STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Block 55 Residential, LP FHFC CASE NO.: 2021-078VW

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ORDER GRANTING WAIVER OF RULE 67-21.003(1)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 22, 2021. On October 5, 2021, Florida Housing Finance Corporation ("Florida Housing") received the Petition for Waiver of Rule 67-21.003(1)(b) and Non-Competitive Application Package (Rev. 04-2020) (the "Petition") from Block 55 Residential, LP ("Petitioner"). Notice of the Petition was published on October 7, 2021, in Volume 47, Number 195, of the Florida Administrative Register. Florida Housing has received no comments concerning the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

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

2. Petitioner has applied for an award of non-competitive Housing Credits to be used in conjunction with multifamily housing revenue bonds issued by the Housing Finance Authority of Miami-Dade County ("the HFA") to assist in the construction of a 578-unit affordable housing development in Miami-Dade County.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE 10/25/2021

The mixed-use development will also include commercial and retail space and a parking garage.

3. Rule 67-21.003(1)(b), Fla. Admin. Code adopts and incorporates by reference the Non-Competitive Application (NCA) Package (Rev. 04-2020). Section A.6.b. of the NCA package includes the following requirements:

> 6. Principals Disclosure for Petitioner and each Developer:
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> a. The name of the Applicant entity stated in the Application may be changed only by written request of the Applicant to Corporation staff and approval of the Corporation after the Applicant has been invited to enter Credit Underwriting. . . .
>
> (1) For Applicants requesting Non-Competitive Housing Credits only:
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> The Applicant entity shall be the recipient of the Housing Credits and the ownership structure of the Applicant entity as set forth in the Principal Disclosure Form and cannot be changed in any way (materially or non-materially) until after the Preliminary Determination is issued. Once the Preliminary Determination has been issued, (a) any material change in the ownership structure of the named Applicant will require Board approval prior to the change, and (b) any non-material change in the ownership structure of the named Applicant will require Corporation approval prior to the change.

4. Petitioner submitted an application for non-competitive housing credits and was invited into credit underwriting on June 16, 2021. On April 30, 2021, the Board granted a waiver to Petitioner to allow it to submit a Principal Disclosure Form modified as necessary to allow disclosure of all natural person principals by the sixth disclosure level, to submit a Non-Competitive Application package prior to completing Credit Underwriting, and assure that the proposed equity amount to

be paid prior to or simultaneous with the closing of construction financing is at least 10 percent of the total proposed equity to be provided. On August 12, 2021, the HFA issued the bonds and made the loan to Petitioner in the principal amount of $167,500,000.

5. When Petitioner submitted the application, it was anticipated that Rainbow Housing Assistance Corporation would serve as general partner of Petitioner. Rainbow subsequently chose not to participate in the Development because it did not want to provide any guarantees. Ultimately Pacific Southwest Community Development Corporation (PSCDC) joined Petitioner as its sole general partner. All principals of PSCDC have been or will be disclosed by the second disclosure level of the Principal Disclosure Form. Petitioner states that all partners of Petitioner have already executed a formal agreement as to their relationship and that Petitioner has already closed on the bonds and additional subordinate financing in connection with the Development. Petitioner therefore asserts that it would suffer a substantial hardship if the requested waiver is not granted. This change in the Applicant entity will be further analyzed by the credit underwriter in the non-competitive 4% Housing Credit CUR update report that will be prepared for Florida Housing as part of the Development's credit underwriting requirement.

6. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

7. 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.

8. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income families. 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.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-21.003(1)(b), Fla. Admin. Code, and the above-cited provisions of the Non-Competitive Application Package is

hereby **GRANTED** to permit Petitioner to change the ownership structure of the Applicant prior to the issuance of the Preliminary Determination as described above.

DONE and ORDERED this 22nd day of October, 2021.

Florida Housing Finance Corporation

By: _____
Chair

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.