STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. 2025-060VW
APPLICATION NO.: _____

FED VENTURE LP

Petitioner
vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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FLORIDA HOUSING FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-21.003(1)(b) F.A.C.

FED VENTURE LP, a Florida limited partnership ("**Petitioner**"), by and through its undersigned counsel, hereby petitions Florida Housing Finance Corporation (the "**Corporation**") for a waiver of the requirement that the total proposed equity amount be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided (the "**15 percent criteria**") per the Non-Competitive Application Package (Rev. 05-2025) (the "**NCA**") adopted and incorporated by reference into Rule 67-21.003(1)(b), Florida Administrative Code (July 10, 2025). Moreover, Petitioner hereby petitions the Corporation for waiver of the requirement that for Non-Competitive Housing Credits (4 Percent HC) only, to be used for a Tax-Exempt Bond-Financed Development where the bonds are issued by a County Housing Authority established pursuant to Section 159.604, F.S.; that the Non-Competitive Application Form (the "**Application**") be submitted anywhere from the time the Applicant completes Credit Underwriting for the Bonds up until the last Corporation business day of December of the year the Development is placed in service (the "**Timing Requirement**"), per

the NCA adopted and incorporated by reference into Rule 67-21.003(1)(b), Florida Administrative Code (July 10, 2025). This Petition is filed pursuant to Section 120.542, Florida Statutes (2025), and Chapter 28-104, Florida Administrative Code. In support, Petitioner states as follows:

A. THE PETITIONER

1. The address, telephone number and facsimile number of the Petitioner are:

Fed Venture LP
5230 Pacific Concourse Drive, Suite 350
Los Angeles, California 90045
Attention: Sydne Garchik
Phone: (424) 999-4581
Email: sgarchik@mrkpartners.com

2. The address and telephone number of Petitioner's counsel are:

Hollie A. Croft, Esq.
Nelson Mullins Riley and Scarborough
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4239
Facsimile: (407) 425-8377
Email: hollie.croft@nelsonmullins.com

3. Petitioner has submitted the Application to the Corporation for an issuance of Non-Competitive housing credits ("4% HCs") to be used to finance the construction of a new 164-unit Section 8 multifamily development, by redeveloping the existing development known as Federal Apartments (the "**Development**"). Petitioner further plans to close on multifamily housing revenue bonds from the Housing Finance Authority of Broward ("**County Bonds**") by December, 2025 and anticipates the new building to be placed in service by April 31, 2028. In connection with the foregoing, Petitioner will be using the Freddie Mac Tax Exempt Loan Program ("**Freddie TEL**") and the County Bonds will be issued in the structure of a tax-exempt note.

B. THE RULE FROM WHICH WAIVER IS SOUGHT

4. Petitioner requests a waiver of the NCA, adopted and incorporated by reference by the Rule. The Rule provides:

> If the NC Award will not be made available through the competitive solicitation funding process outlined in rule Chapter 67-60, F.A.C., ***the Applicant shall utilize the Non-Competitive Application Package. The Non-Competitive Application Package or form NCA (Rev. 05-2025) is adopted and incorporated herein by reference*** and consists of the forms and instructions available, without charge, on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Programs or from **********.flrules.org/Gateway/reference.asp?No=Ref-18119, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

See Rule 67-21.003(1)(b), F.A.C. (emphasis added).

5. The NCA provides, in pertinent part:

> Non-Competitive Housing Credits (4 Percent HC) only, to be used for a Tax-Exempt Bond Financed Development where the bonds are issued by a County Housing Finance Authority (HFA) established pursuant to Section 159.604, F.S. ***The Non-Competitive Application Form can be submitted anywhere from the time the Applicant completes Credit Underwriting for the Bonds up until the last Corporation business day of December of the year the Development is placed in service***;
>
> ****
>
> Applicant Certification and Acknowledgement Form
> Section 16
>
> The Applicant certifies and acknowledges that:
>
> ****
>
> k. The proposed equity amount to be paid prior to or simultaneous with the closing of construction financing is at least 15 percent of the total proposed equity to be provided (the 15 percent criteria), subject to the following:
>
> (1) If syndicating/selling the Housing Credits, there are two exceptions to the preceding sentence. First, if there is a bridge loan proposal within the equity proposal that provides for bridge loan proceeds that equal at least 15 percent of the amount of total proposed equity to be provided to be made available prior to or simultaneous with closing of construction financing, the 15 percent criteria will be met. Second, if there is a separate bridge loan proposal from either the equity provider, any entity that is controlled directly or indirectly by the equity

provider, or a subsidiary of the equity provider's parent holding company, and the proposal explicitly proposes an amount to be made available prior to or simultaneous with the closing of construction financing that equals at least 15 percent of the total proposed equity to be paid stated in the equity proposal, the 15 percent criteria is met. Bridge loan proposals that are not within the equity proposal, though, must meet the criteria previously stated for debt financing with the exception that evidence of ability to fund does not have to be provided. The Applicant may include the proposed amount of the bridge loan as equity proceeds on the Construction or Rehabilitation Analysis and on the Permanent Analysis (Note: this 15 percent criteria must be reflected in the limited partnership agreement or limited liability company operating agreement); or

(2) If not syndicating/selling the Housing Credits, proceeds from a bridge loan will not count toward meeting the 15 percent criteria;

See Section 16(k) of the Non-Competitive Application Form (Rev. 05-2025).

C. STATUTES IMPLEMENTED BY THE RULES

6. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act (the "**Act**"), the statute that designated the Corporation as the housing credit agency and created the Housing Tax Credit Program. *See* § 420.5099, *Fla. Stat.*

D. WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

7. Petitioner hereby requests a waiver of the 15 Percent Criteria, and waiver of the Timing Requirement, for the reasons set forth below.

8. As stated above, Petitioner plans to close on the tax-exempt bonds and enter into its Amended and Restated Agreement of Limited Partnership with its investor limited partner in December 2025 (the "**Partnership Agreement**"). However, the December 2025 closing will merely be a dry closing (the "**Dry Closing**"), pending only receipt of permits, as the transaction needs to close in 2025 in order to satisfy the CRA requirements of Applicant's investor limited

partner. The final closing is anticipated to occur in early 2026 upon receipt of permits (the "**Final Closing**").

9. While it is necessary to admit the investor limited partner at the December closing, construction won't begin until the Final Closing and thus, only the equity necessary for the cost of issuance will be contributed at the Dry Closing, which would be less than 15 percent of the total proposed equity. The remainder of the 15 percent of total proposed equity will be contributed by the Final Closing but, it is unnecessary to the investor limited partner contribute the entire 15 percent at the Dry Closing given that construction will not yet be starting. If closing is to be delayed from December 2025 to 2026 so that the entire 15 percent of equity is contributed at once, the viability of the transaction would be materially impacted as investor limited partner would not be able to satisfy its CRA requirements. Petitioner is bringing this issue before the Corporation now, because without the waivers requested herein, the redevelopment of this multifamily project that would facilitate the preservation of existing affordable units and the creation of new affordable units would be infeasible.

10. The issue presented above, and the need to have a waiver for the Housing Credits, has also caused a delay to Credit Underwriting and the issuance of the final Credit Underwriting Report (the "**CUR**"). As such, Petitioner will be unable to complete Credit Underwriting before submission of the Application. The Petitioner anticipates completing Credit Underwriting and submitting the final CUR to the Corporation at a later date, sometime after the Corporation's board meeting. However, Petitioner cannot submit this Petition without first submitting an Application and cannot submit an Application until completing Credit Underwriting and cannot complete Credit Underwriting and finalize its CUR without the granting of this Petition. Consequently,

Petitioner will need to submit the Application before completing Credit Underwriting in order to address this issue in advance with the Corporation. Therefore, Petitioner requests waiver of the NCA Timing Requirement so that Petitioner can submit its Application to the Corporation before completing Credit Underwriting, in order to prevent any further delay to the much needed rehabilitation of the Development and ensure the preservation of the existing affordable housing units and the creation of additional affordable housing units for the underserved population.

11. Petitioner will endure substantial hardship if this waiver request is denied as it would not be able to obtain the Housing Credits, and therefore lose a substantial portion of its anticipated financing. Without the equity investment, the rehabilitation of the Development will not be completed, and the preservation of existing affordable units and creation of new affordable units will not occur. Moreover, a denial of this waiver would violate the principles of fairness because Petitioner is being hindered by an economic delay caused by a global pandemic beyond its control.

12. Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., the Corporation has the power and 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 rule demonstrates that the application of the rule would: (1) create a substantial hardship[1] *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. *See* § 120.542(2), Fla. Stat. As demonstrated in this Petition, the strict application of the Rule would

[1] "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. Further, "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* Fla. Stat. § 120.542.

constitute a substantial hardship and violate the principles of fairness. Further, a waiver of this Rule will serve the purposes of Section 420.5099 and the Act that are implemented by Chapter 67-21 of the Florida Administrative Code, because one of the goals of the Corporation is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households. Lastly, the requested waiver will not adversely impact the Development or the Corporation.

E. TYPE OF WAIVER

13. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

14. For the reasons set forth herein, Petitioner respectfully requests the Corporation (*i*) grant the requested waiver of Rule 67-21.003(1)(b), Fla. Admin. Code, waiving the requirement that 15% of the equity be paid at construction closing and the requirement that the Application cannot be submitted until the Applicant completes Credit Underwriting ; (*ii*) grant the Petition and all the relief requested herein; and (*iii*) grant such further relief as it may deem appropriate.

Respectfully submitted this 18th day of November, 2025.

Respectfully submitted,

Andrew Bennett, Esq.
Fla. Bar No. 0125189
NELSON MULLINS RILEY & SCARBOROUGH
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Boston, Massachusetts 02111
Telephone: (561) 366-5371
Email: drew.bennett@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
Email: corporationclerk@floridahousing.org

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

This 18th day of November, 2025.

By: _____
Andrew Bennett, Esq.
Fla. Bar No. 0125189