STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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CASE NO. _____

MC AFFORDABLE, LLC, a Florida Limited Liability Company,

Petitioner,

FHFC CASE NO. 2025-057VW
Application No. 2024-305CSN
RFA 2024-106

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULE 67-48.0072(21)(b), F.A.C. (06/28/2023)

Pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code ("F.A.C."), Petitioner MC Affordable, LLC, submits this Petition to Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of Rule 67-48.0072 (21)(b), F.A.C. (the "Rule") in effect at the time Petitioner submitted its application 2024-305CSN (the "Application") in response to RFA 2024-106, Financing for the Development of Housing for Persons with a Disabling Condition or Developmental Disabilities (the "RFA"). Petitioner timely submitted the Application on February 15, 2024. Though Petitioner has diligently acted to move the development forward, it previously requested and was granted the six-month extension of the firm loan commitment from May 17, 2025 to November 17, 2025 at the June 13, 2025 Florida Housing Board Meeting permitted under the Rule. Petitioner is now under a signed term sheet, has site plan approval, is in the final stages of construction documents, and is targeting a May 31, 2026 closing of both equity and debt. Accordingly, Petitioner respectfully requests a Rule waiver to permit another extension of the firm loan commitment deadline through and including May 17, 2026.

In support, Petitioner states as follows:

A. PETITIONER

1. The name, address, telephone and facsimile numbers, and email address for Petitioner and its qualified representative are:

Bowen A. Arnold
1215 N Franklin Street
Tampa, FL 33602
Phone: 813-600-0891
Fax: N/A
Email: barnold@ddadevelopment.com

2. The name, address, telephone and facsimile numbers, and email address for Petitioner's attorney are:

Brian J. McDonough
Stearns Weaver Miller Weissler Alhadeff & Sitterson
150 West Flagler Street
Suite 2200
Miami, FL 33130
bmcdonough@stearnsweaver.com
Tel: (305) 789-3350
Fax: (305) 789-3395

Bridget Smitha
Stearns Weaver Miller Weissler Alhadeff & Sitterson
106 East College Avenue, Suite 700
Tallahassee, FL 32301
bsmitha@stearnsweaver.com
Direct: 850-329-4852
Fax: 850-329-4844

B. THE DEVELOPMENT AND ITS FINANCING

3. The following information pertains to the development underlying Petitioner's Application (the "Development"):

- Development Name: The Franklin
- Development Address: 4540 North Armenia Avenue, Tampa, FL 33603
- County: Hillsborough
- Developer: DDA Development, LLC
- Number of Units: 80 (new construction)

- Type: Mid-Rise (4 Stories)
- Set Asides: 8 Units (10%) @ or below 22% AMI; 12 Units (15%) @ or below 40% AMI; and 68 Units (85%) @ or below 60% AMI
- Demographics: Persons with a Disabling Condition
- Funding: $5,740,100 State Apartment Incentive Loan Program; $259,900 Extremely Low Income (ELI); $2,500,000 Housing Credits (9% HC); $1,893,600 NHTF Loan Funding

4. On May 17, 2024, Florida Housing staff issued an invitation to enter credit underwriting to Petitioner in response to the RFA, giving Petitioner a firm loan commitment issuance deadline of May 17, 2025. Per the Rule and RFA, Petitioner was permitted to request one extension of up to six months to secure a firm loan commitment. Petitioner exercised that privilege, and Florida Housing granted approval to extend the firm loan issuance commitment deadline from May 17th, 2025 to November 17th, 2025. Petitioner paid the extension fee required by the Rule.

5. While Petitioner believes it can close both equity and debt on May 31, 2026, in an abundance of caution, Petitioner seeks an additional 6-month extension to and including May 17, 2026.

C. WAIVER IS PERMANENT

6. The requested waiver is permanent in nature.

D. RULE AND RFA PROVISIONS FROM WHICH WAIVER IS SOUGHT

7. Petitioner requests a waiver from the Rule, which provides:

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> ***
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> (b) For SAIL and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued by the date of the Board of Directors meeting immediately following twelve (12) months after the Applicant is invited to enter credit underwriting. Unless an extension is approved by the Board, failure to

> achieve issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Board shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial deadline is approved. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the Board approves the extension of the original deadline. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

See Rule 67-48.0072(21)(b), F.A.C. (06/28/2023).

E. STATUTES IMPLEMENTED BY THE RULE

8. The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the "Act"),[1] Section 420.5087 (State Apartment Incentive Loan Program); Section 420.5089 (HOME Investment Partnership Program and HOME Investment Partnership Fund); and Section 420.5099 (allocation of the low-income housing tax credit).

F. JUSTIFICATION FOR THE REQUESTED WAIVER

9. 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 must be granted when: (1) the person who is subject to the rule demonstrates that the application

[1] The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.517 of the Florida Statutes.

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.

10. Because Petitioner was previously granted a six-month extension of the firm loan commitment deadline, the requested extension may not be granted without a waiver of the Rule.

11. Petitioner is requesting an additional extension of the firm loan commitment deadline from November 17th, 2025 to May 17th, 2026.

12. The need for the requested extension was created by circumstances beyond Petitioner's control; specifically, the three (3) hurricanes impacted the Development's timeline in 2025, and Florida Housing granted Petitioner a one-year extension of the placed-in-service ("PIS") date and the 10% test pursuant to IRS Rev Proc 2014-49, granting extensions to sites located in the FEMA Federal Natural Disaster Declaration area of Hurricane Milton.

13. Petitioner is now under a signed term sheet with Raymond James Bank and a signed term sheet with Raymond James Affordable Housing Investments, Inc. Additionally, Petitioner has site plan approval and is in the final stages of construction documents. Petitioner is targeting a May 31st, 2026 closing of both equity and debt. If granted a six-month extension to May 17th, 2026, Petitioner is confident it can satisfy the deadline.

14. The requested waiver will not prejudice Petitioner, the Development, any other applicant, or Florida Housing. A denial of the Petition, however, would: (a) result in substantial economic hardship to Petitioner, as it has incurred significant sums to date in an effort to ensure that the Development proceeds to completion; (b) deprive Hillsborough County of essential affordable rental units designed for Persons with a Disabling Condition, who desperately need that

housing, as well as other amenities and services that the Development will offer; and (c) violate principles of fairness[2]. *See* § 120.542(2), F.S.

15. If this Petition is not granted, the preliminary commitment will be withdrawn. Absent those funds, the Development will not be constructed. As a result, Hillsborough County will lose 80 units of affordable housing, and the related economic development will not occur. Granting the waiver will ensure the availability of funds that will otherwise be lost.

16. As discussed herein, Petitioner is requesting a second extension of the firm loan commitment deadline from November 17th, 2025 to May 17th, 2026, which request requires a waiver of the Rule.

17. The foregoing facts demonstrate the hardship and other circumstances that justify Petitioner's request for a Rule waiver.

18. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief from requirements when strict application, in particular circumstances, would lead to unreasonable, unfair, or unintended results. As demonstrated above, the requested waiver serves the purposes of Section 420.5087 and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households. Further, by granting the requested waiver, Florida Housing would recognize principles of fundamental fairness in the development of affordable rental housing.

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[2]"Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. "Principles of Fairness" are violated when 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. Section 120.542(2), Florida Statutes.

19. 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.

G. ACTION REQUESTED

20. Petitioner requests the following:

a. That Florida Housing grant Petitioner a waiver from the requirements of Rule 67-48.0072(21)(b), Florida Administrative Code (6/28/23), and extend the firm loan commitment deadline from November 17th, 2025 to May 17th, 2026;

b. That Florida Housing grant the Petition and all the relief requested therein; and

c. That Florida Housing grant such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.
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Miami, Florida 33131
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/s Brian J. McDonough
BRIAN J. MCDONOUGH, ESQ.

CERTIFICATE OF SERVICE

The Petition is being served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, CorporationClerk@floridahousing.org, with a copy

served by U.S. Mail to the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 18th day of November, 2025.

/s *Brian J. McDonough*
Brian J. McDonough, Esq.