STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In re: Platform 3750 II, LLC FHFC Case No.: 2025-046VW

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ORDER GRANTING WAIVER OF RULES 67-21.026(13)(f) AND (h) AND 67-21.027(6), F.A.C (2020)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 24, 2025. On October 7, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-21.026(13)(f) and (h) and 67-21.027(6), F.A.C. (2020) (the "Petition") from Platform 3750 II, LLC (the "Petitioner"). The Petition seeks a waiver of the referenced rules to (i) amend the conditions under which it was previously granted approval to exceed the 31% cap imposed on the percentage of construction costs that may be subcontracted to one entity, which entity was also an Affiliate of the General Contractor, and (ii) to allow the Development's Final Cost Certification Application Package to be submitted with a CPA agreed upon procedures report ("AUP") instead of the General Contractor Cost Certification with unmodified audit report. Notice of the Petition was published on October 8, 2025, in Volume 51, Number 196, of the Florida

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 10/27/2025

Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record, the Board hereby finds:

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 construction of Platform 3750, a 191-unit development located in Miami-Dade County, Florida (the "Development").

3. Rules 67-21.026(13)(f) and (h), F.A.C. (2020) state in relevant part:

> (13) The General Contractor must meet the following conditions:
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> (f) For Developments with a Development category of new construction, unless otherwise approved by the Board for a specific Development, ensure that not more than 20 percent of the construction cost, not to include the General Contractor fee or pass-through fees paid by the General Contractor, is subcontracted to any one entity or any group of entities that have common ownership or are Affiliates of any other subcontractor, with the exception of a subcontractor (or any group of entities that have common ownership or are Affiliates of any other subcontractor):...2. Contracted to deliver the building shell of a building of at least five (5) stories which may not have more than 31 percent of the construction cost in a subcontract, unless otherwise approved by the Board for a specific Development; .... For purposes of paragraph (f), "Affiliate" has the meaning given in subsection 67- 21.002(5), F.A.C., except that the term "Applicant" therein shall mean "subcontractor";
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> (h) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of with [sic] the General Contractor or 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."

Rule 67-21.027(6), F.A.C. (2020) states:

(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 if requested by the Corporation, 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 unmodified 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 04- 2020, 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-12017, or by contacting the Housing Credit Program at 227 North Bronaugh Street, Suite 5000, Tallahassee, Florida 32301-1321.

4. Petitioner states that its General Contractor ("GC"), Current Builders, Inc., was terminated for cause on March 12, 2024. The GC assigned

its rights to The Travelers Indemnity Company ("Travelers"). Petitioner entered litigation with Travelers in February 2024. Petitioner and Travelers entered into a settlement agreement. As a part of the agreement, Petitioner secured from Travelers final releases from all subcontractors and an internal job cost report. According to the Petitioner, the GC is no longer in business and has not responded to Petitioner's attempts to obtain documentation necessary to complete the Final Cost Certification Application Package ("FCCAP"). The FCCAP includes the General Contractor Costs Certification form ("GCCC"), used to certify the accuracy of the GC's costs. After conferring with its CPA, Petitioner determined that an AUP report is the best option for providing the Corporation with costs and expenses incurred for the construction of the Development. Petitioner represents that due to the GC's refusal to provide necessary documentation, Petitioner's CPA cannot issue an opinion letter or unmodified audit report.

5. Additionally, at its September 4, 2020, meeting, the Board approved a request from Petitioner to allow a subcontractor affiliated with the General Contractor to perform shell work exceeding the 31% limitation under the following conditions:

(1) All costs for the affiliated work attributable to the affordable units will be at cost with no profit or other fees built in ("Requirement 1");

(2) The GC Fee on the affiliated costs attributable to the affordable units will be capped at 10% ("Requirement 2");

(3) An independent CPA will confirm/audit all payments between the Affiliate entities and will verify 100% of the work performed by the Affiliate entity ("Requirement 3"); and

(4) As part of the cost certification process, in addition to confirming/auditing all payments between the Affiliate entities, an independent CPA will confirm and/or verify an additional 40% of the Development's costs per the FCCAP ("Requirement 4").

Regarding the conditions above:

(1) Petitioner's CPA is unable to verify that the cost for affiliated work attributable to the affordable units was "at cost" as outlined in Requirement 1.

(2) The CPA states that because the overall GC Fee is below 10%, Requirement 2 should be satisfied.

(3) The Petitioner seeks relief from Requirements 3 and 4 so that it may instead rely on the AUP report. However, the CPA represents that they have been able to complete procedures that they believe satisfy the intent of Requirements 3 and 4.

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 Rules 67-21.026(13)(f) and (h), and 67-21.027(6), F.A.C. (2020), is hereby **GRANTED** to:

(1) Amend the conditions under which it was previously granted approval to exceed the 31% cap imposed on the percentage of construction costs that may be subcontracted to one entity, on the condition that:

(a) No Developer Fee will be allowed on the amount paid to the Affiliate subcontractor;

(b) The General Contractor Fee on the affiliated costs attributable to the affordable units will be capped at 10%;

(c) The Petitioner's CPA must confirm through the agreed-upon procedures report that at least 40% of the Development's costs (in addition to the testing completed on the affiliate subcontractor costs) have been independently confirmed and/or verified, consistent with the intent of the 2020 Board conditions; and

(2) Allow the Development's Final Cost Certification Application Package to be submitted with a CPA agreed upon procedures (AUP) report instead of the General Contractor Cost Certification with unmodified audit report, acknowledging that the General Contractor ceased operations, did not provide required records, and Petitioner represents that its CPA cannot issue an unmodified audit opinion under professional standards.

DONE and ORDERED this 24th day of October, 2025.

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. 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.