STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Homestead Portfolio LP FHFC Case No.: 2023-088VW

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ORDER GRANTING WAIVER OF RULE 67-21.026(13)(e), FLA. ADMIN. CODE (2022)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 15, 2023. On November 13, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Florida Administrative Rule 67-21.026(13)(e) (the "Petition") from Homestead Portfolio LP (the "Petitioner") to allow the Petitioner's General Contractor to self-perform work valued over $350,000. Notice of the Petition was published November 14, 2023, in Volume 49, Number 221, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

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

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 12/19/2023

2. Petitioner successfully applied for funding to assist in the rehabilitation of the Gardens of Homestead, a 233-unit development located in Miami Dade County, Florida (the "Development").

3. Rule 67-21.026(13)(e), Fla. Admin. Code (2022), states in relevant part:

> (e). Ensure that no construction or inspection work is performed by the General Contractor, with the following exceptions:
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> 2. The General Contractor may self-perform work of a de minimis amount, defined for purposes of this subparagraph as the lesser of $350,000 or 5 percent of the construction contract.

4. Petitioner requests a waiver of the above rule to allow Petitioner's General Contractor ("GC") to self-perform work valued in excess of $350,000. As justification for its request, Petitioner notes that its scattered site project consists of 23 residential buildings on 18 separate, scattered site properties. As such, Petitioner claims the multi-phased approach it must use to construct the project drives up the costs of smaller scopes of work.

5. Petitioner states that it is necessary for its GC to self-perform the drywall, finish carpentry, rough carpentry, carpet demolition, cleaning, labor, material handling, safety inspection, wire shelving installation, and bathroom accessories scopes of work to maintain the current project budget. Petitioner also states that, although it has used industry best practices to estimate the cost

of the project, neither Petitioner nor its GC can be fully aware of all the work that must be performed on each of the units until the units are vacated, making bidding the work in advance impractical and creating schedule inefficiencies that would drive up the costs.

6. Petitioner further notes that, although this project was combined for funding purposes, this project could reasonably be subdivided into six separate projects that, if considered individually, would comply with the above rule. As further evidence as to why the projects should be considered from that vantage within this waiver, Petitioner notes that its general contractor will obtain 18 separate building permits to accomplish this project rather than a single permit as would be typical on a single-site project.

7. 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.

8. 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.

9. 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," would still be achieved if the waiver is granted. §420.5099, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-21.026(13)(e), Fla. Admin. Code (2022), is hereby **GRANTED** to allow the Development's general contractor to self-perform work exceeding the de minimis amount. This waiver is conditioned upon the Petitioner's compliance with the following:

(1) The general contractor has included no profit or admin fee in the cost of the self-performed work.

(2) The General Contractor's fee for the self-performed work is limited to 14% of the cost of work for the first $350,000 and 10% for any self-performed work in excess of $350,000.

(3) In addition to verifying the amount paid to the general contractor for the self-performed work based on the steps prescribed in the General Contractor Cost Certification instructions, an independent CPA will also confirm/audit all labor and equipment hours and rates and material invoices for the self-performed work. And,

(4) As part of the cost certification process, in addition to confirming/auditing all self-performed work as noted above, an independent

CPA will confirm and/or verify an additional 40% of the development's costs per the Final Cost Certification Application Package.

(5) Upon FHFC receipt of the Final Cost Certification Application Package, FHFC will engage the credit underwriter to provide a recommendation that the costs incurred by the General Contractor for the self-performed work are reasonable.

DONE and ORDERED this 15th day of December, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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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.