STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In re: EHDOC Council Towers Limited Partnership

FHFC Case No.: 2025-055VW

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ORDER GRANTING WAIVER OF RULE 67-21.027(6), F.A.C. (2018) AND THE CORPORATION BOARD'S ORDER OF JANUARY 27, 2023

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 12, 2025. On November 17, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.027(6), F.A.C. (2018) and the Corporation Board's Order of January 27, 2023, (the "Petition") from EHDOC Council Towers Limited Partnership (the "Petitioner"). The Petition seeks a waiver of the referenced rule and the Board's order to allow Petitioner to submit the Form HUD-92330-A (the "HUD Cost Certification") and an Agreed-Upon Procedures Report (the "AUP") instead of the General Contractor Cost Certification form (the "GCCC") to complete its Final Cost Certification Application Package (the "FCCAP"). Notice of the Petition was published on November 18, 2025, in Volume 51, Number 224, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record, the Board hereby finds:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE 12/15/2025

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

2. Petitioner successfully applied for funding to assist in the acquisition and rehabilitation of Council Towers North & South, a 250-unit development located in Miami-Dade County, Florida (the "Development").

3. Rule 67-21.027(6), F.A.C. (2018), states in relevant part:

> (6) The Final Cost Certification Application Package (Form FCCAP) shall be used by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in rule 67-21.026, F.A.C. Such form package shall be completed, executed and submitted to the Corporation in both hard copy format and electronic files of the Microsoft Excel spreadsheets for the HC Development Final Cost Certification (DFCC) and the General Contractor Cost Certification (GCCC) included in the form package, along with the executed Extended Use Agreement and appropriate recording fees, IRS Tax Information Authorization Form 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the required certified public accountant opinion letter for both the DFCC and GCCC, an unqualified audit report prepared by an independent certified public accountant for both the DFCC and GCCC, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the Form FCCAP instructions. The Final Housing Credit Allocation will not be issued until such time as all required items are received and processed by the Corporation. The Final Cost Certification Application Package (Form FCCAP) is adopted and incorporated herein by reference, effective 05-2018, and is available on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Funding Programs or from http://www.flrules.org/Gateway/reference.asp?No=Ref-09540, or by contacting the Housing Credit Program at 227

North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321.

4. Petitioner states that in June 2020, renovation began on the Development. The Development immediately began to experience substantial delays due to COVID-related restrictions enacted by the City of Miami Beach, including limitations for in-place renovations. Consequently, the California-based general contractor (the "Original GC") could not perform its contractual duties and was replaced with an experienced Florida general contractor (the "GC"). As part of the severance process, Petitioner was required to pay fees and expenses totaling more than 14 percent of the cost incurred by the Original GC. The GC was able to "step-into-the-shoes" for most of the previously incurred subcontractor costs. However, due to the nature of the General Contractor Fees, billed by the Original GC as part of the severance, the GC could not absorb most of these costs. The duplicative billing of General Contractor Fees resulted in Petitioner submitting a Petition for Waiver of Rules 67-21.003(1)(B) and 67-21.026(12)(B), F.A.C. (2018), and the Non-Competitive Application Instructions (Rev. 05-2018) on January 20, 2023, to allow the maximum combined General Contractor Fees to exceed 14 percent of the actual construction costs (the "Original Petition"). At the time of filing the Original Petition, Petitioner represented that the Original GC was required as part of the severance agreement, to transition the contract to a new

contractor, which included a requirement to provide documentation or files relating to the contract and costs by the Original GC, and that Petitioner believed the Original GC would execute the General Contractor Cost Certification for the work the Original GC completed and the costs the Original GC incurred. The requested waiver to allow the maximum General Contractor Fees to exceed 14 percent of the actual construction costs was granted on the condition that the Original GC complete and execute the GCCC for the work that it completed and that any amounts over the 14 percent limitation be paid out of Petitioner's Developer Fee and reflected as a subset of the Developer Fee in the Development Final Cost Certification.

5. The Original GC completed the HUD Cost Certification on March 24, 2021. However, Petitioner did not obtain a General Contractor Cost Certification from the Original GC and the Original GC is no longer in business. According to Petitioner, the HUD Cost Certification has been audited by a CPA. Petitioner's CPA also prepared an AUP that is under review by Florida Housing. To offer further mitigation to Florida Housing, Petitioner states that the costs certified under the HUD Cost Certification comprise only 7 percent of the total construction costs.

6. 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.

7. The Board also finds that Petitioner has demonstrated that strict application of the rule would impose a substantial hardship if the waiver is not granted.

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, F.S.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-21.027(6), F.A.C. (2018) and the Board's order of January 27, 2023, is hereby **GRANTED,** allowing Petitioner to submit the Final Cost Certification Application Package without a General Contractor Cost Certification, CPA Opinion Letter and Unqualified Audit Report regarding the costs incurred by the Original GC with the following conditions:

(1) Any General Contractor Fee paid to the Original GC in excess of the 14 percent General Contractor Fee Limitation shall be paid from the Petitioner's Developer Fee and reflected as a subset of the Developer Fee in the Final Cost Certification;

(2) Petitioner may not take a Developer Fee on the costs incurred by the Original GC; and

(3) Petitioner must submit an AUP regarding the costs incurred by the Original GC, acceptable to staff, in lieu of the GCCC.

DONE and ORDERED this 12th day of December 2025.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Brian J. McDonough, Esq.
Bridget Smitha, Esq.
bmcdonough@stearnsweaver.com
BSmitha@stearnsweaver.com

Laura J. Cox, General Counsel
Cecilie Sykes, Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Laura.Cox@floridahousing.org
Cecilie.Sykes@floridahousing.org
Melissa.Levy@floridahousing.org

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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. THE PETITION MUST BE FILED WITHIN TWENTY-ONE (21) DAYS OF RECEIPT OF THIS ORDER, CONSISTENT WITH SECTION 120.569(1), FLORIDA STATUTES, AND RULE 28-106.111(2), FLORIDA ADMINISTRATIVE CODE.