STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Federation Gould Preservation, LP FHFC Case No.: 2024-067VW

_____/

ORDER GRANTING WAIVER OF RULE 67-21.027(6), FLA. ADMIN. CODE (2019)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 22, 2024. On October 4, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.027(6) (2019) (the "Petition") from Federation Gould Preservation, LP ("Petitioner") to allow submission of Petitioner's Final Cost Certification Application Package ("FCCAP") with an Agreed Upon Procedures Report ("AUP") approved by the Corporation in lieu of (i) the General Contractor Cost Certification ("GCCC"); (ii) a certified public accountant opinion letter; and/or (iii) an audit report prepared by an independent certified public accountant. Notice of the Petition was published October 7, 2024, in Volume 50, Number 196, 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:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
10/22/2024

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 Gould House, a 101-unit development located in Palm Beach County, Florida (the "Development").

3. Rule 67-21.027(6), Fla. Admin. Code (2019), provides in relevant part:

> 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 04-2019, 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-10773, or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321.

4. Petitioner requests a waiver of the above rule to allow submission of Petitioner's FCCAP with an AUP approved by the Corporation in lieu of (i) the GCCC; (ii) a certified public accountant opinion letter; and/or (iii) an audit report prepared by an independent certified public accountant. As justification for its request, Petitioner states that the Development was substantially completed by its General Contractor, J4 Development, Inc. ("J4"), on December 15, 2021. However, since then, J4 has discontinued its business operations, and its principals have declared bankruptcy. Despite multiple requests, J4 has failed to provide the information necessary to complete the FCCAP. The FCCAP requires the completion and inclusion of the GCCC, and a CPA opinion letter and audit report for the GCCC without any modifications which cannot be completed without input from J4.

5. Petitioner states that the FCCAP is substantially complete, and Petitioner is aware of no disputes or disagreements regarding the costs to be reported. Nonetheless, Petitioner cannot satisfy the technical requirements of the Rule as it is unable to obtain the J4's signature for the GCCC and J4's accounting firm will not finalize the CPA opinion letter without J4's cooperation.

6. 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.

7. 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.

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, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-21.027(6), Fla. Admin. Code (2019) is hereby **GRANTED** to allow Petitioner to submit its Final Cost Certification Application Package utilizing Agreed Upon Procedures that will be developed with, and approved by, Florida Housing Staff to provide assurance of the reasonableness and accuracy of costs in lieu of (i) the General Contractor Cost Certification; (ii) a certified public accountant opinion letter; and/or (iii) an audit report prepared by an independent certified public accountant. Florida Housing Staff will determine the acceptability of the content of the Agreed Upon Procedures report when the report is completed.

DONE and ORDERED this 22nd day of October, 2024.

Florida Housing Finance Corporation

By: _____
Sandra Einhorn, Vice Chair

Copies furnished to:

Brian J. McDonough,
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
Counsel for Petitioner
bmcdonough@swmwas.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.