**STATE OF FLORIDA**
**FLORIDA HOUSING FINANCE CORPORATION**

**FHFC CASE NO.** 2025-039VW
**Application No.: 2025-353BS/2024-556C**

RESERVE AT EASTWOOD I, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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**AMENDED PETITION FOR WAIVER OF RULES 67-21.003(8)(c), 67-21.003(11), AND 67-48.004(3)(c), FLORIDA ADMINISTRATIVE CODE (EFFECTIVE AUGUST 27, 2024)**

Reserve at Eastwood I, LLC, a Florida limited liability company ("Petitioner") by and through its undersigned counsel, hereby petitions Florida Housing Finance Corporation ("Florida Housing") for a waiver of Rules 67-21.003(8)(c), 67-21.003(11), 67-48.004(3)(c) F.A.C.(August 27, 2024), Florida Administrative Code (collectively, the "Rules"), which provide that the withdrawal by Petitioner from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs; and that the program applied for cannot be revised, corrected or supplemented after the Application is deemed complete. Petitioner was awarded an allocation of $350,000 in State Apartment Incentive Loan ("SAIL") program funds, $55,000,000 in Corporation-issued Multifamily Mortgage Revenue Bonds ("MMRB"), and $ 2,672,569 (annually) in 4% Low-Income Housing Tax Credits ("LIHTC") ("4% Housing Credits") from Florida Housing in relation to RFA 2024-213 SAIL Funding for Live Local Mixed Income, Mixed-Use, and Urban Infill Developments (the "RFA"), to finance the construction, development and operation of a 168-unit affordable multifamily housing development located in Lee County, Florida to be known as Reserve at Eastwood I (the "Development").

In further support of this Petition, Petitioner states as follows:

## A. PETITIONER AND THE DEVELOPMENT

1. The name, address, e-mail address, and telephone number for Petitioner and the qualified representative is:

Reserve at Eastwood I, LLC
Attn: Sean Smith
360 Central Ave., Suite 800
St. Petersburg, Florida 33701
E-mail: ssmith@lighthousedevelopment.com
Telephone: (813) 952-0984

2. The name, address, e-mail address, and telephone numbers of Petitioner's counsel is:

Nicholas W. Heckman, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801-4961
Email: nick.heckman@nelsonmullins.com
Telephone: 407-669-4241

3. Petitioner provides the following information related to the Development, underlying Application No. 2025-353BS/2024-556C ("Application"):

- Development Name: Reserve at Eastwood I
- Development Address: Ortiz Ave and Hanson St., Fort Myers, Florida
- County: Lee
- Number of Units: 168 (new construction)
- Set Asides: 25 units at or below 30% AMI, 34 units at or below 40% AMI, 25 units at or below 50% AMI, and 84 units at or below 80% AMI
- Demographics: Family

- Funding: $350,000 in SAIL[1], $ 2,672,569 in LIHTC (annually), and $55,000,000 in MMRB

**B. TYPE OF WAIVER**

4. The waiver being sought is permanent in nature.

**C. RULES FOR WHICH A WAIVER IS REQUESTED**

5. Petitioner requests a waiver from Rule 67-21.003(8)(c), F.A.C. (August 27, 2024), which provides, in relevant part, as follows:

> "(3) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application is deemed complete. Those items are as follows:
>
> ....
>
> (c) Program(s) applied for;"

6. Petitioner requests a waiver from Rule 67-21.003(11), F.A.C. (August 27, 2024), which provides, in relevant part, as follows:

> "(11) The withdrawal by the Applicant from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs."

7. Petitioner requests a waiver from Rule 67-48.004(3)(c), F.A.C. (August 27, 2024), which provides, in relevant part, as follows:

> "(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:
>
> ....
>
> (c) Program(s) applied for;"

**D. STATUTES IMPLEMENTED BY THE RULES**

1 Petitioner requests, by this waiver, to return these funds to Florida Housing.

8. The Rules implements, among other sections of the Florida Housing Finance Corporation Act (the "Act"): Section 420.5099, Allocation of the low-income housing tax credit; Section 420.502, Legislative findings; Section 420.507, Powers of the corporation; Section 420.508, Special powers; multifamily and single-family projects; and Section 420.509, Revenue bonds; Section 420.5087, State Apartment Incentive Loan Program.

**E. JUSTIFICATION FOR GRANTING WAIVER OF THE RULES**

9. Petitioner submitted its Application in response to the RFA on December 20, 2024. Prior to filing the Application, on November 5, 2024, the Petitioner was awarded $20,000,000 in CDBG-DR funds from Lee County, Florida (the "County") under the County's Affordable Housing Development & Preservation Program – Multifamily. The Petitioner had multiple discussions with the County regarding volume cap issues and that it lacked sufficient bond volume cap to support the project, which required $55,000,000 in bond financing to support the construction and development of the 168-unit Development. The lack of bond volume cap created the need to file the Application. Although the Development did not require the SAIL financing, Petitioner requested the $350,000 minimum amount, which required Petitioner to set-aside 50% of units of the 168 (84 units) at 80% AMI (the "50% Unit SAIL Restriction"). While market studies initially showed no hardship of rents for 80% AMI units, since then such rents have dramatically declined, creating lease up risk, and the Development's marketability. Such issues could potentially result in an extreme reduction to the Development's annual income, and thus cause a reduction in the Development's projected permanent loan sizing. With the current market conditions, the 50% Unit SAIL Restriction, may indirectly cause the Development to have a shortfall. Petitioner therefore respectfully requests a waiver from the Rules so that Petitioner may withdraw/return the $350,000 in Live

Local SAIL funding and the Live Local SAIL requirements of the RFA, however, be permitted to maintain its MMRB and 4% Housing Credits allocation under the RFA. It is pivotal that the Development maintains the aforementioned allocations in order to maintain the CDBG-DR funding from the County, which has a closing deadline of February 28, 2026. The County has already completed the Development's HUD Environmental Review and expected to finalize its credit underwriting report with Florida Housing, which is scheduled to be on Florida Housing's October 24, 2026 Board meeting for approval.

10. Under Section 120.542(l), 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 these rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when: (1) the person who is subject to the rule demonstrates that the application of the rule would create a substantial hardship or violate principles of fairness, 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.

11. Petitioner meets the standards for the requested waiver. The requested waiver will not adversely impact the Development, Florida Housing, nor any other applicant, and will ensure that 168 affordable housing units will be preserved and made available for the target population in Lee County, Florida. Further, the waiver will serve the purposes of the Statute and the Act, because one of the Act's primary purposes is to facilitate the availability of decent, safe and sanitary housing in the State to households of limited means.

12. In contrast, if the requested waiver is not granted, Petitioner will suffer a substantial and unnecessary economic and operational hardship. Specifically, denial of the waiver

would restrict Petitioner's ability to lease up the Development, thereby placing in jeopardy the feasibility of constructing and operating the 168-unit affordable housing development. By approving the request, Florida Housing can ensure that bond allocation is being used as efficiently as possible with local CDBG funding to maximize the production and preservation of affordable housing, while ensuring Lee County has access to 168 new affordable housing units. Furthermore, maintaining the MMRB and 4% Housing Credit allocations are crucial to the project's timeline and overall feasibility.

13. Should Florida Housing require additional information, a representative of Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

## F. ACTION REQUESTED

14. WHEREFORE, Petitioner respectfully requests that Florida Housing: (i) Grant Petitioner a waiver from Rules 67-48.004(3)(c), 67-21.003(8)(c), and 67-21.003(11) F.A.C. (August 27, 2024), and allow Petitioner to withdraw from the Live Local SAIL funding and the Live Local SAIL requirements under the RFA without withdrawing from the MMRB allocation and 4% Housing Credit award, so that Petitioner can avoid facing a financial hardship; (ii) Grant this petition and all relief request therein; and (iii) Grant such further relief as may be deemed appropriate.

Respectfully submitted this 8th day of September, 2025.

Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4241
Facsimile: (407) 425-8377
Email: nick.heckman@nelsonmullins.com

COUNSEL FOR PETITIONER

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation,
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
CorporationClerk@floridahousing.org,

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Joint.admin.procedures@leg.state.fl.us

This 8th day of September, 2025.

Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4241
Facsimile: (407) 425-8377
Email: nick.heckman@nelsonmullins.com