STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Pollywog Creek Mews, LLC FHFC Case No.: 2023-079VW
_____/

ORDER GRANTING WAIVER OF
RULE 67-48.0072(21)(b), FLA. ADMIN. CODE (2021)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 27, 2023. On September 29, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b) (the "Petition") from Pollywog Creek Mews, LLC. The Petition requests to extend the Firm Loan Commitment deadline from October 4, 2023, to June 4, 2024. Notice of the Petition was published October 3, 2023, in Volume 49, Number 192, 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: 10/30/23

2. Petitioner successfully applied for HOME Financing for the Construction of Small, Rural Developments, to construct Pollywog Creek Mews, a 28-unit development in Hendry County, Florida (the "Development")

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2021), states, in relevant part:

> (b) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within twelve (12) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and 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 Corporation 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 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. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

4. Petitioner's initial firm loan commitment issuance deadline for the HOME Award was April 4, 2023. On March 10, 2023, the Board granted Petitioner's request for an extension of the firm loan commitment issuance deadline. Petitioner was granted an extension to October 4, 2023.

5. Petitioner now requests a waiver of the Rule for an additional extension of the firm loan commitment deadline from October 4, 2023, to June 4, 2024. As justification for its request, Petitioner states that is has made progress towards closing of financing and commencement of construction, including completed building and civil engineering plans and permit approvals to construct the Development. However, due to interest rate increases to its construction and permanent loans, and an insufficient budget for labor and materials, exacerbated by the Development's rural location, Petitioner has had to seek additional funding. Petitioner states that it applied for and was preliminary awarded $2,475,000.00 in Construction Inflation Response Viability Funding pursuant to RFA 2023-2011 on June 9, 2023. With the new funding, Petitioner is reviewing bids from general contractors and anticipates entering credit underwriting in or shortly after the fourth quarter of 2023.

6. 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.

7. 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.

8. 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 (2021), is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from October 4, 2023, to June 4, 2024.

DONE and ORDERED this 27th day of October, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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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.