STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SP PARK, LLC FHFC CASE NO.: 2019-057VW

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ORDER GRANTING WAIVER OF RULE 67-21.027(6)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on August 2, 2019, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on July 2, 2019, from SP Park, LLC ("Petitioner"). Notice of the Petition was published on July 5, 2019, in Volume 45, Number 130, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Petitioner was selected to receive State Apartment Incentive Loan (SAIL) funding in conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits under RFA 2016-109 to assist in the acquisition and rehabilitation of a development serving low income families in Columbia County, Florida, called Cedar Park Apartments.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION

/DATE: 8/6/2019

3. Rule 67-21.027(6), Fla. Admin. Code, incorporates by reference the Final Cost Certification Application Package ("Form FCCAP"). As a condition for receiving housing credits, each applicant must use the Form FCCAP to itemize all expenses incurred in association with construction or rehabilitation of a housing credit development, including expenses associated with the general contractor's use of subcontractors. As part of the Form FCCAP, each applicant must submit, among other things, a General Contractor Cost Certification and an unqualified audit report prepared by an independent certified public accountant for the General Contractor Cost Certification. To assist the certified public accountant in completing an audit of the General Contractor Cost Certification, each applicant's general contractor must provide a list of all subcontractors to be used on the job, with amounts paid or to be paid. The certified public accountant must ask the three largest dollar subcontractors to confirm certain information, and must also review documentation from at least five other subcontractors.

4. Petitioner has demonstrated that one of the three largest dollar subcontractors proposed to be used for the development, Green Lantern Services, is no longer in business and cannot be contacted. Petitioner has requested approval from the Corporation to send these confirmation requests instead to the fourth largest dollar subcontractor, ACE Electrical Service of N. Florida. Petitioner asserts that

the certified public accountant will include Green Lantern Services in her documentation review along with at least four other subcontractors.

5. The Board finds that granting the waivers will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

6. Section 120.542(2), Florida Statutes provides in pertinent part:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

7. Petitioner has demonstrated that the waivers are needed in order to efficiently serve low-income families and that, if the waivers were not granted, Petitioner would suffer a substantial hardship. Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waivers are granted.

8. The Board finds that strict application of the above Rules under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-21.027(6), Fla. Admin. Code (2017), and Form FCCAP incorporated therein, is hereby **GRANTED** so that the certified public accountant auditing the General Contractor Cost Certification may confirm information from the fourth largest dollar subcontractor instead of the third largest dollar subcontractor. As a condition of this waiver, Petitioner must assure that the third largest dollar subcontractor is included in the certified public accountant's documentation review.

DONE and ORDERED this 2nd day of August, 2019.

Florida Housing Finance Corporation

By: _____
Chair

Copies furnished to:

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
Hugh.Brown@floridahousing.org

Jesus "Jesse" Leon
Director of Multifamily Development
Jesse.Leon@floridahousing.org

Tiffany A. Roddenberry
Holland & Knight LLP
Tiffany.roddenberry@hklaw.com

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL 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.