

MILTON JONES DEVELOPMENT CORPORATION

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September 11, 2013

City of Fort Lauderdale
Community Redevelopment Agency
914 NW Sixth St., Suite 200
Fort Lauderdale, Florida 33311
Attention: Mr. Alfred Battle

**Re: Development Agreement/Phase II Project
Village Of The Arts, Ltd.**

Dear Al:

Florida Housing Finance Corporation ("FHFC") will issue Request for Applications ("RFA") for Broward, Miami-Dade and Palm Beach Counties on September 19, 2013 which responses will be due November 12, 2013. The RFA process does not allow for the curing of issues in Site Control as previously allowed under the FHFC Universal Cycle. Pursuant to Rule 67 – 60 of the Florida Administrative Code, a copy of which I have attached, *"(t)he failure of an Applicant to supply required information in connection with any competitive solicitation pursuant to this rule chapter shall be grounds for a determination of nonresponsiveness with respect to its Application. If a determination of nonresponsiveness is made by the Corporation, the Application shall not be considered."* I have also confirmed that the RFA process does not allow for the curing of issues with Site Control with Robert Pierce, attorney for FHFC.


In light of the inability to cure issues with Site Control, our consultant and I have reviewed the Development Agreement, as amended as well as the Second Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent between the City of Fort Lauderdale, Milton Jones Development Corporation, Village Of The Arts, Ltd. and Milton L. Jones and Barbara H. Jones dated July 2, 2013. As a result of our review and in an abundance of caution, I have drafted for your review and submission for approval to the City of Fort Lauderdale Commission for the regular meeting on October 1, 2013 the attached documents which are as follows:

1. First Amended and Restated Fifth Amendment to Development Agreement;
2. First Amended and Restated Seventh Amendment to Development Agreement; and
3. Third Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

MILTON JONES DEVELOPMENT CORPORATION


Sean F. Jones

Attachments

**MULTIFAMILY COMPETITIVE SOLICITATION FUNDING PROCESS
CHAPTER 67-60**

67-60.001	Purpose and Intent
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67-60.001 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

(1) Administer the competitive solicitation funding process to make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.;

(2) Administer the competitive solicitation processes to implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.; and

(3) Unless otherwise provided in the competitive solicitation, administer the competitive solicitation funding process for any other Corporation program.

Rulemaking Authority 420.507(48) F.S. Law Implemented 420.5087, 420.5089(2), 420.5099 F.S. History—New 8-20-13.

67-60.002 Definitions.

(1) “Applicant” means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to this rule chapter for one or more of the Corporation’s programs.

(2) “Application” means the sealed response submitted to the Corporation to participate in a competitive solicitation for funding pursuant to this rule chapter.

(3) “Board of Directors” or “Board” means the Board of Directors of the Corporation.

(4) “Corporation” means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(5) “FAR” means the Florida Administrative Register.

(6) “Minor Irregularity” means a variation in a term or condition of an Application pursuant to this rule chapter that does not provide a competitive advantage or benefit not enjoyed by other Applicants, and does not adversely impact the interests of the Corporation or the public.

(7) “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

Rulemaking Authority 420.507(48) F.S. Law Implemented 420.5087, 420.5089(2), 420.5099 F.S. History—New 8-20-13.

67-60.003 Notice and Posting of Competitive Solicitations.

(1) Public notice of any competitive solicitation pursuant to this rule chapter shall be given as provided herein and in advance of the due date of the Applications, to permit Applicants to prepare and submit Applications in a timely fashion. Notice shall include publication in the FAR.

(2) The Corporation shall post any competitive solicitation pursuant to this rule chapter on its Website on or prior to the publication of the FAR notice. There will be a minimum of fourteen (14) days between the publication date of the notice in FAR and the due date of the Applications. The competitive solicitation document shall describe the criteria utilized by the review committee in recommending developments for funding to the Board.

(3) Any notice or solicitation issued by the Corporation pursuant to this rule chapter shall be considered published at the date and time indicated on the Corporation Website.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.504, 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13.

67-60.004 Withdrawal of Competitive Solicitation or Application.

(1) The Corporation may withdraw any competitive solicitation pursuant to this rule chapter at any time prior to the due date of the Applications when the withdrawal is determined by the Executive Director to be in the best interest of the Corporation or the public. Notice of such determination shall be posted on the Corporation's Website and published in the next available volume of the FAR.

(2) Any Applicant may request in writing to withdraw its Application at any time prior to a vote by the Corporation's Board regarding any Applications received.

(3) Fees submitted by Applicants as required by any competitive solicitation pursuant to this rule chapter are non-refundable.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13.

67-60.005 Modification of Terms of Competitive Solicitations.

The Corporation may modify the terms of any competitive solicitation pursuant to this rule chapter at any point prior to the due date of the Applications. A notice of modification will be posted on the Corporation's Website. Any Applicant shall have at least seven (7) days from the date of the posting of the notice of the modification to submit or modify its Application.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13.

67-60.006 Responsibility of Applicants.

(1) The failure of an Applicant to supply required information in connection with any competitive solicitation pursuant to this rule chapter shall be grounds for a determination of nonresponsiveness with respect to its Application. If a determination of nonresponsiveness is made by the Corporation, the Application shall not be considered.

(2) At no time during the review and evaluation of any competitive solicitation issued under this rule chapter, commencing with the due date for submission of Applications and continuing until the Board renders a final decision on the competitive solicitation, may Applicants or their representatives contact Board members or Corporation staff concerning their own or any other Applicant's Application. If an Applicant or its representative does contact a Board or staff member in violation of this section, the Board shall, upon a determination that such contact was made in an attempt to influence the selection process, disqualify the Application.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13.

67-60.007 Evaluation of Applications.

(1) For each competitive solicitation issued pursuant to this rule chapter the Corporation shall establish a scoring committee composed only of employees of the Corporation to evaluate Applications, which scoring committee shall provide findings, recommendations, or both to the Board.

(2) Scoring committee members shall independently evaluate Applications, and shall not communicate with members of the same scoring committee regarding such evaluation, except during meetings noticed and open to the public.

(3) The scoring committee shall conduct one or more public meetings at which the scoring committee members may discuss their evaluation, or present their findings, make recommendations to the Board, or any combination thereof.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13.

67-60.008 Right to Waive Minor Irregularities.

The Corporation may waive Minor Irregularities in an otherwise valid Application. Mistakes clearly evident to the Corporation on the face of the Application, such as computation and typographical errors, may be corrected by the Corporation; however, the Corporation shall have no duty or obligation to correct any such mistakes.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089(2) FS., 420.5099 FS. History–New 8-20-13.

67-60.009 Applicant Administrative Appeal Procedures.

(1) Interested parties that wish to protest the terms of any competitive solicitation issued pursuant to this rule chapter may do so pursuant to the procedures set forth in Section 120.57(3), F.S. and Chapter 28-110, F.A.C.

(2) Applicants not selected for funding under any competitive solicitation issued pursuant to this rule chapter may protest the results of the competitive solicitation process pursuant to the procedures set forth in Section 120.57(3), F.S. and Chapter 28-110, F.A.C.

(3) For the purposes of Section 120.57(3), F.S., any competitive solicitation issued under this rule chapter shall be considered a “request for proposal.

(4) Applicants initiating administrative proceedings under this rule chapter shall not be required to post a bond.

Rulemaking Authority 420.507(48) FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History–New 8-20-13.