

FLORIDA HOUSING FINANCE CORPORATION

Board Meeting

March 16, 2007

Consent Items



DEMONSTRATION LOANS

Consent

I. DEMONSTRATION LOANS

A. Request Approval Of Addendum To The Credit Underwriting Report For Refuge House, Inc., A Non-Profit Organization (RFP 2004/04-01 VDV)

DEVELOPMENT NAME (“Development”):	Transitional Housing for Victims of Domestic Violence
DEVELOPER/PRINCIPAL (“Developer”):	Refuge House, Inc., a non-profit corporation
NUMBER OF UNITS:	4 families (or 10 individual adults)
LOCATION (County):	Leon County
TYPE:	Rental, Transitional
SET ASIDE:	Victims of Domestic Violence
DEMONSTRATION LOAN AMOUNT:	\$1,309,338
ADDITIONAL COMMENTS: The credit underwriting was completed in two phases. The first recommending a loan of \$840,330 and the second recommending a loan of \$469,008.	

1. Background/Present Situation

- a) On April 16, 2004, Florida Housing Finance Corporation issued a Request for Proposals (RFP) for the development of transitional housing for victims of domestic violence.
- b) The Developer submitted a response containing a three phase development proposal and on September 10, 2004, the Board approved funding not to exceed a total of \$1,399,000 total for all three phases. This approval was subject to a positive recommendation from the Credit Underwriter.
- c) Staff received a credit underwriting report on March 24, 2005 for the first phase of the proposed development with a positive recommendation for a loan of \$840,330 and a credit underwriting report on May 9, 2006 for the second phase of the proposed development with a positive recommendation for a loan of \$469,008. The Developer will only be utilizing \$1,309,338 of the original approved amount of \$1,399,000 and will only be completing two phases rather than the three.
- d) In the process of conducting a title search on the subject property, it was discovered that there was an existing lien in the amount of \$475,000 in favor of the Department of Children and Family Services (DCF) securing a grant previously awarded for the construction of the existing building. Refuge House anticipates an additional lien in the amount of \$337,814 for an additional DCF grant that has been awarded. DCF has consented to assume a subordinate lien position to the Demonstration loan.
- e) A secondary issue is that of the need to remove a “unity of title”. Currently, the subject property is part of two parcels that are held under one title. The property will be subdivided back into the separate parcels to allow Florida Housing to properly collateralize the demonstration loan with the land. This issue is among the conditions of the credit underwriting report that must be met by the developer prior to closing on this loan.

DEMONSTRATION LOANS

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2. **Recommendation**

Approve the Credit Underwriter's recommendation ([Exhibit A](#)) to allow subordinate financing to be in place on this loan from the Department of Children and Families providing the developer satisfy the conditions contained in this revised credit underwriting report.

HOMEOWNERSHIP PROGRAMS

Consent

II. HOMEOWNERSHIP PROGRAMS

A. Request for Approval of the Credit Underwriting Report for Lee County Housing Development Corporation (Non-Profit) / CLTRFP06-03-5

Applicant Name (“Applicant”):	Lee County Housing Development Corporation (Non-Profit)
Developer/Principal (“Developer”):	Treva Gilligan
Number of Units: 7	Location: Lee County, Florida
Type: Community Land Trust Loan	Allocated Amount: \$150,000

1. Background

On June 9, 2006, the Board approved the final rankings for the 2006 Community Land Trust Request for Proposals (CLTRFP-06) and Florida Housing issued the Applicant an invitation into credit underwriting on June 16, 2006.

2. Present Situation

- a) The Credit Underwriter has provided staff with a Credit Underwriting Report (CUR) outlining the parameters of the proposal, which is attached as [Exhibit A](#).
- b) Staff has reviewed the CUR and concurs with the Credit Underwriter’s recommendation to award \$150,000 for a Community Land Trust Loan to assist with the development of 7 homes, subject to the conditions contained in the CUR.

3. Recommendation

Staff recommends that the Board approve the CUR and authorize staff to issue a loan commitment letter in the amount of \$150,000 to the Developer for a Community Land Trust Loan, subject to further approvals by the credit underwriter, counsel, and the appropriate corporation staff.

HOMEOWNERSHIP PROGRAMS

Consent

B. Request for Approval of the Credit Underwriting Report for Middle Keys Community Land Trust, Inc. (Non-Profit) / CLTRFP05-04-4

Applicant Name (“Applicant”):	Middle Keys Community Land Trust, Inc. (Non-Profit)
Developer/Principal (“Developer”):	Richard Casey, Jr.
Number of Units: 8	Location: Monroe County, Florida
Type: Community Land Trust Loan	Allocated Amount: \$1,405,624

1. Background

On March 3, 2006, the Board approved the final rankings for the 2005 Community Land Trust Request for Proposals (CLTRFP-05) and Florida Housing issued the Applicant an invitation into credit underwriting on March 16, 2006.

2. Present Situation

- a) The Credit Underwriter has provided staff with a Credit Underwriting Report (CUR) outlining the parameters of the proposal, which is attached as [Exhibit B](#).
- b) Staff has reviewed the CUR and concurs with the Credit Underwriter’s recommendation to award \$1,405,624 for a Community Land Trust Loan to assist with the development of 8 homes, subject to the conditions contained in the CUR.

3. Recommendation

Staff recommends that the Board approve the CUR and authorize staff to issue a loan commitment letter in the amount of \$1,405,624 to the Developer for a Community Land Trust Loan, subject to further approvals by the credit underwriter, counsel, and the appropriate corporation staff.

HOUSING CREDITS

Consent

III. HOUSING CREDITS

A. Request Approval to Exchange Amenities for Temple Court (2003-118C)

DEVELOPMENT NAME (“Development”):	Temple Court APPLICATION # 2003-118C
DEVELOPER/PRINCIPAL (“Developer”):	Renee Sandell
APPLICANT: (“Owner”)	Temple Court Partners, Ltd.
NUMBER OF UNITS:	61
LOCATION (“County”):	Miami-Dade County
TYPE:	Acquisition/Rehabilitation
SET ASIDE:	13% @ 30% AMI & 87% @ 60% AMI
ALLOCATED AMOUNT:	\$411,991

1. Background/Present Situation

- a) Temple Court is a Competitive Housing Credit, Acquisition/Rehabilitation Development providing 61 set-aside units in Miami-Dade County, Florida. Florida Housing issued an allocation of \$411,991 in housing credits in December of 2003.
- b) Florida Housing received a request from the Owner on January 2, 2007 to change the amenities in the Extended Use Agreement ([Exhibit A](#)). Due to some issues related to historic preservation, the Applicant requests the following exchanges. The proposed changes are of equal point value to the amenities originally chosen in the application.
 - (1) “Marble window sills” (1 pt.) exchanged for “New bathroom cabinet(s) excluding medicine cabinet” (1 pt.)
 - (2) “Picnic Area” (1 pt.) exchanged for “Car care area” (1 pt.)
 - (3) “Air conditioning with SEER rating of 12 or better” (2 pts.) exchanged for “Air conditioning with SEER rating of 11 or better” (1 pt.) **AND** “Gas water heater with energy factor of .58 or better or electric water heater with energy factor of .91 or better” (1 pt.)
 - (4) “Wall insulation of R-13 or better for frame built construction or wall insulation of R-7 or better for masonry/concrete block construction” (2 pts.) exchanged for “Double-pane windows with minimum solar heat gain coefficient of < or equal to .60 and minimum of .70 U value” (2 pts.)
- c) The Owner further requests that Florida Housing waive the requirement for roll-in showers. Pursuant to Rule Chapter 67-48, F.A.C, “This requirement may be waived in [Substantial Rehabilitation] Developments if installation is determined to be not feasible as documented by a registered architect.” Temple Court is a historic rehabilitation project and as such must adhere to additional construction requirements, beyond those of Florida Housing, which make roll-in showers impossible. The Owner has provided the required documentation from a registered architect stating that installation is not feasible in this development.

HOUSING CREDITS

Consent

2. **Recommendation**

Approve the requested changes reflected above and direct staff to amend the Extended Use Agreement to reflect the changes.

HOUSING CREDITS

Consent

B. Request Approval to Exchange Amenities for Magnolia Walk Apartments Phase II (2002-159CS)

DEVELOPMENT NAME (“Development”):	Magnolia Walk Apartments Phase II APPLICATION # 2002-159CS
DEVELOPER/PRINCIPAL (“Developer”):	John M. Curtis
APPLICANT: (“Owner”)	Magnolia Walk Apartments II, Ltd.
NUMBER OF UNITS:	144
LOCATION (“County”):	Marion County
TYPE:	New Construction
SET ASIDE:	15% @ 30% AMI & 85% @ 60% AMI
HC ALLOCATED AMOUNT:	\$906,360.00
SAIL ALLOCATED AMOUNT:	\$1,000,000

1. Background/Present Situation

- a) Magnolia Walk Apartments Phase II is a Competitive Housing Credit and SAIL, New Construction Development providing 144 set-aside units in Marion County, Florida. Florida Housing issued an allocation of \$906,360 in housing credits in April of 2005 and \$1,000,000 in SAIL in June 2003.
- b) Florida Housing received a request from the Owner on February 16, 2007 to change the features and amenities in the Extended Use Agreement (Exhibit B). The Applicant requests that “Outside Recreation Facility: Shuffleboard Court” be exchanged for “Swimming Pool”. The proposed changes are of equal point value to the amenities originally chosen in the application.

2. Recommendation

Approve the requested changes reflected above and direct staff to amend the Extended Use Agreement and Land Use Restriction Agreement to reflect the changes.

HOUSING CREDITS

Consent

C. Request Approval to Exchange Amenities for Green Gables Apartments, Phase II (2004-105C)

DEVELOPMENT NAME (“Development”):	Green Gables Apartments, Phase II APPLICATION # 2004-105C
DEVELOPER/PRINCIPAL (“Developer”):	John M. Curtis, JKG Development, LLC
APPLICANT: (“Owner”)	Green Gables Apartments II, Ltd.
NUMBER OF UNITS:	124
LOCATION (“County”):	Marion County
TYPE:	New Construction
SET ASIDE:	10% @ 30% AMI & 90% @ 60% AMI
ALLOCATED AMOUNT:	\$1,040,000

1. Background/Present Situation

- a) Green Gables Apartments, Phase II is a Competitive Housing Credit, New Construction Development providing 124 set-aside units in Marion County, Florida. Florida Housing issued an allocation of \$1,040,000 in housing credits in December of 2004.
- b) Florida Housing received a request from the Owner on February 16, 2007 to change the features and amenities and resident programs in the Extended Use Agreement (Exhibit C). The Applicant requests the following exchanges. The proposed changes are of equal point value to the amenities originally chosen in the application.
 - (1) “Gated community with ‘carded’ entry or security guard, or if 2 or more stories, ‘carded’ secure entry to building” (2 pts.) exchanged for “At least 1.5 bathrooms (one full bath and one with at least a toilet and sink) in all 2 bedroom new construction units”. (2pts.)
 - (2) “Outside recreation facility: Volleyball Court” (2 pts.) exchanged for “Outside recreation facility: Shuffleboard Court”. (2 pts.)
 - (3) “Swimming Pool” (2 pts.) exchanged for “Car care area (for car cleaning/washing)” (1 pt.) **AND** “Library consisting of a minimum of 100 books and 5 current magazine subscriptions”. (1 pt.)
 - (4) “Playground/tot lot, accessible to children with disabilities (must be sized in proportion to Development’s size and expected resident population with age-appropriate equipment)” (2 pts.) **AND** “Laundry facilities with full-size washers and dryers available in at least one common area on site” (1 pt.) exchanged for “Computer lab on-site with minimum one computer per 50 units, with basic word processing, spreadsheets and assorted educational and entertainment software programs and at least one printer”. (3 pts.)
 - (5) “Swimming lessons” (2 pts.) exchanged for “Health and Nutrition Classes”. (2 pts.)

HOUSING CREDITS

Consent

2. **Recommendation**

Approve the requested changes reflected above and direct staff to amend the Extended Use Agreement to reflect the changes.

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Consent

IV. LEGAL

A. In Re: CEDO Housing Development Corporation

FHFC Case No. 2007-001VW

Development Name: (“Development”):	Triple Oaks Phase Two (aka Omega Villas)
Developer/Principal: (“Developer”):	CEDO Housing Development Corporation
Number of Units: 56	Location: Gadsden County
Type: Garden Apartments	Set Asides: 16.07% @ 28%; 66.07% @ 50%
Demographics: Farmworker	SAIL: \$2,490,000

1. Background

- a) During the 2000 Combined Cycle, Florida Housing awarded an allocation of SAIL funds to CEDO Housing Development Corporation (“Petitioner”), for Application #2000-107S (the “Application”).
- b) On January 5, 2007, Florida Housing received a Petition for Waiver of Rule 67-48.010(6)(a), F.A.C., (“Petition”) from Petitioner. A copy of the Petition is attached as [Exhibit A](#).
- c) Rule 67-48.010(6)(a), Fla. Admin. Code (2000), (the “Rule”) states in pertinent part:

By April 15 of each year of the SAIL loan term, the Developer shall provide the Corporation and its servicer with a certification detailing the information needed to determine the annual payment to be made...The certification shall require submission of audited financial statements and the SAIL annual reporting form...The financial statements are to be prepared in accordance with generally accepted accounting principles for the 12 months ended December 31...

- d) Petitioner requests a waiver of the above Rule. Specifically, Petitioner requests that it be allowed to prepare the financial statements for the Development based on a July 1 – June 30 fiscal year basis instead of on a calendar year basis.
- e) On January 8, 2007, the Notice of Petition was published in the Florida Administrative Weekly.
- f) To date, Florida Housing has received no comments concerning the Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

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- b) Since its inception, Petitioner has operated on a July 1 – June 30 fiscal year. The Petitioner owns three (3) complexes, each funded by USDA Rural Development. Triple Oaks Phase Two (aka Omega Villas) is financed by Florida Housing and USDA Rural Development. All audits and financial reports for each development are compiled on a fiscal year basis. Triple Oaks Phase Two (aka Omega Villas) is the only complex requiring reports on a calendar year basis. Calendar year reporting would create a substantial hardship because an audit would have to be conducted twice a year just for Triple Oaks Phase Two (aka Omega Villas). Granting the waiver will serve the purpose of the underlying statute, Chapter 420, Part V, Florida Statutes, by making it possible for Petitioner to conduct a single audit and have consistent financial reports using the same data that will satisfy both Florida Housing and USDA Rural Development reporting requirements.

3. Recommendation

Staff recommends the Board grant the Petitioner's request for a waiver of Rule 67-48.010(6)(a), Fla. Admin. Code (2000), to allow Petitioner to prepare the financial statements for the Development based on a July 1 – June 30 fiscal year basis instead of on a calendar year basis.

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B. In Re: Villa Seton, Inc./Villa Seton Apartments

FHFC Case No. 2007-010VW

Development Name: (“Development”):	Villa Seton Apartments
Developer/Principal: (“Developer”):	Catholic Charities of the Diocese of Palm Beach
Number of Units: 50	Location: St. Lucie County
Type: mid-rise with elevators	Set Asides: 98% (HOME)
Demographics: Elderly	HOME \$1,474,268
MMRB: N/A	Housing Credits: N/A

1. Background

- a) During the 2003 Universal Cycle, Florida Housing awarded \$1,474,268 in HOME Investment Partnerships Rental Program (HOME) funding to Villa Seton, Inc. (“Petitioner”) to construct a 50-unit elderly rental apartment complex, known as Villa Seton Apartments, located in St. Lucie County, Florida (the “Development”).
- b) On February 14, 2007, Florida Housing received “Villa Seton, Inc.’s Petition for Waiver/Variance of Florida Administrative Code Rule 67-48.002(111)” (the “Petition”) from Petitioner. A copy of the Petition is attached as [Exhibit B](#).
- c) Rule 67-48.002(111), Florida Administrative Code (2003), states in pertinent part:

“Universal Application Package” or “UA1016 (Rev. 4-03)” means the forms and instructions, obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME and/or HC Program(s). The Universal Application Package is adopted and incorporated herein by reference, effective on the date of the latest amendment to this rule chapter.
- d) The 2003 Universal Application Instructions, Specific Instructions, Part III.D.1.f provide:

Roll-In Showers will be provided in 15% of NC (new construction) and 10% of SR (substantial rehabilitation) units. 5% of this requirement may be met with walk-in type shower stalls with permanently affixed seat.
- e) Petitioner requests a waiver of Part III.D.1.f. of the Universal Application Instructions incorporated by reference in Rule 67-48.002(111) and the requirement that 15% of all units in Villa Seton be equipped with roll-in showers.
- f) On February 23, 2007, the Notice of the original Petition was published in the Florida Administrative Weekly in Volume 33, Number 08. To date, Florida Housing has not received any comments concerning the Petition.

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2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- b) For the 2003 HOME funding cycle, there was no competitive advantage to select the Elderly Demographic. Villa Seton has 5 roll-in shower units and 45 walk-in showers with permanently affixed seats. Petitioner demonstrated that Villa Seton is in compliance with the guidelines of the Americans with Disabilities Act, the Architectural Barriers Act, the Uniform Federal Accessibility Standards, Section 504 of the Rehabilitation Act and the Fair Housing Act.
- c) Petitioner further demonstrated that it would create a substantial hardship to reconfigure the bathrooms in order to comply with Florida Housing's requirements. Petitioner's architect, Michael Schiff, determined that installation of roll-in showers is not feasible given the configuration of the units. Petitioner would have to redesign, demolish and reconstruct the units at great expense, and Petitioner would have to relocate the residents currently occupying the units. The granting of a waiver of the aforementioned rules would serve the purpose of the underlying statute, Chapter 420, Part V, Fla. Stat., in that it would further the goal of facilitating the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households.

3. Recommendation

Staff recommends the Board grant the Petitioner's request for a waiver of Part III.D.1.f. of the Universal Application Instructions incorporated by reference in Rule 67-48.002(111) (2003), Florida Administrative Code, to waive the requirement that 15% of all units in Villa Seton have roll-in showers and to find that Petitioner has satisfied this requirement with its currently constructed mix of roll-in showers and walk-in showers with permanently affixed seats.

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C. In re: Tallman Pines Associates, Ltd./Tallman Pines Apartments

Case No. 2007-012VW

Development Name: (“Development”):	Tallman Pines Apartments
Developer/Principal: (“Developer”):	Tallman Pines Development, LLC McCan Communities, Inc.
Number of Units: 176	Location: Broward County
Type: garden	Set Aside: 15% @ 30% 85% @ 60%
Demographics: Family	Allocated Amount: n/a
MMRB: n/a	Housing Credits: \$2,435,500

1. Background

- a) During the 2006 Universal Application Cycle, Florida Housing awarded an allocation of low income housing tax credits to Tallman Pines Associates, Ltd. (“Petitioner”), to construct a development known as Tallman Pines Apartments, a 176-unit multifamily rental complex intended to serve the Family demographic in Broward County, Florida (“Development”).
- b) On February 14, 2007, Florida Housing received a “Petition for Waiver of Rule 67-48.004(15) and for a Variance of Part II.A.2.a.(1) of the Universal Application to Change Ownership Structure for the Tallman Pines Associates Ltd. Development” (“Petition”) from Petitioner. A copy of the Petition is attached as [Exhibit C](#).
- c) Petitioner learned that its tax credit investor, Institutional Tax Credit Fund LIV, L.P., would reduce its equity contribution to the Development unless Petitioner’s ownership structure was modified to substitute a wholly-owned for-profit subsidiary, TP Homes and Communities, Inc., for its parent not-for-profit entity, McCan Communities, Inc.
- d) Petitioner seeks a variance to the extent that the Rule and Instructions prohibit changing the Applicant’s General Partner prior to the issuance of the Final Housing Credit Allocation and to allow Petitioner to modify the ownership interest of Tallman Pines Associates, Ltd. by removing McCan Communities, Inc.(.0049%), and replacing this entity with its wholly-owned for-profit subsidiary, TP Homes and Communities, Inc.
- e) On February 23, 2007, the Notice of Petition was published in the Florida Administrative Weekly in Volume 33, Number 08. To date, Florida Housing has not received any comments concerning the Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes, provides in pertinent part:

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

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of a rule would create a substantial hardship or would violate principles of fairness.

- b) Rule 67-48.004(1)(a), Florida Administrative Code (2006), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference...

- c) Part II.A.2.a.(1) of the Universal Application Instructions provides in part:

“If applying for HC, the Applicant must be a limited partnership (including a limited liability limited partnership) or a limited liability company. The Applicant entity shall be the recipient of the Housing Credits and cannot be changed until after a Final Housing Credit Allocation has been issued. Replacement of the Applicant or a material change (33.3% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving an allocation and shall be deemed a material misrepresentation. Changes to the limited partner of a limited partnership will not result in disqualification.”

- d) Rule 67-48.004(15), Florida Administrative Code provides in pertinent part:

A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if at any time the Board determines that the Applicant’s Development or Development Team is no longer the Development or Development Team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

3. **Recommendation**

Staff recommends that the Board grant the variance of Part II.A.2.a.(1) of the Universal Application Instructions, incorporated by reference in Rule 67-48.004(1)(a), Florida Administrative Code. Petitioner demonstrated that changing the ownership structure will not impact the Development. Further, the requested changes to the Petitioner’s ownership structure will enhance the likelihood that the Development will be timely and successfully completed and, in turn, will further Florida Housing’s statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida. The granting of this request for waiver will serve the purpose of the underlying statute by ensuring the maximum use of available credits in order to encourage development of low-income housing in the state. Moreover, not granting this waiver will result in a substantial hardship to Petitioner. Petitioner demonstrated that its tax credit investor will reduce its equity contribution unless there was a change in the ownership structure. As Petitioner is not seeking to change one of its Co-Developers, staff recommends that the Board deny a waiver of Rule 67-48.004(15), Fla. Admin. Code (2006).

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D. In Re: CSA RRH, Ltd./ Countryside Apartments

FHFC Case No. 2007-003VW

Development Name: (“Development”):	Countryside Apartments
Developer/Principal: (“Developer”):	Flynn Development Corporation
Number of Units: 39	Location: Nassau County
Type: Garden Apartments	Set Asides: 40% @ 60%
Demographics: Family	SAIL: N/A
MMRB: N/A	Housing Credits: \$98,000

1. Background

a) During the 2006 Universal Cycle, Florida Housing awarded an allocation of low income housing tax credits to CSA RRH, Ltd. (“Petitioner”), for the acquisition and rehabilitation of an existing 39-unit apartment complex, Countryside Apartments, located in Nassau County, Florida (the “Development”).

b) On January 29, 2007, Florida Housing received a “Petition for Waiver of Compliance Monitoring Fees Imposed by Rule 67-48.007, Florida Administrative Code, and the Universal Application Instructions Adopted as Rules under Section 67-48.004(1)(a), Florida Administrative Code” (“Petition”), from Petitioner. A copy of the Petition is attached as [Exhibit D](#).

c) Rule 67-48.004(1)(a), Florida Administrative Code (2006), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference...

d) The particular portions of the 2006 Universal Application Instructions which apply to this Petition state, in pertinent part:

7. Compliance Monitoring Fees:

b. HC:

(2) Annual Compliance monitoring fees - \$1,578 + \$9.00 per set-aside unit, for the full Housing Credit Extended Use Period collected at final allocation based on a quarterly payment stream discounted at a rate of 2.75%

e) Rule 67-48.007(6), Florida Administrative Code (2006), states in pertinent part:

The Corporation ... shall collect via check or money order the following fees and charges in conjunction with the ... HC Program:

(6) Compliance Monitoring fees.

f) Petitioner requests a waiver of the above Rules and the above portions of the 2006 Universal Application Instructions incorporated therein to partially waive

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Annual Compliance monitoring fee and impose an Annual Compliance monitoring fee for the Development based on \$350.00 per development over the compliance monitoring term, 30 years, and the payment discounted at 2.75%.

- g) On February 9, 2007, the Notice of the original Petition was published in the Florida Administrative Weekly in Volume 33, Number 06. To date, Florida Housing has not received any comments concerning the Amended Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- b) The Development is financed in part through a United States Department of Agricultural Rural Development program ("USDA RD") which provides a direct loan program for financing of multi-family housing. USDA RD and Florida Housing entered into an agreement to monitor compliance with the tax credit requirements of USDA RD borrowers. This agreement resulted in a reduced compliance monitoring fee imposed on USDA RD borrowers. In 2001, the Annual Compliance monitoring fee for those developments with USDA RD funds was \$300.00 per development over the compliance monitoring terms, and the payment was discounted 2.75%. This reduced monitoring fee was inadvertently omitted from the 2006 Universal Application Instructions and rules.
- c) Petitioner demonstrated that denial of these requested waivers would violate principles of fairness, in that requiring payment of the entire fee where monitoring is also being conducted by the USDA would result in an overpayment by Petitioner. Granting the Petition would serve the purpose of the underlying statute which provides for compliance and the collection of monitoring fees, and by ensuring that the affordable housing units are provided.

3. Recommendation

Staff recommends the Board grant the Petitioner's request for a waivers of Rules 67-48.004(1)(a), and 67-48.007(6), Florida Administrative Code (2006), and the above stated portions of the 2006 Universal Application Instructions incorporated therein, to impose an Annual Compliance monitoring fee for Countryside Apartments based on \$350.00 per development over the compliance monitoring term, thirty (30) years, and the payment discounted at 2.75%.

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E. In Re: Pensacola RRH, Ltd./ Sugar Hill Apartments

FHFC Case No. 2007-002VW

Development Name: (“Development”):	Sugar Hill Apartments
Developer/Principal: (“Developer”):	Flynn Development Corporation
Number of Units: 51	Location: Escambia County
Type: Garden Apartments	Set Asides: 40% @ 60%
Demographics: Family	SAIL: N/A
MMRB: N/A	Housing Credits: \$150,000

1. Background

a) During the 2006 Universal Cycle, Florida Housing awarded an allocation of low income housing tax credits to Pensacola RRH, Ltd. (“Petitioner”), for the acquisition and rehabilitation of an existing 51-unit apartment complex, Sugar Hill Apartments, located in Escambia County, Florida (the “Development”).

b) On January 29, 2007, Florida Housing received a “Petition for Waiver of Compliance Monitoring Fees Imposed by Rule 67-48.007, Florida Administrative Code, and the Universal Application Instructions Adopted as Rules under Section 67-48.004(1)(a), Florida Administrative Code” (“Petition”), from Petitioner. A copy of the Petition is attached as [Exhibit E](#).

c) Rule 67-48.004(1)(a), Florida Administrative Code (2006), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference...

d) The particular portions of the 2006 Universal Application Instructions which apply to this Petition state, in pertinent part:

7. Compliance Monitoring Fees:

b. HC:

(2) Annual Compliance monitoring fees - \$1,578 + \$9.00 per set-aside unit, for the full Housing Credit Extended Use Period collected at final allocation based on a quarterly payment stream discounted at a rate of 2.75%

e) Rule 67-48.007(6), Florida Administrative Code (2006), states in pertinent part:

The Corporation ... shall collect via check or money order the following fees and charges in conjunction with the ... HC Program:

(6) Compliance Monitoring fees.

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- f) Petitioner requests a waiver of the above Rules and the above portions of the 2006 Universal Application Instructions incorporated therein to partially waive Annual Compliance monitoring fee and impose an Annual Compliance monitoring fee for the Development based on \$350.00 per development over the compliance monitoring term, 30 years, and the payment discounted at 2.75%.
- g) On February 9, 2007, the Notice of the original Petition was published in the Florida Administrative Weekly in Volume 33, Number 06. To date, Florida Housing has not received any comments concerning the Amended Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- b) The Development is financed in part through a United States Department of Agricultural Rural Development program ("USDA RD") which provides a direct loan program for financing of multi-family housing. USDA RD and Florida Housing entered into an agreement to monitor compliance with the tax credit requirements of USDA RD borrowers. This agreement resulted in a reduced compliance monitoring fee imposed on USDA RD borrowers. In 2001, the Annual Compliance monitoring fee for those developments with USDA RD funds was \$300.00 per development over the compliance monitoring terms, and the payment was discounted 2.75%. This reduced monitoring fee was inadvertently omitted from the 2006 Universal Application Instructions and rules.
- c) Petitioner demonstrated that denial of these requested waivers would violate principles of fairness, in that requiring payment of the entire fee where monitoring is also being conducted by the USDA would result in an overpayment by Petitioner. Granting the Petition would serve the purpose of the underlying statute which provides for compliance and the collection of monitoring fees, and by ensuring that the affordable housing units are provided.

3. Recommendation

Staff recommends the Board grant the Petitioner's request for a waivers of Rules 67-48.004(1)(a), and 67-48.007(6), Florida Administrative Code (2006), and the above stated portions of the 2006 Universal Application Instructions incorporated therein, to impose an Annual Compliance monitoring fee for Countryside Apartments based on \$350.00 per development over the compliance monitoring term, thirty (30) years, and the payment discounted at 2.75%.

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Consent

F. In Re: Thornbury RRH, Ltd./ Thornbury Apartments

FHFC Case No. 2007-004VW

Development Name: (“Development”):	Thornbury Apartments
Developer/Principal: (“Developer”):	Flynn Development Corporation
Number of Units: 48	Location: Highlands County
Type: Garden Apartments	Set Asides: 40% @ 60%
Demographics: Family	SAIL: N/A
MMRB: N/A	Housing Credits: \$113,000

1. Background

- a) During the 2006 Universal Cycle, Florida Housing awarded an allocation of low income housing tax credits to Thornbury RRH, Ltd. (“Petitioner”), for the acquisition and rehabilitation of an existing 48-unit apartment complex, Thornbury Apartments, located in Highlands County, Florida (the “Development”).

- b) On January 29, 2007, Florida Housing received a “Petition for Waiver of Compliance Monitoring Fees Imposed by Rule 67-48.007, Florida Administrative Code, and the Universal Application Instructions Adopted as Rules under Section 67-48.004(1)(a), Florida Administrative Code” (“Petition”), from Petitioner. A copy of the Petition is attached as [Exhibit F](#).

- c) Rule 67-48.004(1)(a), Florida Administrative Code (2006), states in pertinent part:

The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference...

- d) The particular portions of the 2006 Universal Application Instructions which apply to this Petition state, in pertinent part:

7. Compliance Monitoring Fees:

b. HC:

(2) Annual Compliance monitoring fees - \$1,578 + \$9.00 per set-aside unit, for the full Housing Credit Extended Use Period collected at final allocation based on a quarterly payment stream discounted at a rate of 2.75%

- e) Rule 67-48.007(6), Florida Administrative Code (2006), states in pertinent part:

The Corporation ... shall collect via check or money order the following fees and charges in conjunction with the ... HC Program:

(6) Compliance Monitoring fees.

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Consent

- f) Petitioner requests a waiver of the above Rules and the above portions of the 2006 Universal Application Instructions incorporated therein to partially waive Annual Compliance monitoring fee and impose an Annual Compliance monitoring fee for the Development based on \$350.00 per development over the compliance monitoring term, 30 years, and the payment discounted at 2.75%.
- g) On February 9, 2007, the Notice of the original Petition was published in the Florida Administrative Weekly in Volume 33, Number 06. To date, Florida Housing has not received any comments concerning the Amended Petition.

2. Present Situation

- a) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- b) The Development is financed in part through a United States Department of Agricultural Rural Development program ("USDA RD") which provides a direct loan program for financing of multi-family housing. USDA RD and Florida Housing entered into an agreement to monitor compliance with the tax credit requirements of USDA RD borrowers. This agreement resulted in a reduced compliance monitoring fee imposed on USDA RD borrowers. In 2001, the Annual Compliance monitoring fee for those developments with USDA RD funds was \$300.00 per development over the compliance monitoring terms, and the payment was discounted 2.75%. This reduced monitoring fee was inadvertently omitted from the 2006 Universal Application Instructions and rules.
- c) Petitioner demonstrated that denial of these requested waivers would violate principles of fairness, in that requiring payment of the entire fee where monitoring is also being conducted by the USDA would result in an overpayment by Petitioner. Granting the Petition would serve the purpose of the underlying statute which provides for compliance and the collection of monitoring fees, and by ensuring that the affordable housing units are provided.

3. Recommendation

Staff recommends the Board grant the Petitioner's request for a waivers of Rules 67-48.004(1)(a), and 67-48.007(6), Florida Administrative Code (2006), and the above stated portions of the 2006 Universal Application Instructions incorporated therein, to impose an Annual Compliance monitoring fee for Countryside Apartments based on \$350.00 per development over the compliance monitoring term, thirty (30) years, and the payment discounted at 2.75%.

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Consent

G. In Re: Lakeside Village Housing, Ltd., LLLP

FHFC Case No. 2007-009VW

Development Name: (“Development”):	Lakeside Village Application # 2005-31C
Developer/Principal: (“Developer”):	Lakeside Village Development, LLC
Number of Units: 103	Location: Volusia
Type: Other	Set Aside: 18% @ 30% AMI 82% @ 60% AMI
Demographics: Family	Housing Credits: \$1,000,000

1. Background

- a) During the 2005 Universal Cycle, Florida Housing awarded competitive low-income housing tax credits (“housing credits”) to Lakeside Village Housing, Ltd., LLLP (“Petitioner”). In January 2006, Florida Housing approved a change in the ownership structure of Petitioner, wherein the existing co-Developer, TCG Daytona Beach, LLC, was replaced by Picerne Affordable Development, LLC. Florida Housing also approved a change in the co-general partner of Petitioner from South Street, LLC, to Picerne Lakeside Village, LLC.
- b) On February 13, 2007, Florida Housing received a “Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)(g)”, (“Petition”) from Petitioner. A copy of the Petition is attached as [Exhibit G](#).
- c) Rule 67-48.004(14), Florida Administrative Code (2005), provides in pertinent part:

Notwithstanding any other provision of these Rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

- (g) Development Type.
- d) Petitioner requests a waiver of the above rules to permit a change in Development Type from “Other” to townhouses, with no change in the number of units. The original design of the Development provided for 21 duplex/triplex/quadruplex buildings (45 units), 8 single-family detached buildings (8 units), and one garden-style apartment building containing 50 units. As a result of the approved change in Developer, Petitioner now believes the original development type combination to be unrealistic due to the set-back requirements applicable to the Development site. Petitioner now wishes the change the Development Type to townhouses, which would permit them to reduce the total number of buildings from 30 to 11. This change has no effect on the score Petitioner received in its original application, and would not give Petitioner an advantage not enjoyed by competing applicants.

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Consent

- e) On February 23, 2007, the Notice of Petition was published in the Florida Administrative Weekly. To date, Florida Housing has not received any comments concerning the Petition.
- f) Section 120.542(2), Florida Statutes provides in pertinent part:

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.
- g) Petitioner asserts that completion of the Development as originally planned is now unrealistic and cannot be accomplished, and that strict application of the above Rule under these circumstances would cause Petitioner substantial hardship and would violate the principles of fairness. Petitioner also asserts that permitting a less dense and more efficient Development Type, while preserving the same number of affordable housing units, would serve the underlying purpose of the statute.

2. **Recommendation**

Staff recommends the Board **GRANT** Petitioner's request for a waiver of Rule 67-48.004(14)(g), Florida Administrative Code, to permit Petitioner to change the Development Type of the Lakeside Village Development from "Other" to townhouses.

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Consent

H. In Re: Pine Haven Housing, Ltd., LLLP

FHFC Case No. 2007-008VW

Development Name: (“Development”):	Pine Haven Application # 2004-143C
Developer/Principal: (“Developer”):	Pine Haven Housing, Ltd., LLLP
Number of Units: 135	Location: Volusia
Type: duplex/quadrplex	Set Aside: 40% @ 60%
Demographics: Family	Housing Credits: \$1,000,000

1. Background

- a) During the 2004 Universal Cycle, Florida Housing awarded competitive low-income housing tax credits (“housing credits”) to Petitioner.
- b) On February 13, 2007, Florida Housing received a “Petition for Variance/Waiver from Florida Administrative Code Rule 67-48.004(14)(f)”, (“Petition”) from Pine Haven Housing, Ltd., LLLP (“Petitioner”). A copy of the Petition is attached as [Exhibit H](#).
- c) Rule 67-48.004(14), Florida Administrative Code (2004), provides in pertinent part:

Notwithstanding any other provision of these Rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

- (f) Development Type.
- d) Petitioner requests a waiver of the above rules to permit a change in Development Type from duplexes/quadrplexes to townhouses, with no change in the number of units. This change in Development Type is necessary due to circumstances beyond Petitioner’s control. In December, 2005 an active bald eagle’s nest was discovered on the property, which requires Petitioner to reconfigure the site plan and to reduce the number of buildings, in order to comply with Section 8 of the Endangered Species Act. Petitioner has determined that changing the Development Type to “townhouse” would reduce the number of buildings with dwelling units from 57 to 20, while preserving the same number of units. This change has no effect on the score Petitioner received in its original application, and would not give Petitioner an advantage not enjoyed by competing applicants.
- e) On February 23, 2007, the Notice of Petition was published in the Florida Administrative Weekly. To date, Florida Housing has not received any comments concerning the Petition.

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Consent

- f) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- g) Strict application of the above Rule under these circumstances, where the Petitioner is through no fault of its own required to make a change not permitted under the Rule, would cause substantial hardship to Petitioner and violate the principles of fairness. Permitting this change in Development Type while preserving the same number of affordable housing units would also serve the underlying purpose of the statute.

2. **Recommendation**

Staff recommends the Board **GRANT** Petitioner's request for a waiver of Rule 67-48.004(14)(f), Florida Administrative Code, to permit Petitioner to change the Development Type of the Pine Haven Development from duplexes/quadrplexes to townhouses.

LEGAL

Consent

I. In Re: The Club at Eustis Village Partners, Ltd., a Florida limited partnership

FHFC Case No. 2007-013VW

Development Name: (“Development”):	The Club at Eustis Village Application # 2006-093S
Developer/Principal: (“Developer”):	Atlantic Housing Group, L.L.L.P.
Number of Units: 96	Location: Lake County
Type: Garden Apartments	Set Aside: 70% at 60% AMI
Demographics: Family	Allocated Amount: \$3,700,000
MMRB: N/A	Housing Credits: N/A

1. Background

- a) During the 2006 Universal Cycle, Florida Housing awarded SAIL funds to the Petitioner.
- b) On February 13, 2007, Florida Housing received a Petition for Waiver from Rules 67-48.004(1)(a), 67-48.004(14)(a) and (b), and 67-48.004(15), Florida Administrative Code (2006), (“Petition”) from The Club at Eustis Village Partners, Ltd. (“Petitioner”). On February 23, 2007, Florida Housing received an Amended Petition for Waiver from Rules 67-48.004(1)(a), 67-48.004(14)(a) and (b), and 67-48.004(15), Florida Administrative Code (2006), (“Amended Petition”) from Petitioner. A copy of the Amended Petition is attached as [Exhibit I](#).
- c) Rule 67-48.004(1)(a) provides:
 - (1)
 - (a) The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, or available, without charge on the Corporation’s Website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC or SAIL and HC Programs(s).
- d) The Specific Instructions of the Universal Application Instructions provides under Part II A.2.a.(2):
 - (2) If applying for MMRB, SAIL or HOME, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a material change (33.33% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes after loan closing require Board approval.

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Consent

(1) * * *

B. Development Team.

* * *

1. Developer or principal of Developer
(Threshold).

The identity of the Developer(s) listed in this Application may not change until the construction or Rehabilitation/Substantial Rehabilitation of the Development is complete, unless approved by the Board.

e) Rule 67-48.004(14)(a) and (b) provide:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

* * *

(a) Name of Applicant;

(b) Identity of each Developer, including all co-Developers;

f) Rule 67-48.004(15) provides:

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if, at any time, the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application and the changes made are prejudicial to the Development or to the market to be served by the Development.

g) Petitioner requests a waiver of the above rules to change the applicant entity. Specifically, Petitioner requests a waiver of Rules 67-48.004(1)(a) and (14)(a), restricting the ability to change the name of the Applicant prior to closing. The Applicant Entity is The Club at Eustis Village Partners, Ltd. The Petitioner desires this Waiver to change the Applicant Entity to Club at Eustis Partners, Ltd., with an ownership structure as reflected on Exhibit B attached to the Amended Petition.

h) Petitioner also requests of a waiver of the above rules to change the name of the developer entity. Specifically, Petitioner requests a waiver of Rules 67-48.004(1)(a), 14(b) and (15) to change the name of the Developer from Atlantic Housing Group, L.L.L.P. to Atlantic Housing Partners, L.L.L.P., as well as to file name changes for certain other entities within the Developer's ownership

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Consent

structure. The Developer further wishes to transfer one of the limited partner interests of the Developer (currently held by NV Housing & Development Trust) to Florida CIS Housing Advisors, L.P.

- i) On February 23, 2007, the Notice of Petition was published in the Florida Administrative Weekly.
- j) To date, Florida Housing has not received any comments concerning the Petition.
- k) Section 120.542(2), Florida Statutes provides in pertinent part:

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.

- l) The granting of this request for waiver to change the applicant and developer entities and other internal restructuring will serve the purpose of the underlying statute in that the development will be able to go forward as proposed without violating the intent and purposes of the rules for which waiver is sought. Denial of the Amended Petition will result in substantial hardship to the applicant and developer entities in that strict application of the rules in this case will lead to an unreasonable and unintended result. The intent of the rules is to prevent third parties entering into the transaction after the application process. In this case, no third parties are entering into the transaction but rather only internal restructuring will occur.
- m) The credit underwriter has reviewed the changes to the applicant and developer entities which are being requested by Petitioner in its Amended Petition and the credit underwriting report for this loan which is being submitted to the Board for approval at this meeting reflects those changes.

2. **Recommendation**

Staff recommends the Board grant the Petitioner's request for waiver from Rules 67-48.004(1)(a), 67-48.004(14)(a) and (b), and 67-48.004(15), Florida Administrative Code (2006), to allow (1) a change in the applicant from The Club at Eustis Village Partners, Ltd., to Club at Eustis Partners, Ltd., with an ownership structure as reflected on Exhibit B attached to the Amended Petition, and (2) a change in the name of the Developer entity from Atlantic Housing Group, L.L.L.P. to Atlantic Housing Partners, L.L.L.P., similar name changes within that structure, and a change in one of the limited partners of the Developer from NV Housing & Development Trust to Florida CIS Housing Advisors, L.P.

LEGAL

Consent

J. In Re: Marbella Pointe Development Group, L.L.L.P.

FHFC Case No. 2007-011VW

Development Name: (“Development”):	Marbella Pointe Application # 2006-089S
Developer/Principal: (“Developer”):	Atlantic Housing Group, L.L.L.P.
Number of Units: 120	Location: Orange County
Type: Garden Apartments	Set Aside: 40% at 60%AMI
Demographics: Family	Allocated Amount: \$4,000,000
MMRB: N/A	Housing Credits: N/A

1. Background

- a) During the 2006 Universal Cycle, Florida Housing awarded SAIL funds to the Petitioner.
- b) On February 14, 2007, Florida Housing received a Petition for Waiver from Rules 67-48.004(1)(a), 67-48.004(14)(b), and 67-48.004(15), Florida Administrative Code (2006), (“Petition”) from Marbella Pointe Development Group, L.L.L.P. (“Petitioner”). On February 26, 2007, Florida Housing received an Amended Petition for Waiver from Rules 67-48.004(1)(a), 67-48.004(14)(b), and 67-48.004(15), Florida Administrative Code (2006), (“Amended Petition”) from Petitioner. A copy of the Amended Petition is attached as [Exhibit J](#).
- c) Rule 67-48.004(1)(a) provides:
 - (1)
 - (a) The Universal Application Package or UA1016 (Rev. 1-06) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, or available, without charge on the Corporation’s Website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC or SAIL and HC Programs(s).
- d) The Specific Instructions of the Universal Application Instructions provides under Part II A.2.a.(2):
 - (2) If applying for MMRB, SAIL or HOME, the Applicant entity shall be the borrowing entity and cannot be changed until after loan closing. Replacement of the Applicant or a material change (33.33% or more of the Applicant, a General Partner of the Applicant, or a member of the Applicant) in the ownership structure of the named Applicant prior to this time shall result in disqualification from receiving funding and shall be deemed a material

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Consent

misrepresentation. Changes after loan closing require Board approval.

* * *

- e) The Specific Instructions of the Universal Application Instructions provides under Part II B.1.:

B. Development Team.

* * *

1. Developer or principal of Developer (Threshold).

The identity of the Developer(s) listed in this Application may not change until the construction or Rehabilitation/Substantial Rehabilitation of the Development is complete, unless approved by the Board.

- f) Rule 67-48.004(14)(b) provides:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

* * *

- (b) Identity of each Developer, including all co-Developers;

- g) Rule 67-48.004(15) provides:

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if, at any time, the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application and the changes made are prejudicial to the Development or to the market to be served by the Development.

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Consent

- h) Petitioner requests a waiver of Rule 67-48.004(1)(a), restricting the ability of Petitioner to make a material change in the ownership structure of the Applicant Entity prior to loan closing. The Applicant Entity is Marbella Pointe Development Group, L.L.L.P. and its sole general partner is Marbella Pointe Development Group Managers, L.L.C. (the "General Partner"). The Petitioner desires this Waiver to change the managing member of the General Partner from Marbella Pointe Development, L.L.C. to Florida CIS Housing Advisors, L.P. Both Marbella Pointe Development, L.L.C. and Florida CIS Housing Advisors, L.P. are ultimately controlled by the same person or entity (either individually, or through trusts created for his benefit and/or the benefit of his family).
- i) Petitioner also requests a waiver of Rules 67-48.004(1)(a), 14(b) and (15) to change the name of the Developer from Atlantic Housing Group, L.L.L.P. to Atlantic Housing Partners, L.L.L.P., as well as to file name changes for certain other entities within the Developer's ownership structure. The Developer further wishes to transfer one of the limited partner interests of the Developer (currently held by NV Housing & Development Trust) to Florida CIS Housing Advisors, L.P.
- j) On February 23, 2007, the Notice of Petition was published in the Florida Administrative Weekly.
- k) To date, Florida Housing has not received any comments concerning the Petition.
- l) Section 120.542(2), Florida Statutes provides in pertinent part:

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.
- m) The granting of this request for waiver will serve the purpose of the underlying statute in that the development will be able to go forward as proposed without violating the intent and purposes of the rules for which waiver is sought. Denial of the Amended Petition will result in substantial hardship to the applicant and developer entities in that strict application of the rules in this case will lead to an unreasonable and unintended result. The intent of the rules is to prevent third parties entering into the transaction after the application process. In this case, no third parties are entering into the transaction but rather only internal restructuring will occur.

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Consent

2. Recommendation

Staff recommends the Board grant the Petitioner's request for waiver from Rules 67-48.004(1)(a), 67-48.004(14)(b), and 67-48.004(15), Florida Administrative Code (2006), and the applicable Specific Instructions of the Universal Cycle Instructions to allow (1) a change in the managing member of the General Partner of the Applicant Entity from Marbella Pointe Development, L.L.C. to Florida CIS Housing Advisors, L.P., and (2) a change in the name of the Developer entity from Atlantic Housing Group, L.L.L.P. to Atlantic Housing Partners, L.L.L.P., similar name changes within that structure, and a change in one of the limited partners of the Developer from NV Housing & Development Trust to Florida CIS Housing Advisors, L.P., all subject to review and approval by the credit underwriter assigned to this loan.

MULTIFAMILY BONDS

Consent

V. MULTIFAMILY BONDS

- A. Request Approval Of The Final Credit Underwriting Report For The Development In The Amount Of \$2,137,500 Of Tax-Exempt Bonds And \$5,200,000 Home Loan, Consisting Of 204 Units, Located In Bradenton, Manatee County, Florida

DEVELOPMENT NAME ("Development"):	Desoto Towers Apartments
DEVELOPER/PRINCIPAL ("Applicant"):	Desoto Towers, Inc./Federal Housing Administration-Section 231 Guarantee
NUMBER OF UNITS:	204
LOCATION ("County"):	Manatee
TYPE (Rental, Homeownership):	Rental/Family (MMRB and HOME)
SET ASIDE:	20% @ 50% (MMRB) 55% @ 80% (MMRB) 20% @ 50% (HOME) 80% @ 60% (HOME)
ALLOCATED AMOUNT:	\$2,137,500 of Tax-Exempt Bonds and \$5,200,000 HOME Loan
ADDITIONAL COMMENTS: HUD 202 Refinancing/Rehabilitation with HOME Loan	

1. **Background**

Applicant submitted an Application on behalf of the proposed Development in response to Request for Proposals 2005-03 on June 22, 2005. Applicant applied for tax-exempt bonds in the amount of \$1,850,000 in order to acquire and rehabilitate the Development.

2. **Present Situation**

- a) While the current Program Rule does not prohibit changes or modifications of the proposed Development during credit underwriting, the Board has directed staff to advise it of any such changes.
- b) Total development costs have increased from \$7,469,219 to \$8,254,586. The primary difference is the addition of the developer and architectural fees.
- c) A Final Credit Underwriting Report dated February 21, 2007, is attached as [Exhibit A](#).

3. **Recommendation**

That the Board approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated February 21, 2007 recommending that \$2,137,500 in bonds and \$5,200,000 HOME loan be issued for the purpose of acquiring and rehabilitating the Development, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.

MULTIFAMILY BONDS

Consent

B. Request Approval To Allocate \$17,200,000 In Tax-Exempt, Private Activity Bond Allocation To The Developments

DEVELOPMENT NAME (“Developments”):	The Villas at Carver Park Mirabella Apartments
DEVELOPER/PRINCIPAL (“Developers”):	The Villas at Carver Park, LLLP Mirabella I Associates, Ltd.
NUMBER OF UNITS:	64 – respectively 204 – respectively
LOCATION (“Counties”):	Orange – respectively Miami-Dade – respectively
TYPE (Rental, Homeownership):	Rental
SET ASIDE:	85% @ 60% – respectively 85% @ 60% – respectively
ALLOCATED AMOUNT:	\$6,700,000 – respectively \$10,500,000 – respectively all of Tax Exempt Bonds – respectively
ADDITIONAL COMMENTS: Award of bond allocation	

1. Background

At the March 3, 2006 meeting, the Board authorized the MMRB Program to conduct a supplemental application cycle.

2. Present Situation

- a) As of December 29, 2006, the MMRB Program has approximately \$300,000,000 in tax-exempt, private activity bond allocation that is not committed to a specific multifamily development.
- b) The Developments are 2006 Supplemental MMRB Applications (“Applications”) to construct new affordable developments in the Counties.
- c) The rules governing the 2006 Supplemental MMRB Application cycle require an application to achieve a perfect score of sixty-six (66) points in order to be funded. Therefore, the Applications are ineligible for funding under the 2006 Supplemental MMRB Application cycle. However, the rules further state: “If there is private activity bond allocation remaining after all eligible Applications are funded, then this allocation will be applied to the Corporation’s single-family bond program or otherwise used as directed by the Board.”
- d) Since the corporation’s single-family bond program is not in need of any additional allocation, staff recommends that the Board use its discretion to award private activity bond allocation to the Developments even though they did not obtain a perfect score on their Applications. Staff believes that the public policy purposes served by obtaining these Developments as affordable for thirty (30) years far outweigh any failure to achieve a perfect score on the Application.

MULTIFAMILY BONDS

Consent

3. **Recommendation**

Approve the request to allocate \$17,200,000 in tax exempt, private activity bonds to the Developments, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

MULTIFAMILY BONDS

Consent

C. Request Approval To Open A 2007 Supplemental MMRB Application Cycle

1. Background

As of December 29, 2006, the MMRB Program has approximately \$300,000,000 in tax-exempt, private activity bond allocation that is not committed to a specific multifamily development.

2. Present Situation

Staff requests permission to open a 2007 Supplemental MMRB Application Cycle in accordance with the provisions incorporated by reference in Rule Chapter 67-21, Florida Administrative Code.

3. Recommendation

Authorize the opening of a 2007 Supplemental MMRB Application Cycle and allow staff to determine the appropriate opening and closing dates for this cycle, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.

MULTIFAMILY BONDS

Consent

D. Request Approval To Allocate \$9,120,000 In Tax-Exempt, Private Activity Bond Allocation To The Developments

DEVELOPMENT NAME (“Developments”):	Pinewood Pointe
DEVELOPER/PRINCIPAL (“Developers”):	SP Pinewood LP
NUMBER OF UNITS:	136
LOCATION (“Counties”):	Duval
TYPE (Rental, Homeownership):	Rental
SET ASIDE:	85% @ 60%
ALLOCATED AMOUNT:	\$9,120,000 of Tax Exempt Bonds
ADDITIONAL COMMENTS: Award of bond allocation	

1. Background

As of December 29, 2006, the MMRB Program has approximately \$300,000,000 in tax-exempt, private activity bond allocation that is not committed to a specific multifamily development.

2. Present Situation

- a) The Development is a 2007 Supplemental MMRB Applications (“Applications”) to construct new affordable developments in the Counties.
- b) The rules governing the 2007 Supplemental MMRB Application cycle require an application to achieve a perfect score of sixty-six (66) points in order to be funded. Therefore, the Applications are ineligible for funding under the 2007 Supplemental MMRB Application cycle. However, the rules further state: “If there is private activity bond allocation remaining after all eligible Applications are funded, then this allocation will be applied to the Corporation’s single-family bond program or otherwise used as directed by the Board.”
- c) Since the corporation’s single-family bond program is not in need of any additional allocation, staff recommends that the Board use its discretion to award private activity bond allocation to the Developments even though they did not obtain a perfect score on their Applications. Staff believes that the public policy purposes served by obtaining these Developments as affordable for thirty (30) years far outweigh any failure to achieve a perfect score on the Application.

3. Recommendation

Approve the request to allocate \$9,120,000 in tax exempt, private activity bonds to the Developments, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel and the appropriate Florida Housing staff.

MULTIFAMILY BONDS

Consent

- E. **Request Approval Of The Final Credit Underwriting Report To Issue \$9,700,000 In Tax-Exempt, Bonds For The Development, Consisting Of 136 Units, Located In Jacksonville, Duval County, Florida**

DEVELOPMENT NAME (“Development”):	Pinewood Pointe Apartments
DEVELOPER/PRINCIPAL (“Applicant”):	SP Pinewood LP/SP Pinewood GP, Inc./Southport Financial Services, Inc./J. David Page
NUMBER OF UNITS:	136
LOCATION (“County”):	Duval
TYPE (Rental, Homeownership):	Rental/Family (MMRB and HC)
SET ASIDE:	85% @ 60% (MMRB) 100% @ 60% (HC)
ALLOCATED AMOUNT:	\$9,700,000 of Tax-Exempt Bonds
ADDITIONAL COMMENTS: Acquisition/Rehabilitation	

1. **Background**

Applicant submitted an Application (“Application”) on behalf of the proposed Development in the 2007 Supplemental MMRB Application Cycle. Applicant applied for tax-exempt bonds in the amount of \$9,700,000 in order to acquire and rehabilitate the Development.

2. **Present Situation**

- a) While the current Program Rule does not prohibit changes or modifications of the proposed Development during credit underwriting, the Board has directed staff to advise it of any such changes.
- b) The scope of work does not reflect all of the features and amenities committed to in the Application. Satisfactory evidence that all features and amenities will be provided as committed is a condition of the report.
- c) Development costs of the development have decreased from \$14,761,721 to \$13,993,542. The decrease is primarily reflective of a decrease in the acquisition costs and corresponding developer fee.
- d) A Final Credit Underwriting Report dated March 2, 2007, is attached as [Exhibit B](#).

3. **Recommendation**

That the Board approve the recommendation of the Credit Underwriter outlined in the Final Credit Underwriting Report dated March 2, 2007 recommending that \$9,700,000 in tax exempt bonds be issued for the purpose of acquiring and rehabilitating the Development, subject to further approvals and verifications by the Credit Underwriter, Bond Counsel, Special Counsel, and the appropriate Florida Housing staff.

MULTIFAMILY BONDS

Consent

F. Assignment Of Bond Underwriters And Structuring Agents

1. Background

- a) Pursuant to staff's request for approval to issue bonds to finance the construction of the proposed Developments referenced below, Final Credit Underwriting Reports are being presented to the Board for approval simultaneously with this request to assign the appropriate professionals to this transaction. Brief descriptions of the Developments are detailed below along with the Staff's recommendation for the assignment.
- b) Additionally, the Corporation's Senior Financial Advisor has prepared method of bond sale letters. Staff has reviewed the method of sale letters and Board approval is requested at the current meeting.

2. Present Situation

- a) The Credit Underwriters, the Senior Financial Advisor and Florida Housing staff have reviewed the financing structure for the proposed Developments.
- b) The Senior Financial Advisor's recommendations for the method of bond sale are being presented to the Board at the current meeting during the Multifamily Mortgage Revenue Bond Program Update of items on the agenda.

3. Recommendation

That the Board approve the assignment of the recommended professionals as shown in the chart for the proposed Developments.

Development Name	Location of Development	Number of Units	Method of Bond Sale	Recommended Professional
Lutheran Residences	Pinellas	225	Private Placement	Morgan Keegan & Company, Inc.
Desoto Towers	Manatee	204	Private Placement	Morgan Keegan & Company, Inc.
Pinewood Pointe	Duval	136	Negotiated	Stern Brothers & Co.

MULTIFAMILY BONDS

Consent

G. Request Approval Of The Method Of Bond Sale Recommendations From Florida Housing's Senior Financial Advisor

1. Background/Present Situation

- a) The Credit Underwriter has provided Final Credit Underwriting Reports for the proposed Developments below. Florida Housing seeks Board approval pursuant to the recommendations of the Credit Underwriter and the appropriate Florida Housing staff.
- b) Pursuant to Rule 67-21.0045, F.A.C., staff has requested a review of the proposed bond structures by the Senior Financial Advisor in order to make recommendations to the Board for the method of bond sale.
- c) CSG Advisors has prepared an analysis and recommendation for the method of bond sale for the Developments. The recommendation letters are attached as [Exhibit C](#).

2. Recommendation

That the Board approve the recommendations of the Senior Financial Advisor for the method of bond sale for the above Developments.

Development Name	Location of Development	Number of Units	Method of Bond Sale
Desoto Towers	Manatee	204	Private Placement
Pinewood Pointe	Duval	136	Negotiated

PREDEVELOPMENT LOAN PROGRAM (PLP)

Consent

VI. PREDEVELOPMENT LOAN PROGRAM (PLP)

A. Request Approval Of The Credit Underwriting Report For HERD Community Development Corporation, A Non-Profit Corporation, For Jackson Place (PLP 05-097)

DEVELOPMENT NAME (“Development”):	Jackson Place
APPLICANT/DEVELOPER (“Developer”):	HERD Community Development Corporation, a non-profit corporation
CO-DEVELOPERS:	n/a
NUMBER OF UNITS:	27
LOCATION (“County”):	Bay County
TYPE:	Home Ownership
SET ASIDE:	100% @ 80% AMI
PLP LOAN AMOUNT:	\$ 366,947
ADDITIONAL COMMENTS: HERD CDC is non-profit California Corporation with a Florida based office authorized to provide affordable housing in Florida with this being its first endeavor in the state.	

1. Background/Present Situation

- a) On July 19, 2006, Florida Housing Finance Corporation issued an “Invitation to Participate” in the PLP to the non-profit Developer.
- b) On October 20, 2006, the Board approved the development plan and budget that was submitted by the Technical Assistance Provider (TAP) recommending a loan of \$366,681 for PLP eligible activities. Of this \$366,681, Staff was authorized to proceed with loan closing activities for \$113,681, the non-site acquisition portion of the loan, with the remaining \$253,000 pending a positive recommendation from the Credit Underwriter for site acquisition.
- c) On February 12, 2007, staff received a credit underwriting report with a positive recommendation for a PLP loan in the amount of \$253,266, subject to the conditions outlined in the report ([Exhibit A](#)). This amount includes an initial \$20,000 good faith deposit and \$20,000 additional deposit paid 01/15/06, which are eligible PLP expenses and are eligible for reimbursement; \$213,000 due at closing, and the increase of \$266 to allow for the actual cost of PLP eligible expense items, which is the difference between estimated appraisal and underwriting fees with, actual amounts paid. The TAP has submitted an adjusted budget ([Exhibit B](#)) reflecting the changes.

2. Recommendation

Approve the Credit Underwriter’s final recommendation and authorize staff to proceed with loan closing activities on the site acquisition portion of the PLP loan for a total of \$253,266, including the \$266 increase recommended by the credit underwriter.

RENTAL RECOVERY LOAN PROGRAM (RRLP)

Consent

VII. RENTAL RECOVERY LOAN PROGRAM (RRLP)

A. Request Approval to Exchange Amenities for Country Walk, 2005-304HR / 2005A-211B

Development Name: Country Walk (“Development”)	Location: Hardee County
Developer/Principal: Country Walk Development, LLC (“Developer”)	Set-Aside: 25% @ 45% AMI and 75% @ 60% AMI
Number of Units: 64	Allocated Amount: \$5,800,000
Type: Garden Apartments	Total Housing Credit Equity: \$3,186,650
Demographics: Family	MMRB: \$5,200,000

1. Background/Present Situation

- a) On October 14, 2005, the Board approved the final scores and ranking for the 2005 RRLP Application cycle.
- b) On November 10, 2005, staff issued a preliminary commitment letter and an invitation to enter credit underwriting for an RRLP Loan in an amount up to \$5,800,000 for this 64-unit family development located in Hardee County. The Development was also awarded an MMRB allocation. The RRLP and the MMRB Loans closed on November 17, 2006.
- c) The Development was also awarded an MMRB allocation. The RRLP and the MMRB Loans closed on November 17, 2006.
- d) On February 20, 2007, staff received a letter from the developer requesting a change from “single-pane windows with a minimum solar heat gain coefficient of .58 or better” to “all windows double-pane with minimum solar heat gain coefficient of less than or equal to .50 and minimum of .75 U Value” ([Exhibit A](#)). Both selections are worth 2 points.
- e) On February 21, 2007, staff received a review from the credit underwriter stating that this exchange would not have a negative impact upon the development ([Exhibit B](#)).

2. Recommendation

Approve the change of amenities and direct staff to proceed with the modification of closing documents.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

VIII. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Request Approval to Increase First Mortgage Loan for The Cove at Lady Lake Apartments, Cycle XVI and Cycle XVII, 2004-138S/2005-068S

Development Name: The Cove at Lady Lake Apartments ("Development")	Location: Lake County
Developer/Principal: Sandspur Housing Partners, Ltd. ("Developer")	Set-Aside: 100% @ 60% AMI
Number of Units: 176	Allocated Amount: (2004) \$1,500,000 and (2005) \$1,500,000
Type: Garden Style Buildings	Housing Credit Equity \$7,037,000
Demographics: Family	
MMRB: \$9,800,000 (Local)	

1. Background/Present Situation

- a) On May 9, 2005, a 2004 SAIL loan in the amount of \$1,500,000 for this 176-unit family development in Lake County closed. In the 2005 Universal Application Cycle, Applicants that were successful in receiving an award of 2004 SAIL funds could request additional funding for the difference in the 2004 and 2005 SAIL request limits.
- b) On March 14, 2006, a 2005 SAIL loan in the amount of \$1,500,000 for this development closed.
- c) On August 11, 2006, staff received a letter from the Developer requesting approval of an additional allocation of \$1,500,000 in tax-exempt bonds from Orange County Housing Finance Authority due to increased construction costs.
- d) On October 2, 2006, staff received a credit underwriting review with a positive recommendation for an additional allocation of \$1,500,000 in tax-exempt bonds. This was approved at the October Board meeting.
- e) On January 23, 2007, staff received a letter from the Developer requesting approval to extend the conversion date through July 31, 2007 as agreed to by the Syndicator ([Exhibit A](#)).
- f) On January 30, 2007, staff received a credit underwriting review with a positive recommendation for the extension of the conversion date until July 31, 2007 ([Exhibit B](#)). Staff has evaluated this review and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

2. Recommendation

Approve the final credit underwriting review and direct staff to proceed with the modification of closing documents.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

B. Request Approval of a SAIL Credit Underwriting Report for The Club at Eustis Village, Cycle XVIII, 2006-093S

Development Name: The Club at Eustis Village (“Development”)	Location: Lake County
Developer/Principal: Atlantic Housing Group, L.L.L.P. (“Developer”)	Set-Aside: 70% @ 60% AMI
Number of Units: 96	Allocated Amount: \$3,700,000
Type: Garden Style	Housing Credit Equity: \$3,936,001
Demographics: Family	
MMRB: \$5,700,000 (Local)	

1. Background/Present Situation

- a) On July 28, 2006, the Board approved the final scores and ranking for the 2006 Universal Application Cycle and directed staff to proceed with all necessary credit underwriting activities.
- b) On August 7, 2006, staff issued a preliminary commitment letter and an invitation to credit underwriting for a SAIL loan in an amount up to \$3,700,000 for this 96-unit family development in Lake County.
- c) On February 27, 2007, staff received a credit underwriting report with a positive recommendation for a SAIL loan in the amount of \$3,700,000 ([Exhibit C](#)). Staff has reviewed this report and finds that the Development meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

2. Recommendation

Approve the final credit underwriting report and direct staff to proceed with issuance of a firm commitment and loan closing activities.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Consent

C. Request Approval of General Contractor Change for Harding Village, Cycle XV, 2003-016CS

Development Name: Harding Village (“Development”)	Location: Miami-Dade County
Developer/Principal: Carrfour Supportive Housing, Inc. (“Developer”)	Set-Aside: 16% @ 30% AMI and 84% @ 60% AMI
Number of Units: 93	Allocated Amount: \$2,000,000
Type: Single Room Occupancy	Housing Credit Equity \$3,531,651
Demographics: Homeless-Transition	
MMRB: N/A	

1. Background/Present Situation

- a) On May 18, 2005, a SAIL loan in the amount of \$2,000,000 for this 93-unit homeless development in Miami-Dade County closed.
- b) On January 21, 2007, staff received a letter from the developer stating that Carib Construction was terminated as the General Contractor due to nonperformance issues ([Exhibit D](#)). The letter also states that as the second lowest bidder, Edgewater Construction Group has been selected as the replacement.
- c) On February 26, 2007, staff received a credit underwriting update letter addressing the General Contractor change and the impact it will have on Florida Housing ([Exhibit E](#)). Staff has reviewed this report and finds that it meets all of the requirements of SAIL Rule Chapter 67-48, F.A.C.

2. Recommendation

Approve the request to change the General Contractor and direct staff to proceed with the modification of closing documents.