STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SOLIMAR ASSOCIATES, LTD FHFC Case No.: 2024-039VW

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**ORDER GRANTING WAIVER OF RULES 67-21.026(13)(g), 67-21.014(2)(r)8., AND 67-48.0072(17)(h), F.A.C. (2018)**

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on August 23, 2024. On July 25, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-21.026(13)(g), 67-21.014(2)(r)8., and 67-48.0072(17)(h), F.A.C. (2018) (the "Petition") from Solimar Associates, Ltd. ("Petitioner"). The Petition requests to allow the Petitioner's General Contractor to subcontract to the affiliated entity A-Line, the de minis amount of work in the Petition. Notice of the Petition was published July 26, 2024, in Volume 50, Number 146 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: 8/21/2024

2. Petitioner successfully applied for funding to assist in the construction of Solimar, a 180-unit development located in Miami-Dade County, Florida (the "Development").

3. Rule 67-21.026(13)(g), Fla. Admin. Code (2018), states in relevant part, that the General Contractor must meet the following condition:

> (g) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of with the General Contractor or the Developer. For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-21.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor."

4. Rule 67-21.014(2)(r)8., Fla. Admin. Code (2018), states in relevant part, that the General Contractor must meet the following condition:

> 8. Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of the General Contractor or the Developer. For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-21.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor."

5. Rule 67-48.0072(17)(h), Fla. Admin. Code (2018), states in relevant part that the General Contractor must meet the following condition:

> (h) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of the General Contractor or the Developer. For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-48.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor."

6. Petitioner requests a waiver of the above rules to allow Petitioner's General Contractor ("GC") to subcontract work to an Affiliate.

Petitioner states the subcontracted work was approximately $7,900.00, a de minimis amount, and that Petitioner did not learn of the affiliation until the cost certification review process. The GC and the subcontractor had the same qualifying agent at the time of the work. A qualifying agent constitutes an Affiliate under Rule 67-48.002(5), Fla. Admin. Code, as modified by the above Rules. As justification for its request, Petitioner states the qualifying agent was not involved in the selection of the subcontractor and made no GC fee, nor a fee from the subcontractor. Further, Petitioner provides that the principals of the GC, who are also principals of the Developer and the entity owning the Development, are not owners, shareholders, or officers of the subcontractor.

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 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 a waiver of Rules 67-21.026(13)(g), 67-21.014(2)(r)8., and 67-48.0072(17)(h)

(2018), is hereby **GRANTED** to allow the General Contractor to subcontract to the affiliated entity, the de minis amount of work in the Petition.

**DONE and ORDERED** this 23rd day of August, 2024.

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.**