STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Southwick Commons, Ltd. FHFC Case No.: 2023-054VW

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ORDER GRANTING WAIVER OF
RULE 67-48.0072(21)(b), FLA. ADMIN. CODE (2020)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on July 21, 2023. On June 26, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b) (the "Petition") from Southwick Commons, Ltd. (the "Petitioner") to extend the Firm Loan Commitment deadline from June 29, 2023, to December 29, 2023. Notice of the Petition was published June 28, 2023, in Volume 49, Number 125, of the Florida Administrative Register. On July 10, 2023, Florida Housing received a written comment 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
Ashley Adams DATE: 7/21/2023

2. Petitioner successfully applied for funding to assist in the construction of 52 at Park, a 300-unit development located in Orange County, Florida (the "Development").

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2020), 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 Petitioner's SAIL, ELI, and NHTF Award was June 29, 2022. On June 17, 2022, the Board granted Petitioner's request for a 6-month extension of the firm loan commitment issuance deadline to December 29, 2022. On

December 9, 2022, the Board granted Petitioner's Rule waiver request for an additional 6-month extension of the firm loan commitment issuance deadline from December 29, 2022, to June 29, 2023.

5. Petitioner now requests an additional extension of the firm loan commitment issuance deadline from June 29, 2023, to December 29, 2023. As justification for its request, Petitioner states that, after Petitioner was awarded funding, the City of Apopka ("City") refused to provide the necessary approvals and permits for Petitioner to proceed with the Development. Litigation ensued over the issue and concluded on November 28, 2022, with a Final Judgment in Petitioner's favor. After the conclusion of the litigation, the City reduced the number of allowable units that could be built on the property from 195 to 192. On April 28, 2023, this Board entered an Order allowing the Petitioner to reduce the total number of units in the Development to 192, as required by the City. Petitioner states that the Development's construction plan approval was further delayed due to a disagreement with the City regarding the balcony size required by City regulations. However, on June 21, 2023, the City approved the balconies as designed. Petitioner states that construction permits are the only remaining condition to the issuance of the firm loan commitment, that all known

obstacles to construction permit issuance have been resolved, and that construction permits are expected to be issued shortly.

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 (2020), is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from June 29, 2023, to December 29, 2023.

DONE and ORDERED this 21st day of July, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.