STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: MHP FL X LLLP FHFC Case No.: 2022-047VW

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ORDER GRANTING WAIVER
OF RULE 67-48.0072(21)(b), F.A.C.

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on August 5, 2022. On July 19, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b), Florida Administrative Code, (the "Petition") from MHP FL X, LLLP (the "Petitioner") to exempt Petitioner from the extension fee imposed by the rule. Notice of the Petition was published on July 20, 2022, in Volume 48, Number 140, 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.

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2. Petitioner successfully applied for State Apartment Incentive Loan ("SAIL") funding, Extremely Low Income ("ELI") funding, National Housing Trust Fund Loan ("NHTF Loan"), and Multifamily Mortgage Revenue Bonds ("MMRB") in RFA 2020-205 to assist in the construction of a 136-unit affordable housing development named Arbor Park to be located in Sarasota County, Florida (the "Development").

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2017), in relevant part, provides:

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> (b) ...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 twelve (12) month deadline is approved...

4. Petitioner requests a waiver of the above-cited Rule to exempt Petitioner from the extension fee imposed by the same. Petitioner was initially invited to credit underwriting on June 22, 2021. During the credit underwriting process, Petitioner submitted a petition for waiver of Rule 67-21.003(8)(i), Fla. Admin. Code (2020), to allow Petitioner to adopt the Average Income Test.

5. On April 29, 2022, the Board approved Petitioner's waiver of Rule 67-21.003(8)(i). On May 11, 2022, Petitioner submitted its revised set-aside mix of the units, and on May 28, 2022, Petitioner submitted its average income test election worksheet.

6. On June 10, 2022, Florida Housing's underwriter contacted Petitioner with questions/concerns regarding the set-aside terms pertaining to the Development's NHTF-affected units. Petitioner worked swiftly to resolve the questions/concerns relating to the correlation between the unit mix, average income test, and the NHTF units; however, despite Petitioner's best efforts in resolving the issue, Petitioner's CUR was not included in the June Board agenda because the deadline for the finalization of the CUR had elapsed. As a result, Petitioner was unable to meet the Commitment Deadline and the CUR will be submitted to the Board for approval at the August Board meeting.

7. Section 120.542(2), Florida Statutes, provides in pertinent part:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

8. 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.

9. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control and that it would suffer a substantial hardship if the waiver is not granted.

10. The Board further finds that Petitioner has also 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, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for a waiver of Rule 67-48.0072(21)(b), Fla. Admin. Code (2020), is hereby **GRANTED** exempting Petitioner from the extension fee related to Petitioners six-month extension request.

DONE and ORDERED this 5th day of August 2022.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Lloyd D. Burman, Esq.
Roman J. Petra, Esq.

Nelson Mullins Riley & Scarborough, LLP
Roman.petra@nelsonmullins.com

Hugh R. Brown, General Counsel
Marisa Button, Director of Multifamily Programs
Florida Housing Finance Corporation
Hugh.Brown@floridahousing.org
Marisa.Button@floridahousing.org

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.