STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Little Haiti Gateway, LLC FHFC Case No.: 2022-55VW

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ORDER GRANTING WAIVER OF RULES 67-48.009(5)(d), 67-48.018(1)(c) AND 67-48.023(1)(c), 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 28, 2022. On October 11, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-48.009(5)(d), 67-48.018(1)(c) and 67-48.023(1)(c) (the "Petition") from Little Haiti Gateway, LLC (the "Petitioner") to allow Petitioner to apply for corporation funding for a Development site that is subject to a Land Use Restriction Agreement ("LURA"). Notice of the Petition was published on October 12, 2022, in Volume 48, Number 199, 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.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/s/ Ramos DATE: 10/28/2022

2. In 2000, Petitioner successfully applied for State Apartment Incentive Loan ("SAIL") funding to assist in the rehabilitation of an 80-unit family housing development named Little Haiti Gateway in Miami-Dade County, Florida (the "Development").

3. Rules 67-48.009(5)(d) (pertaining to SAIL), 67-48.018(1)(c) (pertaining to HOME), and 67-48.023(1)(c) (pertaining to Housing Credits), Fla. Admin. Code (2022), and all future versions of the Rule, that provide in relevant part:

> Unless otherwise permitted in a competitive solicitation process, an Applicant is not eligible to apply for [SAIL Program funding, HOME Program funding, or Competitive Housing Credits] if any of the following pertain:
>
> The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing intended to foster the development or maintenance of affordable housing, unless at least one (1) of the following exceptions applies:
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> 1. A LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, or
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> 2. A LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the deadline to apply for the applicable [SAIL Funding, HOME Funding, or Competitive Housing Credits], where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation/Moderate Rehabilitation/Substantial Rehabilitation, Acquisition and Rehabilitation/Moderate

Rehabilitation/Substantial Rehabilitation, Preservation, or Acquisition and Preservation..

4. Petitioner requests a waiver of the above cited Rules to allow Petitioner to apply for SAIL Funding, HOME Funding, and/or Competitive Housing Credits on a proposed Development site that is subject to an existing LURA. The Development and the entire parcel of land upon which it is situated is subject to an existing LURA as a result of receiving a SAIL loan in 2002. Petitioner owns a 2.5 acre site in Little Haiti, upon a portion of which the Development is located.

5. The Development consists of a single two-story building containing 51 units, which Petitioner intends to continue to operate, and cottages comprising 32 units, which may need to be reconfigured in order to facilitate redevelopment of the remainder of the site. Petitioner states that because the cottages are located throughout the site, it is not practical for Petitioner to request a modification of the legal description of the LURA to exclude excess land for subsequent development.

6. Petitioner's affiliate, Carrfour Supportive Housing, Inc. ("Carrfour") is proposing to redevelop a portion of the Development site into a multi-phase affordable and supportive housing community that will contain a mix of supportive housing, affordable housing at varying AMI levels, space for grassroots community services organizations, and retail space reserved for

local business. According to Petitioner, Notre Maison, a supportive housing community for homeless and low-income adults and families in Miami's Little Haiti neighborhood, will be the first phase of redevelopment with a total of 326 units, of which forty (40) units will be reserved as supportive housing for homeless adults/small families and forty (40) units will be reserved as affordable housing for households earning less than 80%AMI. Petitioner seeks this waiver to allow it to better utilize the remainder of the site through the production of much needed affordable housing in the Little Haiti neighborhood in the City of Miami.

7. Florida Housing's Portfolio Preservation Action Plan ("Action Plan") outlines factors for prioritizing developments for recapitalization within each program strategy. Petitioner states that its redevelopment plan should be prioritized in light of the following factors in the Action Plan:

a) Affordability Expiration – Petitioner states that if, after obtaining this waiver, it or its affiliates are successful in obtaining Florida Housing funding for redevelopment of the site, Petitioner is willing to extend the term of the existing LURA to be co-terminus with any LURA or extended low income housing commitment entered into in connection with further development of the site.

b) Market Condition Opportunity – The site is located in a rapidly gentrifying area, and prices for surrounding property have increased dramatically. Petitioner states that granting the requested waiver would allow further development of the site as affordable housing at a below-market price, since Petitioner (or its affiliate) already owns and controls the site.

c) ELI Units and/or high proportion of below 60% AMI units – In connection with the further development of the site, Petitioner states that, as outlined in the Petition, it will seek to house homeless adults whose income is typically below the applicable ELI limits.

d) Importance of Property to the Community – The site is proximate to a massive redevelopment project called Magic City, which contains mostly high-end residential units and non-residential uses. As a result of the Magic City development, surrounding properties have dramatically increased in price. Petitioner asserts that as one of the few remaining viable affordable housing developments in the neighborhood, the site is extremely important to the Little Haiti community.

e) Location – According to Petitioner, the Development site is close to elementary, middle, and high schools as well as a community college campus. Petitioner states that residents at the Development have easy access to reliable public transportation with a bus stop directly in front of the Development with stops every thirty (30) minutes during peak hours, and several other bus stops and a free trolley service less than a four-minute walk from the development. According to Petitioner, a variety of retail shops, employment opportunities, grocery stories, and pharmacies are available nearby.

f) Owner Development and Management Performance – Petitioner states that it has ably performed its ownership/management function at the Development such that several of the Property Risk Factors in the Action Plan, such as aging stock, loss due to deteriorating physical condition, and loss due to financial viability, do not exist.

8. The Florida Housing Board grants this waiver request for a variety of reasons including, but not limited to, that the redevelopment plan meets several factors in the Preservation Action Plan, the location of the Development relative to the Magic City redevelopment plans, and the

significant number of units envisioned in Petitioner's redevelopment plan, in excess of what is currently set aside at the existing Little Haiti Gateway development.

9. 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.

10. 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.

11. 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 were not granted.

12. 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 Rules 67-48.009(5)(d), 67-48.018(1)(c), and 67-48.023(1)(c), Fla. Admin. Code (2022), and all future versions of the Rule, is hereby **GRANTED** to

allow Petitioner and its Affiliates to apply for SAIL, HOME, or Housing Credit funding for proposed Developments consisting of no less than seventy-five (75) units for the Development site Little Haiti Gateway, that is subject to a Land Use Restriction Agreement.

DONE and ORDERED this 28th day of October 2022.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.