STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Millennia Jacksonville FL TC, LP FHFC Case No.: 2025-018VW

_____/

ORDER GRANTING WAIVER OF RULE 67-21.026(13)(e), F.A.C. (2019)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on May 9, 2025. On April 17, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-21.026(13)(e), F.A.C. (the "Petition") from Millennia Jacksonville FL TC, LP (the "Petitioner"). The Petition seeks a waiver of the Corporation's prohibition of self-performed work by a general contractor (GC) in excess of $350,000 or 5 percent of the construction contract. Notice of the Petition was published on April 18, 2025, in Volume 51, Number 76, 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:

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

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION

_____/DATE: 5/12/2025

2. Petitioner successfully applied for funding to assist in the construction of Valencia Way Apartments, a 400-unit development located in Duval County, Florida (the "Development").

3. Petitioner originally applied under Rule 67-21.026(13)(e), F.A.C. (2019). On April 29, 2022, the Board authorized staff to apply Rule 67-21.026(13)(e), F.A.C. (2022) to developments that submitted applications under prior rule versions and were still in the pipeline. Rule 67-21.026(13)(e), F.A.C. (2022) states in relevant part:

> (e) Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor. With the following exceptions:
> ****
> The General Contractor may self-perform work of a de minimis amount, defined for purposes of this subparagraph as the lesser of $350,000 or 5 percent of the construction contract.

4. Petitioner requests a waiver of the rule prohibiting GC self-performance above the de minimis threshold set by rule. In July 2018, Petitioner and NEI entered into a cost-plus construction contract with a guaranteed maximum price. Petitioner issued the Notice to Proceed (NTP) to NEI on November 6, 2018. Unforeseen underground electrical issues were discovered during the course of construction. These unforeseen conditions caused a delay beginning July 31, 2019, due to required underground electrical repairs mandated by the City of Jacksonville to bring the apartment

buildings up to code and to restore two lift stations. There were three (3) other instances in which delay letters were issued to Petitioner by NEI because, through no fault of Petitioner they were unable to turnover the units to NEI in a timely manner. Once NEI was given access to these units/buildings, previously unknown issues became apparent, requiring NEI to perform further work to maintain the integrity of the Jacksonville building code, which contributed to the delays. The resulting unit turnover inconsistencies and schedule interruptions led many subcontractors either to demand substantial mobilization cost increases or to abandon the project entirely. As a result, there were several subcontractors who abandoned the project completely and some who refused to show up without a substantial increase in their subcontract price. Under these conditions, NEI foresaw significant delays and was forced to step in to reduce the impact on the project's budget and schedule. Due to violent crime in the area, Petitioner increased onsite security and coordinated with the local sheriff's department to increase patrols, resulting in a significant reduction in criminal activity. Despite NEI's best efforts, NEI was faced with several subcontractors abandoning the project due to the ongoing violence. The COVID-19 pandemic exacerbated the previously described delays. As a result, NEI was compelled to self-perform a portion of the construction work. NEI was required to self-perform a small percentage

(8.6%) of the overall value of the work associated with the project. The total cost of the required self-performed work was $1,975,087. This work was completed within the Guaranteed Maximum Price (GMP) value and no additional costs were incurred by the project. In fact, Petitioner asserts that the project recognized a substantial savings as a result of NEI's self-performance of this limited work.

5. The Board finds that granting the requested waiver will not adversely impact other participants in funding programs administered by Florida Housing, nor will it detrimentally affect Florida Housing.

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

7. 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 waiver of Rule 67-21.026(13)(e), F.A.C. (2022), is hereby **GRANTED,** allowing Petitioner's General Contractor to self-perform a portion of construction or

inspection work typically performed by subcontractors, subject to the following conditions:

(1) All GC self-performed work over the de minimis amount must be at cost, with no built-in profit (meaning no profit or administrative costs may be built into the self-performed line items);

(2) As part of the final cost certification process, an independent CPA must confirm and/or verify all GC self-performed costs were at cost with no built-in profit as described above;

(3) The GC fee on the self-performed work over the de minimis threshold, shall be limited to 10%, in lieu of the standard 14% GC fee applied to subcontractor work; and

(4) Receipt of a positive recommendation from the Credit Underwriter.

DONE and ORDERED this 9th day of May, 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.