STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Miami Beach Housing Initiatives, Inc.

FHFC Case No.: 2022-038VW

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ORDER GRANTING WAIVER
OF RULE 67-48.0072(4)(c) and (21)(b), F. A. C.

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 17, 2022. On June 1, 2022, Florida Housing Finance Corporation ("Florida Housing") received an Amended Petition for Waiver of Rule 67-48.0072(4)(c) and (21)(b), F.A.C. (the "Petition") from Miami Beach Housing Initiatives, Inc. (the "Petitioner") to allow Petitioner to extend the firm loan commitment issuance deadline. Notice of the Petition was published on June 2, 2022, in Volume 48, Number 107, 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.

2. Petitioner successfully applied for State Apartment Incentive Loan ("SAIL") funding and Extremely Low Income ("ELI") funding in RFA

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/DATE: 6/17/2022

2020-102 to assist in the construction of a 20-unit affordable housing development named The Heron to be located in Miami-Dade County, Florida (the "Development").

3. Rule 67-48.0072(4)(c), Fla. Admin. Code, in relevant part, provides:

> (4) If the invitation to enter credit underwriting is accepted:
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> ...
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> (c) For SAIL, EHCL, and HOME, the credit underwriting process must be completed within the time frame outlined in subsection 67-48.0072(21), F.A.C., below and the loan must close within the time frame outlined in subsection 67-48.0072(26), F.A.C., below

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

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> ...
>
> (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 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 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. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original twelve (12) month deadline. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

5. Petitioner requests a waiver of the above-cited Rules to extend its firm loan commitment deadline. Petitioner initially had a firm loan commitment issuance deadline of July 9, 2021, which was later extended at Petitioner's request to January 9, 2022. Petitioner then requested a waiver of the above-cited Rules to extend the firm loan commitment issuance deadline to July 9, 2022, which the Board granted in December 2021. Petitioner now requests an additional six-month extension until January 9, 2023.

6. Petitioner asserts that the additional time is necessary for Miami-Dade County to finalize the approval process for an award of $1,000,000 in Surtax gap financing (which is over and above the $500,000 in Surtax gap financing initially awarded to the development) and $1,400,000 in HOME-ARP financing. Petitioner further asserts that the additional time will allow

for approval of its construction contract and completion of the building permit process.

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(4)(c) and (21)(b), Fla. Admin. Code is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from July 9, 2022 to January 9, 2023.

DONE and ORDERED this 17th day of June 2022.

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.