STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: WRDG T3D, LP FHFC Case No.: 2024-038VW

_____/

ORDER GRANTING WAIVER OF RULE 67-21.026(13)(h), FLA. ADMIN. CODE (2020)

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 24, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.026(13)(h) (06/23/2020) (the "Petition") from WRDG T3D, LP ("Petitioner") to allow Petitioner's General Contractor to Subcontract to an entity affiliated with the General Contractor. Notice of the Petition was published July 25, 2024, in Volume 50, Number 145, 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
Attest: Flamory /DATE 8/26/2024

2. Petitioner successfully applied for funding to assist in the construction of Boulevard Tower 4 and Boulevard Villas, a 134-unit development located in Hillsborough County, Florida (the "Development").

3. Rule 67-21.026(13)(h), Fla. Admin. Code (2020), provides in relevant part:

> The General Contractor must meet the following conditions: ... 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.

4. Petitioner requests a waiver of the above rule to allow Petitioner's General Contractor to subcontract to an entity affiliated with the General Contractor. Prior to releasing the retainage to the General Contractor, Petitioner conducted due diligence on the various subcontractors associated with the project and discovered that a rough carpentry subcontractor, B&B Skilled Services Corp. ("B&B"), had some of the same managers as the General Contractor running it afoul of the above rule. Petitioner states that neither the managers nor the General Contractor have an economic interest in B&B and that B&B was hired solely because it submitted the lowest hourly rates. Petitioner states that the General Contractor has agreed not to take its prescribed fee on the B&B subcontract, and Petitioner has issued a deductive change order removing the fee from the General Contractor's contract.

5. 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.

6. The Board also finds that Petitioner has demonstrated that the waiver is needed because it would suffer 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 Rule 67-21.026(13)(h), Fla. Admin. Code (2020), is hereby **GRANTED** to allow Petitioner's General Contractor to subcontract to an entity affiliated with the General Contractor on the condition that no General Contractor Fee will be taken on the costs subcontracted to its affiliated entity.

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

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Brian McDonough
Stearns Weaver Miller Weissler Alhadeff & Sitterson, PA
Counsel for Petitioner
bmcdonough@stearnsweaver.com

Laura Cox, on Behalf of the Office of the General Counsel
Ethan Katz, Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Laura.Cox@floridahousing.org
Ethan.Katz@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.