STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: The Park at Palo Alto, LLC, FHFC Case No.: 2025-015VW
_____/

ORDER GRANTING WAIVER OF RULES 67-21.014(2)(r)(6) AND 67-21.026(13)(e), FLA. ADMIN. CODE (2019)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on March 28, 2025. On March 12, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-21.014(2)(r)(6), Fla. Admin. Code (2019) and 67-21.026(13)(e), Fla. Admin. Code (2019) (the "Petition") from The Park at Palo Alto, LLC (the "Petitioner"). The Petition seeks a waiver of the Rules' prohibition of self-performed work by a general contractor (GC) in excess of the de minimis amount permitted by rule. Notice of the Petition was published on March 13, 2025, in Volume 51, Number 50, 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
/s/ Ramona Ramos /DATE: 3/28/2025

2. Petitioner successfully applied for funding to assist in the construction of The Park at Massalina, a 120-unit development located in Bay County, Florida (the "Development").

3. Rules 67-21.014(2)(r)(6) and 67-21.026(13)(e), Fla. Admin. Code apply. However, on April 29, 2022, the Board approved an amendment to Rule 67-21.026(13)(e), Fla. Admin. Code, effective retroactively to developments that submitted applications under prior rule versions. Rule 67-21.026(13)(e), Fla. Admin. Code (2022) states in relevant part:

> (e) Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor. With the following exceptions:
> ****
> The General Contractor may self-perform work of a de minimis amount, defined for purposes of this subparagraph as the lesser of $350,000 or 5 percent of the construction contract.

4. Petitioner requests a waiver of the rule prohibiting GC self-performance in excess of the de minimis amount automatically allowed. Construction of the Development has now been completed, and the cost of the portion of the Contract that was self-performed by the GC was more than originally estimated. The total payment to the GC was $506,655. This amount includes $458,755 for labor expenses and $47,900 for sand provided for the Project. The Development was originally engineered to include a wet pond, which ultimately failed to function as intended and had to be converted to a

dry pond, resulting in additional costs for excavation, fill, grading and erosion control. The unit cleaning labor was not included in the original estimate for self-performed work because the GC expected to subcontract that work out to a third party. However, the work had to be self-performed because no third-party provider was available to perform the work at the necessary time. Unexpected sidewalk, curb and gutter work was required, and it was necessary to self-perform because a third-party provider was not available to perform the work on the schedule necessary to ensure timely completion of the Development. As a result, the amount of self-performed work exceeded the previously approved amount of $352,308 by $154,347. The Development replaces an apartment complex that was completely destroyed on October 10, 2018, by Hurricane Michael, a Category Five Hurricane. Affordable housing was in short supply prior to Hurricane Michael's impact, and Bay County's limited affordable housing stock was disproportionately impacted by Hurricane Michael's devastation. The funding provided by the RFA was in specific response to the area's need to replace Hurricane Michael destroyed affordable housing stock. Due to the massive amount of rebuilding Bay County was experiencing as a result of Hurricane Michael, subcontractors were booked for extended periods of time. The GC's ability to self-perform site work ensured that the Development was built as timely as possible. The

GC is headquartered in and performs substantial work in Panama City for its affiliated entities and for unrelated third parties. The GC often self-performs under its construction contracts because other local third-party providers are unavailable, unqualified, or unwilling to perform the work. The GC has not received and will not receive any profit, overhead or general requirement percentages on those amounts. The saving achieved through the GC's self-performance and the accompanying savings on profit and overhead resulted in a reduced overall cost of the Development and less profit to the GC.

5. The Board finds that granting the requested waiver will not adversely impact other participants in funding programs administered by Florida Housing, nor will it detrimentally affect Florida Housing.

6. The Board also finds that Petitioner has demonstrated that the waiver is needed due to circumstances beyond its control and that the strict application of the rules would impose a substantial hardship if the waiver is not granted.

7. 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 67-21.014(2)(r)(6), Fla. Admin. Code (2019) and 67-21.026(13)(e), Fla. Admin. Code (2019), for a waiver of the Corporation's prohibition of self-performed work by a GC in excess of the de minimis amount automatically allowed, is hereby **GRANTED**.

DONE and ORDERED this 28th day of March, 2025.

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.