STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In re: Fort Myers Leased Housing Associates I, LLLP

FHFC Case No.: 2025-047VW

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ORDER GRANTING WAIVER OF RULES 67-21.0025(1) and 67-21.026(10), F.A.C. (2024)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 12, 2025. On October 7, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-21.0025(1) and 67-21.026(10), F.A.C. (2024) (the "Petition") from Fort Myers Leased Housing Associates I, LLLP (the "Petitioner") to (1) allow Petitioner's hard rehabilitation costs per unit to be less than $40,000.00 and (2) to relieve Petitioner of the requirement to perform all rehabilitation work under a guaranteed maximum price contract ("GMP"). Notice of the Petition was published October 8, 2025, in Volume 51, Number 196, of the Florida Administrative Register. Petitioner submitted an Amended Petition for the same waiver on November 20, 2025. Florida Housing received no comments regarding the Petition or the Amended Petition. After careful review of the record, the Board hereby finds:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE 12/15/2025

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

2. Petitioner has applied for funding to assist in the acquisition and rehabilitation of Aria Landings, a 320-unit development located in Lee County, Florida (the "Development").

3. Rule 67-21.0025(1), F.A.C. (2024), states in relevant part:

> (1) A minimum rehabilitation investment is required to assure meaningful, rather than simply cosmetic, rehabilitation of properties. In addition to the alteration, improvement or modification of an existing structure, Rehabilitation or Preservation costs during any 24-month period with respect to the Housing Credit Program must equal or exceed an average of $40,000 in hard rehabilitation costs per unit and are in addition to the 20% of the property's adjusted basis requirements and minimum qualified basis per low income unit set forth in Section 42(e)(3)(A)(ii) of the IRC. For purposes of this subsection, "hard rehabilitation costs" include site improvements, off-site improvements, rehabilitation costs for physical improvements to the property, and construction contingency and do not include general contractor fees or overhead, general requirements, architect and engineering fees, permit fees, financing or soft costs, or developer fees.

4. Rule 67-21.026(10), F.A.C. (2024), provides 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.

5. Petitioner seeks a waiver of the above rules to (1) allow Petitioner's hard rehabilitation costs per unit to be less than $40,000.00 and

(2) relieve Petitioner of the requirement to perform all rehabilitation work under a GMP. Petitioner entered into a GMP contract with hard rehabilitation costs equaling approximately $34,744.00 per unit, unaware the GMP Contract was short of the $40,000.00 per unit requirement in Rule 67-21.0025(1), F.A.C. (2024). Given the shortfall and timing of discovery, Petitioner states it had limited options because it could not extend the bond closing date, which would result in Petitioner potentially losing its bond allocation.

6. Petitioner decided to fund a reserve in the amount of $695,000.00 with the Housing Finance Authority of Lee County ("HFA"), to pay for additional construction costs outside the GMP Contract ("Reserve Repair Work"). Petitioner used the reserve funds to pay for work that would have constituted eligible rehabilitation costs if done under the GMP. Reserve Repair Work included replacing the residential unit HVACs, backflow repair, resurfacing the pool deck, replacing fire alarms, making repairs to fencing and making repairs to the clubhouse and laundry rooms.

7. 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.

8. The Board also finds that Petitioner has demonstrated that the strict application of the rules would impose a substantial hardship if the waiver is not granted.

9. The Board further finds that Petitioner has 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, F.S.

IT IS THEREFORE ORDERED that Petitioner's request for a waiver of Rules 67-21.0025(1) and 67-21.026(10), F.A.C. (2024), is hereby **GRANTED** to allow Petitioner's hard rehabilitation costs per unit to be less than $40,000.00, and to permit payment for hard construction costs performed outside the GMP contract under the following conditions:

(1) The Credit Underwriter provides a positive recommendation regarding the costs as part of the Credit Underwriting Report for non-competitive 4% Housing Credits.

(2) As part of the Development Final Cost Certification, the independent CPA will itemize the costs incurred for the hard construction costs performed outside of the GMP, at a minimum disclosing amounts to each contractor/payee, confirming and verifying all costs incurred outside of

the GMP, and confirming that there were no profit or administrative fees to the Applicant/Developer included within the costs reported.

(3) No Developer Fee will be permitted on any of the hard construction costs incurred outside of the GMP.

DONE and ORDERED this 12th day December 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. THE PETITION MUST BE FILED WITHIN TWENTY-ONE (21) DAYS OF RECEIPT OF THIS ORDER, CONSISTENT WITH SECTION 120.569(1), FLORIDA STATUTES, AND RULE 28-106.111(2), FLORIDA ADMINISTRATIVE CODE.