

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

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GAVIN POINT, LTD.,  
a Florida Limited Partnership,

FLORIDA HOUSING  
FINANCE CORPORATION

Petitioner,

FHFC CASE NO. 2026-029VW

Application No. 2024-145C

RFA No. 2023-202

v.

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

**PETITION FOR WAIVER OF RULE 67-48.0072(17)(i), F.A.C. (06/28/23)**

Petitioner Gavin Point, Ltd., (the “Petitioner”) by and through its undersigned counsel, hereby petitions Respondent, Florida Housing Finance Corporation (“Florida Housing”) for a waiver of the requirement in Rule 67-48.0072(17)(i), Florida Administrative Code (“F.A.C.”) (06/28/2023) (the “Rule”) that a general contractor (“GC”) may not subcontract to an entity that has common ownership or is an affiliate of the GC. While Petitioner’s GC obtained multiple bids, none came anywhere close to the amount bid by a subcontractor sharing common ownership with the GC. To avoid unnecessary costs, and to ensure the costs for the Development were as low as possible, the GC subcontracted approximately 6.9% of the total development cost to the subcontractor with the lowest bid. Petitioner is therefore in need of a Rule waiver. In support, Petitioner states as follows:

**1. THE PETITIONER**

The address, telephone, facsimile numbers and e-mail address for Petitioner and its qualified representative are:

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The address, telephone and facsimile number and e-mail address of Petitioner's counsel are:

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## **2. THE DEVELOPMENT**

The following information pertains to the development ("Development"):

- Development Name: Gavin Point
- Developers: TVC Development, Inc.
- County of Development: Duval
- Number of Units: 105 total units (94 affordable housing units)
- Type: Mid-Rise (4 Stories) (new construction)
- Demographics: Family
- Set Asides: 10% @ 40% AMI, 79% @ 60% AMI, and 11% @ above 60% AMI (Market Rate Housing Units)
- Funding Amounts: \$2,353,680 9% housing credit (annual)

## **3. THE RULE FROM WHICH WAIVER IS REQUESTED**

Petitioner requests a waiver of Rule 67-48.0072(17)(i), F.A.C. (6/28/2023), which provides: "The General Contractor must meet the following conditions: . . . Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of the General Contractor, Developer, or Applicant. For purposes of this paragraph, 'Affiliate' has the

meaning given it in subsection 67-48.002(5), F.A.C., except that the term ‘Applicant’ therein shall mean ‘General Contractor.’” *Id.*

#### **4. STATUTES IMPLEMENTED BY THE RULE**

The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statutes relating to the State Apartment Incentive Loan Program contained in Section 420.5087 of the Florida Statutes, the HOME Investment Partnership Program and HOME Investment Partnership Fund, contained in Section 420.5089 of the Florida Statutes, and the allocation of the Low-Income Housing Tax Credits contained in Section 420.5099 of the Florida Statutes. *See* §§ 420.5087, 420.5089, and 420.5099, Fla. Stat. (the “Statutes”).

#### **5. JUSTIFICATION FOR GRANTING WAIVER**

a. Petitioner timely submitted Application No. 2024-145C on September 13, 2023 in response to RFA 2023-202 (Housing Credit Financing For Affordable Housing Developments Located In Broward, Duval, Hillsborough, Orange, Palm Beach, And Pinellas Counties).

b. Petitioner’s GC, Summit Contracting Group, Inc., was in need of a subcontractor to furnish and install a complete mechanical HVAC System for the Development.

c. The GC received three bids from: (1) Pinnacle Air Solutions LLC (\$895,908); (2) Cool United Air Southeast (\$1,045,000); and (3) Triad Mechanical Company, Inc. (\$1,062,522).

d. Pinnacle Air Solutions LLC’s bid was approximately \$150,000 less than the next lowest bid.

e. Unfortunately, Pinnacle Air Solutions LLC is a related party through common ownership because a parent company, Summit Companies Holdings, Inc., owns both Pinnacle Air Solutions LLC and the GC. The GC could not find another subcontractor to perform the work as cost effectively. The Development therefore could not have obtained the same services from an unaffiliated subcontractor at a lower price.

- f. Accordingly, Petitioner is in need of a Rule waiver.
- g. The amount paid to Pinnacle Air Solutions LLC (\$1,041,234) was a mere 6.9% of the total development cost (\$14,992,301).
- h. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., Florida Housing has the authority to grant waivers to its rule requirements when strict application of the rules would lead to unreasonable, unfair and unintended consequences, in particular instances. Waivers shall be granted when the person who is subject to the rules demonstrates that the application of the rules would: (1) create a substantial hardship or, violate principles of fairness,<sup>1</sup> and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), Fla. Stat.
- i. In this instance, Petitioner meets the standards for a waiver of the Rules. The requested waiver will not adversely impact the Development or Florida Housing and will ensure that 94 affordable housing units will be preserved and made available for the target population in Duval County, Florida. The strict application of the Rule will create substantial hardship for Petitioner because failure to satisfy the technical requirements of the Rule would result in rescission of allocation of housing credits awarded to the Development. If the requested waiver is denied, Petitioner would have to obtain the same service from an unaffiliated source at a higher price. Avoiding this unnecessary cost would ensure the costs for the Development are as low as possible. The waiver will therefore serve the purposes of the Statutes and the Act, because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary low-cost housing in the State.

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<sup>1</sup> “Substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, “principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. *See* § 120.542(2), Fla. Stat.

j. By granting this waiver, Florida Housing would recognize the goal of increasing the supply of affordable housing to persons of low-income, and recognizing the economic realities and principles of fundamental fairness in developing affordable rental housing. *See* § 420.5099(2), Fla. Stat.

**6. WAIVER IS PERMANENT**

The waiver being sought is permanent in nature.

**7. ACTION REQUESTED**

For the reasons set forth herein, Petitioner respectfully requests Florida Housing: (i) grant the requested waiver of the Rule and allow Petitioner's General Contractor to subcontract approximately 6.9% of the total development cost to an entity that has common ownership; (ii) grant this Petition and all of the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER  
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*Counsel for Petitioner*

By: Brian J. McDonough  
BRIAN J. MCDONOUGH, ESQ.

**CERTIFICATE OF SERVICE**

This Petition for Rule Waiver is being served by electronic transmission for filing with the Florida Housing Clerk for the Florida Housing Finance Corporation via [CorporationClerk@floridahousing.org](mailto:CorporationClerk@floridahousing.org), with copies served via U.S. Mail on the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 26th day of May, 2026.

By: Brian J. McDonough  
BRIAN J. MCDONOUGH, ESQ