STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

Jordan Park, LLC,
a Florida limited liability company,

Petitioner,                        FHFC CASE NO. 2019-088VW
                                     Application No. 2018-101B

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_________________________/  

THE NON-COMPETITIVE APPLICATION INSTRUCTIONS

Petitioner Jordan Park, LLC, (the “Petitioner”) by and through undersigned counsel, hereby
petitions Respondent, Florida Housing Finance Corporation (“Florida Housing”), for a waiver of
“Rule”) and the Non-Competitive Application Instructions against changing the principals of the
Applicant identified in the Application. Petitioner also seeks Board approval to change the
Principals of the Developer pursuant to Rule 67-21.003(8)(b). Three members of the Board of
Commissioners and the Chief Executive Officer of the Housing Authority of the City of St.
Petersburg, Florida were recently changed, causing the principals of the co-Developer and
Applicant to change, necessitating this Petition. In support of this Petition, Petitioner states as
follows:

A.     THE PETITIONER

1.     The address, telephone, facsimile numbers and e-mail address for Petitioner and
its qualified representative are:

         Jordan Park, LLC
         ATTN: Brian Evjen

#7684841 Jordan Park Petition for Rule Waiver Rule 38073-0027
Address: 3629 Madaca Lane  
Tampa, FL 33618  
Telephone: (813) 933-0629 Ext: 212  
Fax: N/A  
Email: bevjen@norstarus.com

2. The address, telephone and facsimile number and e-mail address of Petitioner’s counsel is:

   Brian J. McDonough, Esq.  
   Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.  
   150 West Flagler Street  
   Suite 2200  
   Miami, Florida 33130  
   Telephone: 305-789-3350  
   Fax: 305-789-3395  
   Email: Bmcdonough@stearnsweaver.com

B. WAIVER IS PERMANENT

3. The waiver being sought is permanent in nature.

C. THE RULE FROM WHICH WAIVER IS REQUESTED

4. To change the Principals of the Applicant, Petitioner requests a waiver of Rule 67-21.003(1)(b), F.A.C. (2018) which provides in pertinent part:

(1) Applicants shall apply for MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC as set forth below. For purposes of this subsection only, the term NC Award shall refer to MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC, and funding from the following Corporation programs will not be considered to be other Corporation funding: Predevelopment Loan Program (PLP) and Elderly Housing Community Loan (EHCL) Program.

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(b) If the NC Award will not be in conjunction with other Corporation funding made available through the competitive solicitation funding process outlined in rule chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Package or NCA (Rev. 05-2018) is adopted and

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incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation’s website under the Multifamily Programs link labeled Non-Competitive Programs or from http://www.flrules.org/Gateway/reference.asp?No=Ref-09576, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

Rule 67-21.003(1)(b), F.A.C. (2018) incorporates by reference the Non-Competitive Application Package ("NCA"). The NCA includes the following requirement:

(2) For Applicants requesting MMRB, with or without Non-Competitive Housing Credits: The Applicant entity shall be the recipient of the Non-Competitive Housing Credits and the borrowing entity for the MMRB Loan and cannot be changed in any way (materially or non-materially) until after the MMRB Loan closing. After loan closing, any change (materially or non-materially) will require Board approval prior to the change. Changes to the Applicant entity prior to the loan closing or without Board approval after the loan closing shall result in disqualification from receiving funding and shall be deemed a material misrepresentation. Changes to the limited partner of an investor limited partnership or an investor member of a limited liability company owning the syndicating interest therein will not result in disqualification.

Id. at Part A. 5. b. (2). Applicant is also asking for Board approval to change the Developer’s Principals pursuant to Rule 67-21.003(8)(b), which provides in pertinent part:

(8) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application is deemed complete. Those items are as follows:

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(b) Principals of each Developer, including all co-Developers; notwithstanding the foregoing, the Principals of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter Credit Underwriting. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant’s request, inclusive of validity and consistency of Application documentation

(emphasis added).
5. Certain Applicant and Co-Developer principals identified in Petitioner’s Non-Competitive Application package, submitted on November 9, 2018 have since been terminated and replaced. Petitioner is therefore in need of a waiver and Board approval to change these principals.

D. STATUTES IMPLEMENTED BY THE RULE.

   
   - Section 420.507, Powers of the corporation;
   
   - Section 420.508, Special powers; multifamily and single-family projects;
   
   - Section 420.509, Revenue bonds; and
   
   - Section 420.5099, Allocation of the low-income housing tax credit.

7. Per Section 420.5099(1)-(2), Florida Housing acts as the State’s housing credit agency and is authorized to establish procedures for allocating and distributing low-income housing tax credits.

E. JUSTIFICATION FOR GRANTING THE REQUESTED WAIVER.

8. Petitioner timely submitted the Non-Competitive Application package on November 9, 2018, requesting and receiving tax exempt MMRN in the amount of $23,500,000 and non-competitive 4% Housing Credits in the amount of $1,530,385. The Applicant subsequently requested to increase the MMRN request amount to $27,400,000. The request pertains to the acquisition and rehabilitation of 266 Family garden-style apartment units in a development named Jordan Park in Pinellas County (the “Development”). The set aside will be 40% at 60% AMI (MMRN), 15% at 30% AMI (4% HC) and 85% at 60% AMI (4% HC).
9. FHFC staff received a final credit underwriting report with a positive recommendation for a MMRN loan on July 18, 2019. The FHFC Board approved the final credit underwriting report at its meeting on August 2, 2019 and directed staff to proceed with the closing activities, subject to further approvals and verifications.

10. Since Florida Housing approved Petitioner’s NCA package on April 26, 2019, which included the Applicant and co-Developer principal disclosures, three members of the Board of Commissioners of the Housing Authority of the City of St. Petersburg, Florida (“Housing Authority”) were removed from their positions by the Mayor of the City of St. Petersburg, Florida (the “City”) pursuant to Chapter 421, Florida Statutes; specifically: (1) Commissioner Delphinia Davis, (2) Commissioner Harry Harvey, and (3) Commissioner Ann Sherman-White. The vacancies created by the removals were filled by the City Mayor through the appointment of: (1) Commissioner Roxanne Amoroso; (2) Commissioner C. Knox LaSister; and (3) Commissioner James Dates. Similarly, the principals of RISE Development Corporation also changed to reflect the replacement of the Commissioners because the board of directors of RISE Development Corporation are identical (and ex officio) to the Board of Commissioners of the Housing Authority pursuant to the Articles of Incorporation of RISE Development Corporation.\(^1\) The Housing Authority serves as the controlling entity for Petitioner and RISE Development is the sole member of Petitioner’s managing member. The Housing Authority also serves as the co-Developer.

Additionally, the Board of Commissioners of the Housing Authority voted on August 30, 2019 to terminate the employment of the Housing Authority CEO, Tony L. Love, who was

\(^1\) The appointment of Ms. Battle as the interim CEO of the Housing Authority did not automatically appoint her as the President of RISE Development.

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also the President of RISE Development Corporation. The Board of Commissioners of the Housing Authority appointed LaShunda Battle as interim CEO of the Housing Authority until it could locate an acting CEO experienced with Low Income Housing Tax Credit closings. On September 26, 2019, the Board of Commissioners elected Jerome Ryans to serve as the acting CEO of the Housing Authority. RISE Development also elected Mr. Ryans to serve as its acting President.

The following charts reflect this change in principals:

**Requested Change in Applicant’s Principals**

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Principals Identified in Application</th>
<th>Principals as of 8/30/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jordan Park, LLC</td>
<td>RISE Jordan Park, LLC (.00900%)</td>
<td>Jordan Park, LLC</td>
</tr>
<tr>
<td>Managing Member of Jordan Park, LLC</td>
<td>RISE Development Corporation (non-profit, non-stock) (100%)</td>
<td>RISE Development Corporation (non-profit, non-stock) (100%)</td>
</tr>
<tr>
<td></td>
<td><strong>President: Tony Love</strong></td>
<td><strong>President: Jerome Ryans</strong></td>
</tr>
<tr>
<td></td>
<td>Lashunda Battle, Officer</td>
<td>LaShunda Battle, Officer</td>
</tr>
<tr>
<td></td>
<td>Owens, Stephanie M., Director</td>
<td>Owens, Stephanie M., Director</td>
</tr>
<tr>
<td></td>
<td><strong>Delphinia Davis, Officer</strong></td>
<td><strong>C. Knox LaSister, Officer</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Delphinia Davis, Director</strong></td>
<td><strong>Roxanne Amoroso, Director</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Harry Harvey, Director</strong></td>
<td><strong>C. Knox LaSister, Director</strong></td>
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<tr>
<td></td>
<td>Terri Lipsey Scott, Director</td>
<td>Terri Lipsey Scott, Director</td>
</tr>
<tr>
<td></td>
<td>Evans, Jerrilyn, Director</td>
<td>Evans, Jerrilyn, Director</td>
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<tr>
<td></td>
<td><strong>Ann Sherman-White, Director</strong></td>
<td><strong>James Dates, Director</strong></td>
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2 The Board also voted to authorize the Board Chair (Stephanie Owens) to conduct a search for a permanent replacement CEO, which search remains ongoing.

3 Mr. Ryans is the President and CEO of the Housing Authority of the City of Tampa (“Tampa Housing Authority”). The Tampa Housing Authority and the St. Petersburg Housing Authority entered into an Interlocal Agreement pursuant to the authority granted by Section 421.11, Florida Statutes. Per to the Interlocal Agreement, the Tampa Housing Authority and/or its contractors will manage and provide applicable services for St. Petersburg Housing Authority properties pursuant to Section 421.08, Florida Statutes, for a period of six months, unless terminated earlier or extended per the terms of the Interlocal Agreement.

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## Requested Change in Developer’s Principals

<table>
<thead>
<tr>
<th>Co-Developer</th>
<th>Principals Identified in Application</th>
<th>Principals as of 8/30/19</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Housing Authority of the City of St. Petersburg</td>
<td>Housing Authority of the City of St. Petersburg</td>
</tr>
<tr>
<td></td>
<td>• <strong>Tony Love, CEO</strong></td>
<td>• <strong>Jerome Ryans, Acting CEO</strong></td>
</tr>
<tr>
<td></td>
<td>• Lashunda Battle, Officer</td>
<td>• Lashunda Battle, Officer</td>
</tr>
<tr>
<td></td>
<td>• Owens, Stephanie M., Director</td>
<td>• Owens, Stephanie M., Director</td>
</tr>
<tr>
<td></td>
<td>• <strong>Delphinia Davis, Officer</strong></td>
<td>• <strong>Owens, Stephanie M., Officer</strong></td>
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<tr>
<td></td>
<td>• <strong>Delphinia Davis, Director</strong></td>
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<td>• <strong>Ann Sherman-White, Director</strong></td>
<td>• <strong>James Dates, Director</strong></td>
</tr>
<tr>
<td></td>
<td>• Davis, Sharlene Gambrell, Director</td>
<td>• Davis, Sharlene Gambrell, Director</td>
</tr>
</tbody>
</table>

The foregoing changes necessitated this Petition.

11. Petitioner did not request the Commissioner changes. Rather, the former Commissioners were removed by, and the new Commissioners appointed by, the Mayor and confirmed by the City Council of the City of St. Petersburg pursuant to the Mayor’s statutory

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authority contained in Chapter 421, Florida Statutes. Thus, Petitioner cannot be faulted for the circumstances that created the need for this Petition.

12. If this Rule waiver and request for Board approval is denied, the Applicant will have no alternative but to withdraw the Application as it would be impossible for RISE Development Corporation and the Housing Authority of the City of St. Petersburg to maintain governing boards as described in the Application. A withdrawal of the Application would unnecessarily burden the Applicant and delay needed rehabilitation and construction of low-income housing in the City.

13. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., Florida Housing has the authority to grant waivers to its rule requirements when strict application of the rules would lead to unreasonable, unfair and unintended consequences, in particular instances. Waivers shall be granted when the person who is subject to the rule demonstrates that the application of the rule would: (1) create a substantial hardship or, violate principles of fairness,\(^4\) and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), Fla. Stat.

14. For the reasons discussed above, the waiver should be granted to prevent economic and operational hardship to Petitioner. The strict application of the Rule will create a substantial hardship for Petitioner because it would be forced to withdraw its Application. The waiver will serve the purposes of the Statute and the Act, because one of the Act's primary purposes

\(^{4}\) "Substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. See § 120.542(2), Fla. Stat.
is to facilitate the availability of decent, safe and sanitary housing in the State. The requested waiver will ensure that 266 affordable housing units will be made available for the target population in the City. Denying the waiver would deny the City these much-needed affordable housing units.

15. The need for the waiver was requested early in the process and will not prejudice the Development, Florida Housing, nor any other applicant.

**F. ACTION REQUESTED**

16. For the reasons set forth herein, Petitioner respectfully requests Florida Housing: (i) grant the requested permanent waiver of the Rule and provide Board approval such that Petitioner is able to change the Developer and Applicant principals that were terminated and replaced; (ii) grant this Petition and all of the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.
150 West Flagler Street, 22nd Floor
Miami, Florida 33131
Tel: (305) 789-3350
Fax: (305) 789-3395
E-mail: bmcdonough@stearnsweaver.com

Counsel for Petitioner

By: /s/ Brian J. McDonough
BRIAN J. MCDONOUGH, ESQ.

**CERTIFICATE OF SERVICE**

This Petition is being served by electronic transmission for filing with the Clerk for the Florida Housing Finance Corporation, CorporationClerk@FloridaHousing.org, with copies served by U.S. Mail on the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 15th day of October, 2019.

By: /s/ Brian J. McDonough
Brian J. McDonough, Esq.