was unable to obtain the Missing Documentation from the general contractor, DOZ was unable to enter into an engagement with general contractor to complete the GCCC. Nonetheless, Petitioner provided DOZ the latest Sub-contractor’s Application for Payment, the Schedule of Values (*i.e.*, the AIA G703 or AIA G702), sub-contractor lien waivers, and invoices in order to complete the CG Cost Breakdown Schedule attached to the GCCC (collectively these documents are referred to herein as the “**Supporting Documentation**”). The Supporting Documentation enabled DOZ to determine the names and the amounts paid to each sub-contractor by reviewing the sub-contractor lien waivers and the AIA-G702 dated as of December 31, 2018. Further, as a result of discovery, DOZ recently

reviewed the general contractor's material invoices, a list of executed sub-contracts, and executed change orders between the general contractor and its sub-contractors.

17. The Supporting Documentation allowed Petitioner to engage DOZ to complete an "agreed-upon procedures" audit in connection with the costs incurred by Petitioner's contractor and subcontractors during the development of the project and issue a Report on Applying Agreed-Upon Procedures and a disclaimed opinion. The engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. DOZ performed the following agreed-upon procedures:

1. Identify the sub-contractors and vendors that provided services to the general contractor for work in connection with services provided in construction of the Development;
2. Verify the amounts invoiced by sub-contractor and vendors that provided services to the general contractor for work in connection with services provided in construction of the Development by reviewing approved invoices or other documentation;
3. Confirm amounts billed directly with the top 5 sub-contractors and vendors that provided services to the general contractor for work in connection with services provided in construction of the Project;
4. Compare total costs verified in procedure 2 above or confirm procedure 3 above to the total hard costs listed on the Final Cost Certification provided by the Petitioner to the Corporation; and
5. Calculate the total costs required for eligible tax credit basis in the Final Cost certification provided by the Petitioner to the Corporation in order to support the low-income housing tax credit reservation.

18. DOZ has been unable to obtain the signature of the general contractor, which is necessary to finalize the GCCC, and other certificates and affidavits required from the general contractor. As stated above, DOZ cannot certify and issue an unqualified opinion regarding the accuracy and completeness of the general contractors' actual costs due to DOZ's inability to obtain the requested documentation and signature of GCCC from the general contractor. Nonetheless, DOZ was able to complete the agreed-upon procedures (discussed above) and has drafted the GCCC using the information from the Supporting Documentation and Petitioner in order to submit Form FCCAP. In addition, DOZ will issue as a part of the final GCCC, an agreed-upon procedures audit along with a Report on Applying Agreed-Upon Procedures, which will contain disclaimers outlining the procedures (listed above) that were able and unable to be performed.

19. The litigation described in Exhibit A will not affect costs included in the HC Development Final Cost Certification (“DFCC”), as explained herein. The general contractor has made a claim; that it is owed approximately \$2,118,287.87 for work it performed but has not been paid for (and with respect to which funds are being held in retainage). However, it should be noted that the Petitioner has claims that it is asserting in the litigation against the general contractor, as well as affirmative defenses to the claims of the general contractor which would offset these amounts. This includes Petitioner's claims for liquidated damages against the general contractor.

None of the foregoing amounts will affect the credit allocation to the Development. Petitioner's CPA submitted a draft DFCC dated July 11, 2019 to the Corporation. Per the Corporation's request, Petitioner removed the general contractor's claim, and any and all amounts related to such claim of approximately \$1,181,070 and adjusted the costs as “ineligible

cost” on the DFCC worksheets. As such, Petitioner restated the DFCC to reflect the reduction of the total development costs and eligible basis.

As such, Petitioner (and its accountants) have taken the most conservative approach available with respect to the disputed costs, by excluding such the total general contractors claim of \$2,118,287.90 from the cost certificate costs from the FCCAP. However, if Petitioner kept the cost certification process open until resolution of the litigation, and the outcome proved unfavorable, such expenses and additional amounts owed to general contractor should be included in the cost certification. However, Petitioner, in choosing the conservative approach, is electing to forgo such potential increase in total development cost and eligible basis of the Development for purposes of the FCCAP.

20. DOZ was not able to visit the general contractor's office and test the general contractor's financials as dictated in the audit procedures and thus was unable to obtain the general contractors financials. The general contractor and the litigation described herein disrupted the audit procedures and prevented DOZ from ever obtaining a complete list of sub-contractor/vender names to confirm the three largest dollar sub-contractors and randomly verify another five sub-contractors to determine, that together, account for forty (40) percent of the total costs. However, as stated above DOZ was able to obtain the names and the amounts paid to sub-contractors by reviewing the sub-contractor lien waivers and the Supporting Documentation. DOZ has confirmed the three largest dollar sub-contractors and has sent confirmation letters to another five sub-contractors to confirm, that together, account for forty (40) percent of the total costs.

21. As described above, Petitioner submitted a draft DFCC and GCCC to Corporation. Each draft points out the precautionary procedures performed in order to complete

the audit and the verifications that were unable to be obtained as a result of the general contractor's lack of cooperation. Further, out of good faith, Petitioner engaged DOZ to perform an “agreed-upon procedures” audit and obtained a Report on Applying Agreed-Upon Procedures in order to confirm the names and accuracy of the amounts paid to five sub-contractors. Due to the conservative approach employed by Petitioner and DOZ, and as advised by the Corporation in its response to the draft, the actual cost and eligible basis of the Development have been reduced so that the ultimate resolution of the litigation described herein will not affect the amount of credits generated by the Development. Petitioner believes that the amounts reflected in the DFCC and GCCC are sufficient to permit completion of the cost certification process and issuance of Forms 8609. As stated above, the total development costs and eligible basis have been reduced by the amounts involved in litigation, to *understate* the eligible costs and credits. Petitioner is willing to forego any potential increase in credits in order to obtain the issuance of Form 8609, facilitate receipt of capital contributions from the tax credit investor, and finalize the foregoing process.

22. Further, the Corporation brought to Petitioner’s attention that more than thirty-one (31) percent of the construction cost was sub-contracted to a single sub-contractor which was contracted to deliver the building shell of at least five (5) stories, without the approval of the Corporation. Specifically, Southwest Construction Services, the shell contractor apparently received 37.1% of the amount originally owed under the construction contract. Pursuant to Section 5.5.6 of the Construction Contract by and between Petitioner and general contractor (the “**Contract**”), general contractor acknowledged that it will be subject to, and compliant with, the Corporation’s GCCC. The Petitioner relied on the general contractor’s contractual duty to construct the Development within the instructions and procedures provided in the GCCC Form.

Moreover, Petitioner relied on general contractor's vast experience to conduct the construction in accordance with the GCCC rules.

As discussed above, the general contractor has not cooperated with Petitioner. General contractor ignored Petitioner's requests to provide Petitioner the sub-contractor bids. Thus, Petitioner, without being able to review any of the general contractor's financials or sub-contractor bids, had no way of knowing whether general contractor was violating Rule 67-48.0072(17)(f). Thus, Petitioner could only rely on its Contract and the general contractors experience for assurance that the rules were not going to be violated. Petitioner could neither obtain information regarding consideration paid to each sub-contractor nor the type of work provided by each subcontractor. Petitioner was not able to obtain this information until it received the sub-contractor's lien waivers.

Although, Petitioner was unable to obtain the general contractors' financials and the sub-contractor bids, Petitioner, out of good faith, is willing to pay the penalty of such violation from its deferred developers fee to move forward with the Development.

23. Petitioner is requesting that the Corporation waive the required execution of the GCCC by the general contractor, the unmodified audit report, and unqualified opinion letter and accept the GCCC with disclaimers outlined in the Report on Applying Agreed-Upon Procedures and a disclaimed opinion. Petitioner will submit the GCCC, executed by the DOZ; Report on Applying Agreed-Upon Procedures and the disclaimed opinion letter detailing the procedures (listed above) and findings taken by DOZ, to complete the DFCC. Furthermore, Petitioner is requesting that the Corporation waive the requirement limiting a sub-contractor that has been contracted to deliver the buildings shell to less than 31 percent of the total construction costs without requesting formal approval from the FHFC board. In particular, Petitioner is requesting

the limitation requiring no more than 31 percent of the construction contract being paid to the shell contractor be waived. As stated above, Petitioner, out of good faith, is willing to pay the penalty of such violation from its deferred developers fee in order to move forward with the Development.

24. The facts set forth above demonstrate the hardship and other circumstances which justify Petitioner's request for a waiver of the Rules. The Petitioner's inability to obtain the general contractor's execution of the GCCC and other documentation necessary for the issuance of CPA's unqualified opinion letter and audit report required for the GCCC; results in Petitioner's inability to obtain the third, fourth, and fifth equity installments from the tax credit investor and the submission of the Form FCCAP and the issuance of Form 8609 by the Corporation. Petitioner has gone through extraordinary lengths to provide a GCCC by engaging DOZ to perform an agreed-upon procedures audit to complete the Corporations required audit procedures. Further, due to factors outside of Petitioner's control, Petitioner was never in a position to know whether more than 31 percent of the total construction costs were being paid to any one sub-contractor.

25. The requested waiver of the Rules serves the purpose of the Statutes that are implemented by the Rules. The Florida Housing Finance Corporation Act (Section 420.501, *et seq.*) was passed in order to encourage private and public investment in facilities for persons of low-income. The purpose of the creation of the Housing Tax Credit Program and Multifamily Mortgage Revenue Bonds Program is to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver, the Corporation would recognize the principles of fundamental fairness in the development of affordable housing. Moreover, the

Corporation would also further its goal of increasing the supply of affordable housing through private investment in persons of low-income.

F. ACTION REQUESTED

26. For the reasons set forth herein, Petitioner respectfully requests the Corporation (i) grant the requested waiver of the Corporation's rule which requires the general contractor's execution of the GCCC and a CPA to issue an unmodified audit report and unqualified opinion letter in connection with its submission of the GCCC; (ii) grant the requested waiver of Rule 67-48.0072(17)(f) requiring board approval if a sub-contractor is contracted in excess of 31 percent of the total construction costs to deliver the buildings shell; (iii) grant the Petition and all of the relief requested herein; and (iv) grant such further relief as it may deem appropriate.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'D. Leon', with a long horizontal flourish extending to the right.

David F. Leon., Esq.
Fla. Bar No. 53929
NELSON MULLINS BROAD AND CASSEL
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801
Telephone: (407) 839-4200
Facsimile: (407) 650-0918
Email: David.Leon@nelsonmullins.com

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation,
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
CorporationClerk@floridahousing.org,

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Joint.admin.procedures@leg.state.fl.us

This 6 day of January, 2020.

A handwritten signature in blue ink, consisting of a large, stylized initial 'D' followed by a horizontal line extending to the right.

David F. Leon, Esq.
Fla. Bar No. 53929

Exhibit A

Houston Street Manor Limited Partnership v. Core Construction Services of Florida, LLC pending in the Fourth Judicial Circuit in and for Duval County, Case No. 2018-CA-5740-CV-F.

Summary of Litigation

Both Houston Street Manor Limited Partnership (“**Houston**” or “**Owner**”) and Core Construction of Services of Florida, LLC have asserted claims in the litigation. The Complaint and Counterclaim arise out of a construction project for the construction of a 72-unit apartment project in Jacksonville known as Houston Street Manor (the “**Project**”). As part of the Project, on November 16, 2016 Houston and Core entered into a modified AIA A102 Agreement, where the basis of payment is Cost of the Work Plus a Fee with a Guaranteed Maximum Price, with Accompanying A201-2007 General Conditions as Amended by the Parties (the “**Contract**”). Houston is the owner of the Project. Core is the General Contractor on the Project. Houston asserts the following causes of action: (I) Fraudulent 2018 Lien; (II) Fraudulent 2019 Lien; (III) Breach of Contract; (IV) Slander of Title; and (V) Tortious Interference with Contractual Relationship. Core’s Counterclaim asserts the following causes of action: (I) Foreclosure of Construction Lien; (II) Unjust Enrichment; (III) Breach of Contract; and (IV) Breach of Implied Covenant of Good Faith and Fair Dealing.

The general contractor has made a claim in its Counterclaim that it is owed approximately \$2,118,287.87 for work it performed but has not been paid for (and with respect to which funds are being held in retainage). Core’s counterclaim alleges that Houston breached the contract by allegedly limiting or eliminating the Architect’s authority to certify pay applications and/or otherwise administer the contracts, failing to provide qualified and sufficient Owner’s representation, and failing to pay for work performed.

However, it should be noted that the Houston has claims that it is asserting in the litigation against Core, including claims for liquidated damages, as well as affirmative defenses to the claims of the general contractor which would offset these amounts. This includes Houston’s claims for liquidated damages against Core. Owner denies the claims of the Core and additionally, a preliminary audit report has shown that the claim amount asserted by the general contractor is significantly overstated, even before any offset to the amount claimed is considered.

Houston’s claims and its affirmative defenses to Core’s claims are based on Core’s failing to timely complete the Project within the time required by the Contract; failing to properly staff the project; failing to take required steps to accelerate to meet the Project schedule; upon information and belief, intentionally thwarting Houston’s efforts to access financing for the Project to pay Core by filing fraudulent liens and improperly stopping work; failing to provide Houston and/or Houston’s auditors accounting records; failing to afford access to Core’s records and accounts despite Houston’s persistence in accessing the records throughout the Project; failing to provide

a final Application for Payment; and providing inadequate efforts to address remaining Work and Punchlist work.

The litigation is still in the early discovery phase. The parties have filed their various initial pleadings and have exchanged documents in response to the discovery and are still in the process of exchanging documents. Subpoenas have also been issued to nonparties who worked on the Project. No depositions have been conducted to date and are expected to be set in early 2020 once all the documents between the parties have been exchanged. There is no trial order in this matter yet, so discovery deadlines have not been set and the matter is not currently scheduled for trial.