STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: WHFT Affordable II, Ltd., FHFC Case No.: 2025-013VW
_____/

ORDER GRANTING WAIVER OF RULES 67-48.0072(12) AND 67-21.026(10), FLA. ADMIN. CODE (2023)

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 6, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-48.0072(12), Fla. Admin. Code (06/28/2023) and 67-21.026(10), Fla. Admin. Code (06/28/2023), (the "Petition") from WHFT Affordable II, Ltd. (the "Petitioner"). The Petition seeks a waiver of the referenced rules requiring a singular Guaranteed Maximum Price ("GMP") construction contract. Notice of the Petition was published on March 7, 2025, in Volume 51, Number 46, 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: 3/28/2025

2. Petitioner successfully applied for funding to assist in the construction of Catchlight Crossings, a 300-unit mid-rise development located in Orange County, Florida (the "Development").

3. Rule 67-48.0072(12), Fla. Admin. Code (2023), states in relevant part:

> (12) For Competitive HC, SAIL, and HOME, the Corporation's assigned Credit Underwriter shall require a guaranteed maximum price construction contract, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, and review a pre-construction analysis for all new construction units and a CNA for rehabilitation units and review the Development's costs.

Rule 67-21.026(10), Fla. Admin. Code (2023), states in relevant part:

> (10) The Corporation's assigned Credit Underwriter shall require a guaranteed maximum price construction contract, acceptable to the Corporation, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, and review a pre-construction analysis for all new construction units or a CNA for rehabilitation units and review the Development's costs.

4. Petitioner requests a waiver of the above rules asserting that a singular GMP construction contract is impractical for the development. Due to the project's complexity, Petitioner required a general contractor that

specializes in: (i) concrete structures; (ii) major site development matters, and (iii) stick built construction. However, Petitioner was unable to retain the services of a GC that could complete all three on a cost-effective basis. Accordingly, the Credit Underwriting Report ("CUR") provides that two companies will complete the project. In conjunction with the CUR, each of the two GCs contemplated went through extensive underwriting, including review of the GMP contracts and the plans as part of the Plan and Cost Review. As such, the GCs have already been fully and properly vetted by the underwriter.

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 strict application of the rules would impose a substantial hardship. Due to the Development's complexity, including the need for specialized construction expertise, requiring a singular guaranteed maximum price construction contract would be impractical in this instance 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 67-48.0072(12), Fla. Admin. Code (06/28/2023) and 67-21.026(10), Fla. Admin. Code (06/28/2023), requiring a singular guaranteed maximum price construction contract, is hereby **GRANTED**. This waiver is conditioned upon the Petitioner's compliance with the following condition: Receipt of an agreement, acceptable to Florida Housing, its counsel, and its servicer, that includes provisions addressing a process for resolving disputes between the general contractors.

DONE and ORDERED this 28th day of March, 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.