STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SP TERRACE LLC FHFC Case No.: 2020-060VW

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ORDER GRANTING WAIVER FROM RULE 67-48.004(3)(g), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 16, 2020. On September 22, 2020, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.004(3)(g) To Change Development Type (the "Petition"). Notice of the Petition was published on September 23, 2020, in Volume 46, Number 186, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Petitioner successfully applied for State Apartment Incentive Loan, National Housing Trust Funds, and non-competitive housing credits in RFA 2018-116, SAIL Financing of Affordable Multifamily Housing Developments to be used in Conjunction with Tax-exempt Bond Financing

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/s/ Lamoriz /DATE 10/16/2020

and Non-competitive Housing Credits (the "RFA") to assist in the new construction of Mango Terrace, a family, affordable housing development in Hillsborough County, Florida (the "Development").

3. Rule 67-48.004(3)(g), Fla. Admin. Code (2018), provides in relevant part:

> (3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:
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> ...
>
> (g) Development Type;

4. Petitioner requests waiver of the above cited rule to allow Petitioner to change its Development Type from Townhouses to Garden Apartments.

5. Petitioner asserts that the proposed Development initially was to include the construction of 93 units in 15 townhome residential buildings in accordance with the then-approved planned unit development ("PUD"). Petitioner states that during the design development phase, Hillsborough County provided an affordable housing density bonus to allow additional units and the County agreed to revise the PUD to allow Garden Apartments, which,

according to Petitioner, are far more economical and feasible to construct than Townhouses.

6. Petitioner asserts that the scoring and funding selection of its application would not have been affected had the applicant selected the "Garden Apartment" Development Type when it submitted its application. Petitioner states that the change in Development Type does not affect the Total Development Cost ("TDC") per unit base limitation and, thus, will not cause the TDC limit to be exceeded.

7. Petitioner asserts that there is substantial demand for affordable housing in Hillsborough county and Petitioner seeks to construct 104 units (an increase of 11 units) in seven Garden style residential buildings. Petitioner received approval from Florida Housing staff to increase the number of units from 93 to 104 and reduce the number of residential buildings from 15 to 7.

8. 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.

9. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

10. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control, and that it would suffer a substantial hardship if the waiver is not granted.

11. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

IT IS THEREFORE ORDERED: Petitioner's request for a waiver of Rule 67-48.004(3)(g), Fla. Admin. Code (2018) is hereby **GRANTED** to allow Petitioner to change its Development Type from Townhouse to Garden Apartments.

DONE and ORDERED this 16th day of October 2020.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.