STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

BLUE CASL 41, LLC

Petitioner,

FHFC CASE NO. 2025-066VW
RFA Application No. 2024-304CGN

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

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FLORIDA HOUSING FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-48.002(96) AND THE 2024 QUALIFIED ALLOCATION PLAN'S REQUIREMENT FOR RETURNING HOUSING CREDIT ALLOCATIONS

Blue CASL 41, LLC ("CASL"), submits this Petition to Florida Housing Finance Corporation ("Florida Housing") for a waiver of Florida Housing's Qualified Allocation Plan's prohibition against returning 2025 Housing Credit Allocation ("Housing Credits") prior to the third quarter of 2025. The return of these Housing Credits is required before Florida Housing may reserve an allocation of future Housing Credits that CASL requests be immediately allocated. *See* Rule 67-48.002(96), Florida Administrative Code ("FAC") (2023) (the "Rules"), and 2023 Qualified Allocation Plan ("QAP"). Due to events outside of CASL's control, CASL cannot meet the "placed in service" and "10% test" deadlines as required by the Carryover Allocation Agreement entered into on December 18, 2024. In support of this Petition CASL provides as follows:

1. Pursuant to Section 120.542, Florida Statutes ("F.S.") (2024) and Rules 28-104.001 through 28-104.006, F.A.C., CASL requests a waiver of Rule 67-48.002(96), F.A.C. (2023), and of Section IIJ of the 2023 QAP to allow the immediate return of its 2025 Housing Credit

Allocation, and an immediate allocation of new Housing Credits (2026 or later).

2. The name, address, telephone and facsimile numbers for CASL and its qualified representative are:

Blue CASL 41, LLC
180 Fountain Parkway N.
St. Petersburg, FL 33716

3. The name, address, telephone·and facsimile numbers of CASL's attorneys are:

Michael P. Donaldson
Carlton Fields, P.A.
215 S. Monroe, Suite 500
Tallahassee, FL 32301
Telephone: (850) 224-1585
Facsimile: (850) 222-0398

4. Pursuant to RFA 2024-106, CASL timely submitted its Application for competitive Housing Credits under the Low Income Housing Tax Credit program ("LIHTC Program" or "HC Program"). See. Application Number 2024-304CGN.

5. Equity raised from the allocated Housing Credits will be used for the construction of 60 residential units to be known as Legacy Village (the "Development"). The Development will serve low-income persons in Bradenton and Manatee County, Florida.

6. CASL's Application was selected for funding by Florida Housing, and CASL was invited to credit underwriting. CASL accepted its invitation into Credit Underwriting and CASL provided the documentation required 21 days after accepting its invitation.

7. Pursuant to Rule 67-48.028(1), F.A.C. if an applicant cannot complete its Development by the end of the year in which the preliminary allocation of Housing Credits is issued, such applicant must enter into a "carryover allocation agreement" ("Agreement") with Florida Housing by December 31 of the year in which the preliminary allocation is issued.

8. On December 18, 2024, CASL and Florida Housing entered into the Agreement for the Development. The Agreement may (under Section 42 of the Internal Revenue Code) allow the Applicant until the end of the second year following the year in which the carryover allocation is issued to place the Development in service. In the instant case Florida Housing mandated in the Agreement that the Development be placed in service by a date certain. The Agreement further required satisfaction of a 10% which was extended to December 23, 2025, upon CASL's request) (collectively, the "Deadlines").

9. As explained more fully below, there is uncertainty as to whether the Development will meet the Deadlines, and as such CASL is requesting an exchange of Housing Credits in order to effectuate an extension of such Deadlines.

10. Since being preliminarily selected for funding and invited to Credit Underwriting, the Development has been delayed to an extent that makes it clear that the Development will not be able to meet its placed in-service date or meet the 10% test. These delays are set forth below:

a) The closing for Legacy has been delayed until 2026 due to the lack of LIHTC demand in the Sarasota/Manatee County area until the CRA cycles reset on January 1, 2026. CASL has been actively seeking additional equity providers.

b) Additionally, the Development site owner is a not-for-profit that will transfer the property. While the transfer process is actively underway, the conveyance requires the approval of Manatee County. It is not clear whether the approvals and necessary recorded documents will be prepared, received and recorded in time to meet the current deadlines.

11. As a result of the delays listed above it will not be possible to meet the December 23, 2025, 10% test deadline, and places in jeopardy CASL's ability to meet the placed in service deadline.

12. CASL now seeks to return its 2025 Housing Credit allocation, rather than wait for the third calendar quarter of 2025 as required under the QAP, and obtain from Florida Housing an immediate allocation of new Housing Credits with a later required 10% test date and placed in service date.

13. The requested waiver and variance will not adversely affect the Development. A denial of the Petition, however, would (a) result in substantial economic hardship to CASL (b) deprive the City of the newly constructed rental units set aside for low-income and very low-income tenants, and (c) violate principles of fairness. CASL has invested funds to date in the Development, and respectfully requests the relief sought herein in order to keep development of this badly needed new construction of affordable housing moving forward.

14. Section 42(m) of the Internal Revenue Code requires each state allocating agency to adopt an allocation plan for the allocation and distribution of federal low income housing tax credits. Florida Housing, as the allocating agency for the State of Florida, must distribute Housing Credits to applicants pursuant to its qualified allocation plan.

15. Florida Housing's 2023 Qualified Allocation Plan Section IIJ (incorporated by Rule 67-48.002(96), F.A.C. (2023)) provides that Housing Credits may be returned only after the second calendar quarter of the year in which a development is required to be placed in service:

> ... where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and the Applicant has returned its Housing Credit allocation after the end of the second calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC, the Corporation will reserve allocation in an amount not to exceed the amount of Housing Credits returned, and will issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which

> the Development was otherwise required to be placed in service...."

QAP at Section IIJ

16. The applicable Rules for which waivers are requested are implementing, among other sections of the Florida Housing Finance Corporation Act (the "Act"), [1] the statute that created the Housing Credits Program. See § 420.5099, F.S. The Act designates Florida Housing as the State of Florida's housing, credit agency within the meaning of Section 42(h)(8)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits ("Allocation Procedures"). § 420.5099(1) and (2), F.S. Accordingly, the Rules subject to CASL's waiver requests are implementing, among other sections of the Act, the statutory authorization for the Corporation's establishment of Allocation Procedures for the Housing Credit Program. § 420.5099(1) and (2), F.S.

17. The requested waiver will ensure the availability of Housing Credits, which might otherwise be lost as a consequence of development delays described herein.

18. The facts set forth in Paragraphs 9 through 12 of this Petition demonstrate the hardship and other circumstances which justify CASL's request for Rule waiver.

19. As demonstrated above, the requested waiver serves the purposes of Section 420.5099, F.S. 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 by ensuring:

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[1] The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.55 of the Florida Statutes (the "Act").

> The maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and the ability of the app1icant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099 (2), F.S. (2023).

20. Further, by granting the requested waiver Florida Housing would recognize principles of fundamental fairness in the development of affordable rental housing. In addition, grant of the requested waiver will permit the construction of much needed housing for low-income and very low-income tenants. Finally, grant of the request to waiver will enable CASL to utilize (and not lose) its significant investment that cannot be recouped if the requested waiver is not granted.

21. The requested waiver will not adversely impact the Development or Florida Housing.

22. The waiver being sought is permanent in nature.

23. Should Florida Housing require additional information, CASL is available to answer questions and to provide al1 information necessary for consideration of its Petition for Waiver.

WHEREFORE, Blue CASL 41, LLC, respectfully requests that Florida Housing:

A. Grant the Petition and all the relief requested herein;

B. Waive the provisions of the Qualified Allocation Plan (incorporated by Rule 67-48.002(96), F.A.C. (2023) prohibiting CASL from returning the Housing Credit Allocations prior to the third quarter of 2025;

C. Allow the immediate return of CASL's 2025 Housing Credit Allocation;

D. Immediately allocate new Housing Credits to CASL, with a later placed in service date, in an amount equal to the amount of its 2025 Housing Credit Allocation; and

E. Waive and or extend any remaining deadlines consistent with the extension of the Housing Credit Allocation Deadlines;

F. Award such further relief as may be deemed appropriate.

Respectfully submitted

Michael P. Donaldson

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Attorney for Blue CASL 41, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition for Variance is being filed by electronic filing with the Corporation Clerk (CorporationClerk@floridahousing.org) for the Florida Housing Finance Corporation, and by electronic transmission to Ethan Katz, (Ethan.Katz@floridahousing.org) Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, with copies served via electronic transmission on the Joint Administrative Procedures Committee, at (JAPC@leg.state.fl.us), 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 20th day of November 2025.

/s/ Michael P. Donaldson
Michael P. Donaldson