STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Blue CASL Orlando, LLC FHFC Case No.: 2025-017VW

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ORDER GRANTING WAIVER OF RULE 67-21.026(13)(e), FLA. ADMIN. CODE (2018), AND RULE 67-48.0072(17)(f), FLA. ADMIN. CODE (2018)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on May 9, 2025. On April 15, 2025, Florida Housing Finance Corporation ("Florida Housing") received an Amended Petition for Waiver of Florida Administrative Code Rules 67-21.026(13)(e) and 67-48.0072(17)(f) (the "Petition") from Blue CASL Orlando, LLC ("Petitioner") to allow Petitioner's General Contractor ("GC") to self-perform work over the de minimis amount allowed under the rules. Notice of the Petition was published April 16, 2025, in Volume 51, Number 074, 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: 5/12/2025

2. Petitioner successfully applied for funding to assist in the construction of Fairlawn Village, a 116-unit development located in Orange County, Florida (the "Development").

3. Rule 67-21.026(13)(e), F.A.C. (2018), and Rule 67-48.0072(17)(f), F.A.C. (2018), apply. However, on April 29, 2022, the Board amended Rules 67-21.026(13)(e), F.A.C, and 67-48.0072(17)(f), F.A.C., effective retroactively to developments that had previously submitted applications under prior rule versions. Rule 67-21.026(13)(e), F.A.C., as amended, states, in relevant part:

> (13) The General Contractor must meet the following conditions:
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> (e) Ensure that no construction or inspection work is performed by the General Contractor, with the following exceptions:
> 1. The General Contractor may perform its duties to manage and control the construction of the Development; and
> 2. 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. Rule 67-48.0072(17)(f), F.A.C., as amended, states, in relevant part:

> (13) The General Contractor must meet the following conditions:
>
> ***
>
> (e) Ensure that no construction or inspection work is performed by the General Contractor, with the following exceptions:

1. The General Contractor may perform its duties to manage and control the construction of the Development; and
2. 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

5. Petitioner requests a waiver from the above rule to allow Petitioner's GC to self-perform work over the de minimis amount. Petitioner cites COVID-19 related labor and supply challenges as justification for its request. Petitioner states that, in response to shortages and the uncertain subcontractor labor and supervision market, its GC, NDC Construction Company ("NDC"), stepped in to coordinate material installation typically performed by the subcontractors. This work included $442,737 in self-performed rough carpentry, trim carpentry, drywall, stucco, painting, flooring, caulking, and other specialty work. NDC includes no additional fees or profit in its self-performed 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 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 67-21.026(13)(e), F.A.C., and Rule 67-48.0072(17)(f), F.A.C., as amended, is hereby **GRANTED,** allow Petitioner's General Contractor to self-perform the referenced work over the de minimis amount, subject to the following conditions:

i. All GC self-performed work over the de minimis amount must be at cost, with no built-in profit (meaning no profit or administrative costs may be built into the self-performed line items);

ii. As part of the final cost certification process, an independent CPA must confirm and/or verify all GC self-performed costs were at cost with no built-in profit as described above;

iii. The GC fee on the self-performed work over the de minimis threshold, shall be limited to 10%, in lieu of the standard 14% GC fee applied to subcontractor work; and

iv. Receipt of a positive recommendation from the Credit Underwriter.

DONE and ORDERED this 9th day of May, 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.