STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Mariana Crossings, LLC

FHFC CASE NO.: 2021-021VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.0072(26)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on March 12, 2021, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on February 22, 2021, from Mariana Crossings, LLC ("Petitioner"). Notice of the Petition was published on February 24, 2021, in Volume 47, Number 37, of the Florida Administrative Register. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Petitioner was selected to receive HOME funding under Request for Applications 2019-109 (the "RFA") to assist in the construction of a development serving low-income families in Jackson County.

3. Rule 67-48.0072(26), Fla. Admin. Code (2018) provides in relevant part:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 3/12/2021

> For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, that is not in conjunction with Competitive HC, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days.... In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

4. Petitioner requests a waiver of the above Rule to allow a further extension of the HOME closing deadline. Petitioner was previously granted one 90-day extension of the HOME loan closing deadline pursuant to rule, from December 8, 2020 to March 8, 2021. Petitioner is requesting a further extension of the HOME loan closing date from March 8, 2021 to June 18, 2021.

5. Petitioner has obtained all necessary financial, governmental and development approvals, including site plan approval and building permits. However, the current contracted general contractor is unable to obtain the required Payment and Performance bonds ("P&P Bonds"). Petitioner is requesting additional time to secure a new general contractor capable of obtaining the P&P Bonds. Once a new general contractor is found, Petitioner's financial partners are ready to close promptly.

6. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

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. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income families. Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-48.0072(26), Fla. Admin. Code (2018) is hereby **GRANTED** to allow an extension of the HOME loan closing date to June 18, 2021. Exhibit C, Part 3(d) of RFA 2019-109 requires that loans must

close "within the timeframes outlined in subsection 67-48.0072(26), F.A.C." The granting of this rule waiver also has the effect of granting a waiver of the quoted provision in RFA 2019-109.

DONE and ORDERED this 12th day of March, 2021.

Florida Housing Finance Corporation

By: _____
Chair

Copies furnished to:

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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.