STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: WM at the River, LP FHFC Case No.: 2021-068VW

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ORDER GRANTING WAIVER FROM RULE 67-21.0025(7)(d)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on September 10, 2021. On August 25, 2021 Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.0025(7)(d) (the "Petition"). Notice of the Petition was published on August 26, 2021, in Volume 47, Number 166, 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 a private activity multifamily housing bond issuance ("Bonds") undertaken by the Housing Authority of the City of Daytona Beach ("DBHA").

3. Petitioner is now seeking to apply for accompanying Florida Housing Finance Corporation ("Corporation") 4% tax credits.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 9/13/2021

4. Rule 67-21.0025(7)(d) Fla. Admin. Code (2019), in relevant part, states:

> (d) The Applicant must disclose all of the Principals of all the entities identified in paragraph (b) above (third principal disclosure level). Unless the entity if a trust, all of the Principals must be natural persons:
>
> ...

Ellipse and emphasis added.

4. Petitioner requests a waiver to disclose through the fifth (5^{th}) principal disclosure level. Petitioner asserts that compliance with the Rule would undermine the preservation and rehabilitation of affordable housing by denying the Petitioner's application for non-competitive 4% low-income housing tax credits ("LIHTC") that would be a critical resource for the Petitioner's efforts to undertake the rehabilitation of the property.

5. Petitioner asserts that requiring compliance with the "third disclosure level" instead of subsequent levels accurately reflects the actual structure of the transaction. Petitioner further asserts that to restructure and disclose the transaction in any other way in order to comply with the Rule would make the Bond transaction legally and economically non-viable.

6. Petitioner asserts that compliance with the Rule would create a substantial economic hardship to the Petitioner by altering its transaction structure in a manner that would terminate the transaction because current significant

economic participants that are indispensable to the transaction would no longer be able to participate. Petitioner states that compliance would cause Petitioner to incur considerable costs in obtaining financing.

7. Petitioner asserts that compliance with the Rule would deprive the City of Daytona Beach and Volusia County of the preservation and renovation of much needed affordable housing serving the elderly and disabled.

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

IT IS THEREFORE ORDERED: Petitioner's request for a waiver of Rule 67-21.0025(7)(d), F.A.C., is hereby **GRANTED** to disclose through the fifth principal disclosure level.

DONE and ORDERED this 10th day of September, 2021.

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.