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FLORIDA HOUSING
FINANCE CORPORATION

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

BEACON AT CREATIVE VILLAGE PARTNERS, LTD.

Petitioner,

FHFC CASE NO. 2023-083VW
RFP Application No. 2022-122C

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

PETITION FOR WAIVER OF RULE 67-48.002(96) AND THE 2021 QUALIFIED ALLOCATION PLAN'S REQUIREMENT FOR RETURNING HOUSING CREDIT ALLOCATIONS

Beacon at Creative Village Partners, Ltd. ("Beacon"), submits this Petition to Florida Housing Finance Corporation ("Florida Housing") for a waiver of Florida Housing's Qualified Allocation Plan's prohibition against returning 2022 Housing Credit Allocation ("Housing Credits") prior to the third quarter of 2024. The return of these Housing Credits is required before Florida Housing may reserve an allocation of future Housing Credits that Beacon requests be immediately allocated. *See* Rule 67-48.002(96), Florida Administrative Code ("FAC") (2021) (the "Rules"), and 2021 Qualified Allocation Plan Section II(J) ("QAP"). Due to events outside of Beacon's control, Beacon cannot meet the "placed in service" and "10% test" deadlines as required by the Carryover Allocation Agreement entered into on November 18, 2022. In support of this Petition Beacon provides as follows:

1. Pursuant to Section 120.542, Florida Statutes ("F.S.") (2021) and Rules 28-104.001 through 28-104.006, F.A.C., Beacon requests a waiver of Rule 67-48.002(96), F.A.C. (2021), and

of Section II(J) of the 2021 QAP to allow the immediate return of its 2022 Housing Credit Allocation, and an immediate allocation of new Housing Credits (2023 or later).

2. The name, address, telephone and facsimile numbers for Beacon and its qualified representative are:

Beacon at Creative Village Partners, Ltd
335 N. Knowles Avenue, Suite 101
Winter Park, Florida, 32789
(407) 741-8500

3. The name, address, telephone· and facsimile numbers of Beacon's attorneys are:

Michael P. Donaldson
Carlton Fields
Post Office Drawer 190
Tallahassee, FL 32302-0190
(850) 513-3613

4. Pursuant to RFA 2021-202, Beacon timely submitted its Application for competitive Housing Credits under the Low Income Housing Tax Credit program ("LIHTC Program" or "HC Program"). See. Application Number 2022-122C.

5. Equity raised from the allocated Housing Credits will be used for the construction of 85 residential units (76 of which will be low-income housing tax credit units) to be known as The Beacon at Creative Village (the "Development"). The Development will serve low-income y persons in the City of Orlando, Orange County, Florida.

6. Beacon's Application was selected for funding by Florida Housing, and Beacon was invited to credit underwriting. On May 9, 2022, Beacon accepted its invitation into Credit Underwriting and on May 25, 2022, Beacon provided the documentation required 21 days after accepting its invitation.

7. On May 9, 2022, Florida Housing issued the 2022 Construction Housing Inflation Response Program ("CHIRP") Invitation to Participant ("ITP"). On July 5, 2022, Beacon

submitted its response to the ITP requesting additional funding for its proposed Development. Beacon has met all CHIRP criteria to date by closing its LPA and timely submitting for permits.

8. The overall Beacon Development was planned to be completed in multiple phases with Development contemplated in this Petition being the initial phase ("Beacon I"). An Application for funding for the second phase or Beacon Phase II was submitted to Florida Housing on or about December 29, 2022, in response to RFP 2022-202. ("Beacon II") A tentative award of funding for Beacon II was approved by the Florida Housing Board of Directors on January 27, 2023.

9. That tentative award of funding for Beacon II however was overturned by the Board on June 9, 2023, as a result of administrative litigation which challenged the initial funding decision of Florida Housing.

10. Pursuant to Rule 67-48.028(1), F.A.C. if an applicant cannot complete its Development by the end of the year in which the preliminary allocation of Housing Credits is issued, such applicant must enter into a "carryover allocation agreement" ("Agreement") with Florida Housing by December 31 of the year in which the preliminary allocation is issued.

11. On November 18, 2022, Beacon and Florida Housing entered into the Agreement for the Beacon I Development. The Agreement may (under Section 42 of the Internal Revenue Code) allow the Applicant until the end of the second year following the year in which the carryover allocation is issued to place the Development in service. In the instant case Florida Housing mandated in the Agreement that the Beacon I Development be placed in service by December 31, 2024. The Agreement further requires satisfaction of a 10% test by May 31, 2023 (extended to November 18, 2023 upon Beacon's request) (collectively, the "Deadlines").

12. As explained more fully below, there is uncertainty as to whether the Development

of Beacon I will meet the Deadlines, and as such Beacon is requesting an exchange of Housing Credits in order to effectuate an extension of such Deadlines.

13. Since being preliminarily selected for funding and invited to Credit Underwriting, the Beacon I Development has been delayed to the extent that makes it clear that the Development will not be able to meet its December 31, 2024, placed in service or meet the 10% test by November 18, 2023. These delays are set forth below:

a. Beacon commenced pre-development activities on Phase I upon receipt of its invitation to credit underwriting from Florida Housing. Beacon has been processing all necessary pre-development and development approvals diligently since that time.

b. In the second quarter of 2022, it became obvious due to the significant increase in construction costs encountered throughout the affordable housing industry that a budgetary gap existed that could not be bridged without further assistance from Florida Housing or local funding sources. The requested CHIRP funding has alleviated the budgetary gap issues.

c. In anticipation of the award of funding for Beacon II, final construction plans, documents and permitting associated with Beacon I were placed on hold. This was done to allow both Beacon I and II to be permitted simultaneously as a one tower high rise construction project which was the most efficient and cost effective way to obtain final approval. With the tentative award to Beacon II rescinded, based on litigation, Beacon now intends to continue permitting and construction of Beacon I.

d. Because of the design revisions and approvals required to build only Beacon I without Beacon II, the permitting approval process before the City of Orlando has been extended to June 30, 2024.

e. Additionally the land closing date has been extended until July 2024, to ensure that all approvals would be in place prior to closing.

f. The estimated completion date for the Development resulting from the delays will not fall within the above identified Deadlines.

14. At this time Beacon is proceeding with the design and permitting revisions for the

revised development plans to include only Beacon I. Beacon anticipates all permits will be issued by June 30 2024, prior to a land closing in July 2024. The land closing and pre-development expenses will be sufficient to meet the 10% test.

15. All financing sources are available and no other closings are necessary to start construction. Additionally no further public hearings are necessary in the approval process. All financing sources are available an no other closings are necessary to start construction. Construction is scheduled to commence July 2024, immediately after land closing.

16. The Beacon Development Team has prior experience with the City of Orlando Development approval process based on the completion of the Amelia Court Affordable Housing Development located directly across the street from the Beacon I Development site. The Amelia Court Development is a similar product to the proposed Beacon I Development.

17. Based on this prior experience the Beacon Team of professionals has a comfort and expectation that the Beacon I Development will proceed expeditiously. Additionally Beacon has the resources to proceed without reliance on obtaining any additional funding sources outside of its control.

18. Based on a tentative construction schedule the Beacon Development Team anticipates that construction will be completed as early as June 2025, well in advance of placed in service date authorized by this waiver request. (See Schedule Attached)

19. As a result of the delays listed above it will not be possible to meet the November 19, 2023, 10% test deadline, and places in jeopardy Beacon's ability to meet the December 31, 2024, placed in service deadline.

20. Beacon now seeks to return its 2022 Housing Credit allocation, rather than wait for the third calendar quarter of 2024 as required under the QAP, and obtain from the Corporation an

immediate allocation of new Housing Credits with a later required 10% test date and placed in service date.

21. The requested waiver and variance will not adversely affect the Beacon I Development. A denial of the Petition, however, would (a) result in substantial economic hardship to Beacon (b) deprive the City of the newly constructed rental units set aside for low-income and very low-income tenants, and (c) violate principles of fairness. Beacon has invested over $500,000 to date in the Beacon I Development, and respectfully requests the relief sought herein in order to keep development of this badly needed new construction of affordable housing moving forward.

22. Section 42(m) of the Internal Revenue Code requires each state allocating agency to adopt an allocation plan for the allocation and distribution of federal low income housing tax credits. Florida Housing, as the allocating agency for the State of Florida, must distribute Housing Credits to applicants pursuant to its qualified allocation plan.

23. Florida Housing's 2022 Qualified Allocation Plan Section II(J) (incorporated by Rule 67-48.002(96), F.A.C. (2021)) provides that Housing Credits may be returned only after the second calendar quarter of the year in which a development is required to be placed in service:

> ... where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and the Applicant has returned its Housing Credit allocation after the end of the second calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC, the Corporation will reserve allocation in an amount not to exceed the amount of Housing Credits returned, and will issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which the Development was otherwise required to be placed in service...."

QAP at Section II(J)

24. The applicable Rules for which waivers are requested are implementing, among other sections of the Florida Housing Finance Corporation Act (the "Act"), [1] the statute that created the Housing Credits Program. *See* § 4205099, F.S. (2022). The Act designates Florida Housing as the State of Florida's housing, credit agency within the meaning of Section 42(h)(8)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits ("Allocation Procedures"). § 420.5099(1) and (2), F.S. (2022). Accordingly, the Rules subject to Beacon's waiver requests are implementing, among other sections of the Act, the statutory authorization for the Corporation's establishment of Allocation Procedures for the Housing Credit Program. § 420.5099(1) and (2), F.S. (2022).

25. The requested waivers will ensure the availability of Housing Credits which might otherwise be lost as a consequence of development delays described herein.

26. The facts set forth in Sections 6 through 19 of this Petition demonstrate the hardship and other circumstances which justify Beacon's request for Rule waiver.

27. As demonstrated above, the requested waiver serves the purposes of Section 420.5099, F.S. and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

> The maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability

[1] The Florida Housing Finance Corporation Act is set forth in Sections 420.501 through 420.55 of the Florida Statutes (the "Act").

> of such housing, the economic feasibility of the project, and the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099 (2), F.S. (2022).

28. Further, by granting the requested waiver Florida Housing would recognize principles of fundamental fairness in the development of affordable rental housing. In addition, grant of the requested waiver will permit the construction of much needed housing for low-income and very low-income tenants. Finally, grant of the request to waiver will enable Beacon to utilize (and not lose) its significant investment in predevelopment expenses that cannot be recouped if the requested waiver is not granted.

29. The requested waiver will not adversely impact the Development or Florida Housing.

30. The waiver being sought is permanent in nature.

31. Should Florida Housing require additional information, Beacon is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver.

WHEREFORE, Beacon at Creative Village Partners, Ltd., respectfully requests that Florida Housing:

A. Grant the Petition and all the relief requested herein;

B. Waive the provisions of the Qualified Allocation Plan (incorporated by Rule 67-48.002(96), F.A.C. (2021) prohibiting Beacon from returning the Housing Credit Allocations prior to the third quarter of 2024;

C. Allow the immediate return of Beacon's 2022 Housing Credit Allocation;

D. Immediately allocate new Housing Credits to Beacon, with a later

placed in service date, in an amount equal to the amount of its 2022 Housing Credit Allocation; and

E. Waive and or extend any remaining deadlines consistent with the extension of the Housing Credit Allocation Deadlines;

F. Award such further relief as may be deemed appropriate.

Respectfully submitted

Michael P. Donaldson

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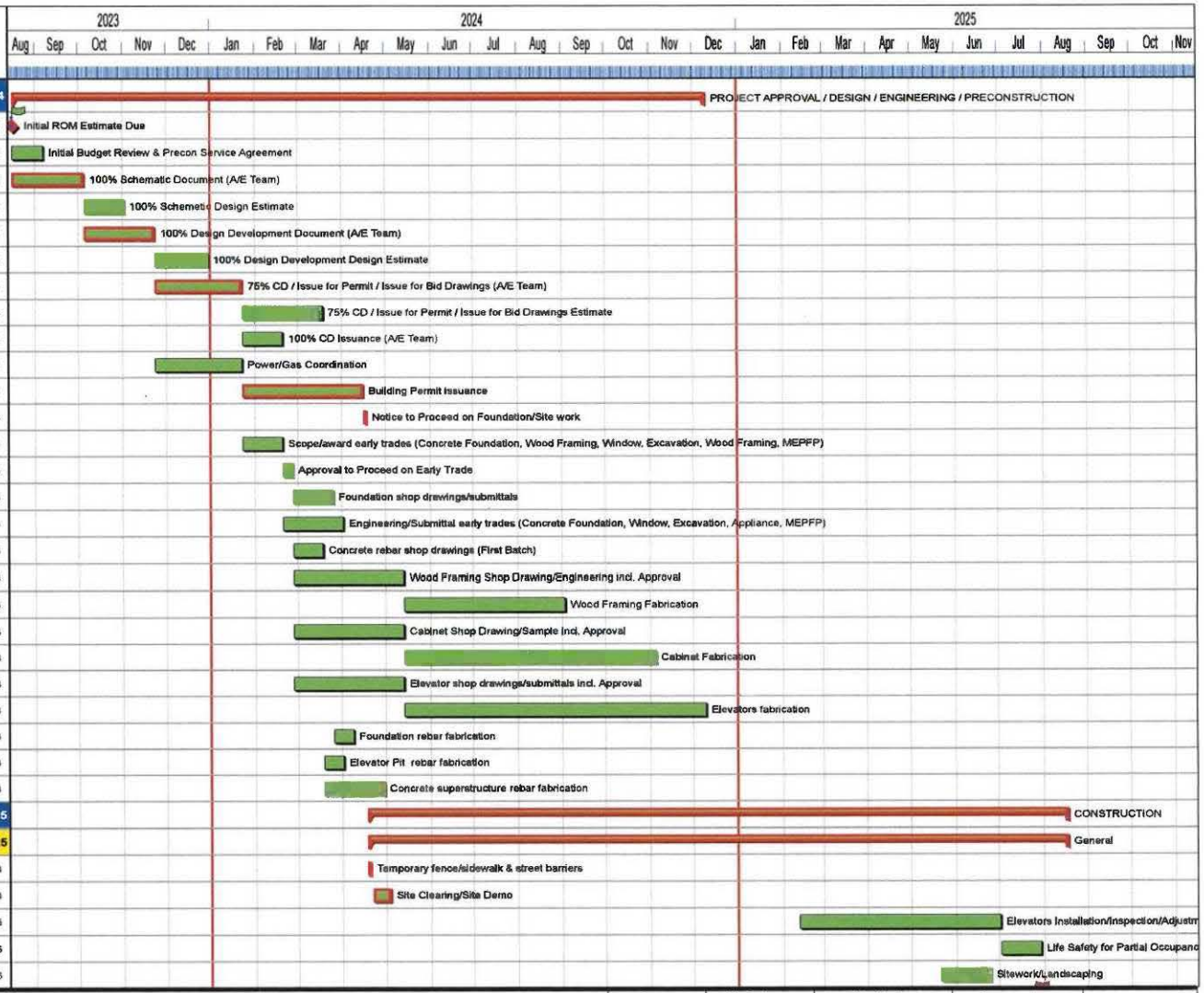
Attorney for Beacon at Creative Village Partners, Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition for Variance is being filed by electronic filing with the Corporation Clerk (CorporationClerk@floridahousing.org) for the Florida Housing Finance Corporation, and by electronic transmission to Ethan Katz, (Ethan.Katz@floridahousing.org) Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, with copies served via electronic transmission on the Joint Administrative Procedures Committee, at (JAPC@leg.state.fl.us), 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 6th day of October 2023.

/s/ Michael P. Donaldson
Michael P. Donaldson

Line	Activity ID	Activity Description	Duration	Start	Finish
1	10000	**PROJECT APPROVAL / DESIGN / ENGINEERING / PRECONSTRUCTION**	344d	08/16/23	12/09/24
2	1000	Initial ROM Estimate Due	0d	08/16/23	08/16/23
3	1005	Initial Budget Review & Precon Service Agreement	15d	08/16/23	09/06/23
4	1020	100% Schematic Document (A/E Team)	35d	08/16/23	10/04/23
5	1040	100% Schemetic Design Estimate	20d	10/05/23	11/01/23
6	1045	100% Design Development Document (A/E Team)	35d	10/05/23	11/22/23
7	1047	100% Design Development Design Estimate	25d	11/23/23	12/29/23
8	1090	75% CD / Issue for Permit / Issue for Bid Drawings (A/E Team)	40d	11/23/23	01/22/24
9	1095	75% CD / Issue for Permit / Issue for Bid Drawings Estimate	40d	01/23/24	03/18/24
10	1097	100% CD Issuance (A/E Team)	20d	01/23/24	02/19/24
11	1098	Power/Gas Coordination	40d	11/23/23	01/22/24
12	1120	Building Permit Issuance	60d	01/23/24	04/15/24
13	1190	Notice to Proceed on Foundation/Site work	2d	04/16/24	04/17/24
14	1200	Scope/award early trades (Concrete Foundation, Wood Framing, Window, Excavation, Wood Framing, MEPFP)	20d	01/23/24	02/19/24
15	1210	Approval to Proceed on Early Trade	5d	02/20/24	02/26/24
16	1220	Foundation shop drawings/submittals	20d	02/27/24	03/25/24
17	1230	Engineering/Submittal early trades (Concrete Foundation, Window, Excavation, Appliance, MEPFP)	30d	02/20/24	04/01/24
18	1240	Concrete rebar shop drawings (First Batch)	15d	02/27/24	03/18/24
19	1250	Wood Framing Shop Drawing/Engineering incl. Approval	55d	02/27/24	05/13/24
20	1260	Wood Framing Fabrication	80d	05/14/24	09/02/24
21	1261	Cabinet Shop Drawing/Sample incl. Approval	55d	02/27/24	05/13/24
22	1266	Cabinet Fabrication	125d	05/14/24	11/04/24
23	1270	Elevator shop drawings/submittals incl. Approval	55d	02/27/24	05/13/24
24	1275	Elevators fabrication	150d	05/14/24	12/09/24
25	1280	Foundation rebar fabrication	10d	03/26/24	04/08/24
26	1290	Elevator Pit rebar fabrication	10d	03/19/24	04/01/24
27	1310	Concrete superstructure rebar fabrication	30d	03/19/24	04/29/24
28	16000	**CONSTRUCTION**	347d	04/18/24	08/18/25
29	16070	**General**	347d	04/18/24	08/18/25
30	16000	Temporary fence/sidewalk & street barriers	2d	04/18/24	04/19/24
31	16005	Site Clearing/Site Demo	10d	04/22/24	05/03/24
32	16050	Elevators Installation/Inspection/Adjustment	100d	02/12/25	07/01/25
33	16055	Life Safety for Partial Occupancy (If required)	20d	07/02/25	07/29/25
34	16060	Sitework/Landscaping	25d	05/21/25	06/24/25



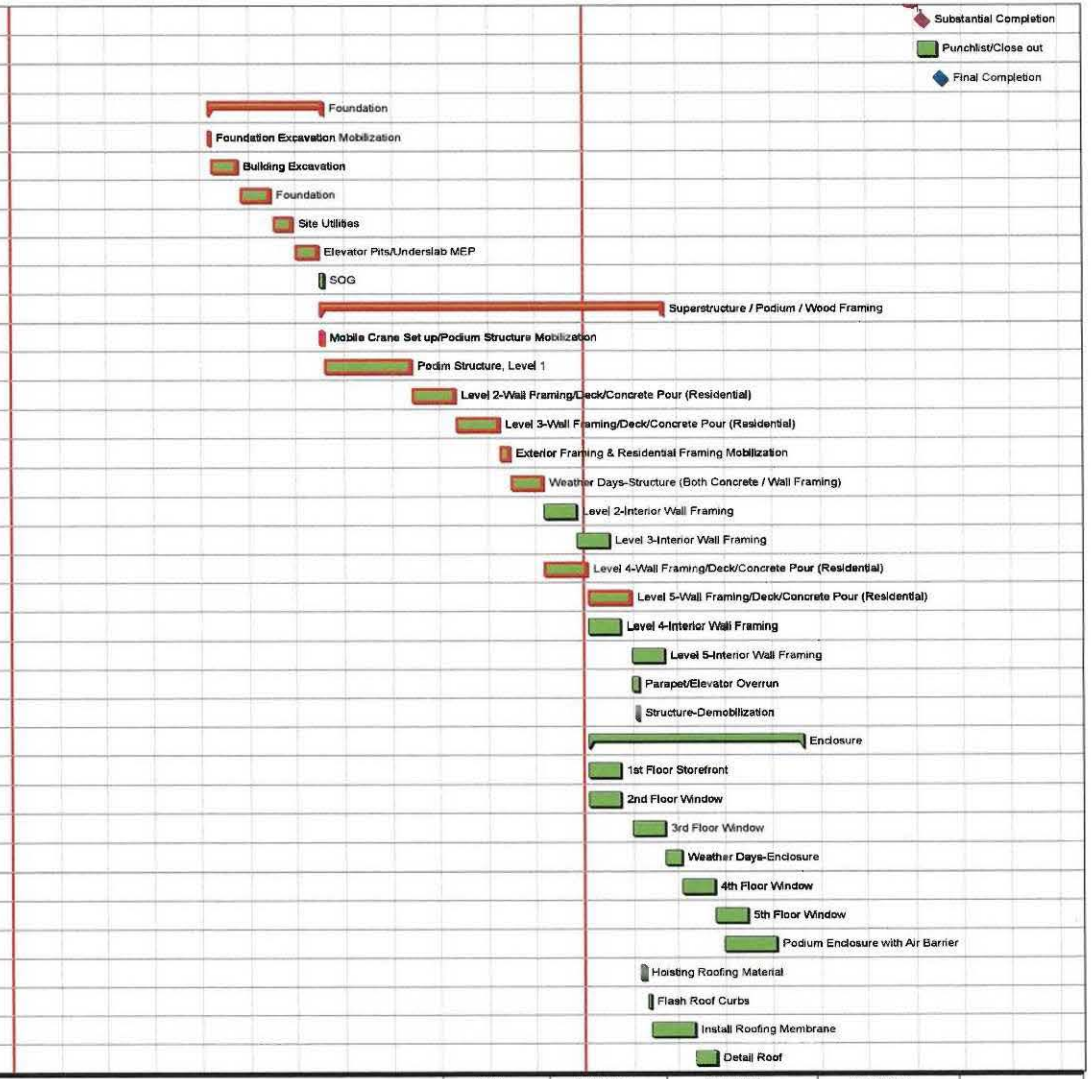
Activity Bar
Target Bar
Progress Bar
Critical Bar
Summary Bar
Milestone

The Beacon @ Creative Village Schedule

Subject to change during design, permitting and construction.

Date	Revision	Checked	Approved
8/16/2023	0		

35	16065	Substantial Completion	0d	08/06/25	08/06/25
36	16067	Punchlist/Close out	10d	08/04/25	08/15/25
37	16069	Final Completion	0d	08/18/25	08/18/25
38	**16100**	**Foundation**	**54d**	**05/06/24**	**07/18/24**
39	16105	Foundation Excavation Mobilization	2d	05/06/24	05/07/24
40	16115	Building Excavation	13d	05/08/24	05/24/24
41	16120	Foundation	15d	05/27/24	06/14/24
42	16125	Site Utilities	10d	06/17/24	06/28/24
43	16135	Elevator Pits/Underslab MEP	11d	07/01/24	07/15/24
44	1631593625	SOG	3d	07/16/24	07/18/24
45	**16200**	**Superstructure / Podium / Wood Framing**	**158d**	**07/16/24**	**02/20/25**
46	16205	Mobile Crane Set up/Podium Structure Mobilization	3d	07/16/24	07/18/24
47	16240	Podim Structure, Level 1	40d	07/19/24	09/12/24
48	16242	Level 2-Wall Framing/Deck/Concrete Pour (Residential)	20d	09/13/24	10/10/24
49	16243	Level 3-Wall Framing/Deck/Concrete Pour (Residential)	20d	10/11/24	11/07/24
50	16245	Exterior Framing & Residential Framing Mobilization	5d	11/08/24	11/14/24
51	16250	Weather Days-Structure (Both Concrete / Wall Framing)	15d	11/15/24	12/05/24
52	16255	Level 2-Interior Wall Framing	15d	12/06/24	12/26/24
53	16260	Level 3-Interior Wall Framing	15d	12/27/24	01/16/25
54	16270	Level 4-Wall Framing/Deck/Concrete Pour (Residential)	20d	12/06/24	01/02/25
55	16275	Level 5-Wall Framing/Deck/Concrete Pour (Residential)	20d	01/03/25	01/30/25
56	16276	Level 4-Interior Wall Framing	15d	01/03/25	01/23/25
57	16277	Level 5-Interior Wall Framing	15d	01/31/25	02/20/25
58	16280	Parapet/Elevator Overrun	3d	01/31/25	02/04/25
59	16282	Structure-Demobilization	2d	02/03/25	02/04/25
60	**16300**	**Enclosure**	**98d**	**01/03/25**	**05/20/25**
61	16310	1st Floor Storefront	15d	01/03/25	01/23/25
62	16320	2nd Floor Window	15d	01/03/25	01/23/25
63	16330	3rd Floor Window	15d	01/31/25	02/20/25
64	16335	Weather Days-Enclosure	7d	02/21/25	03/03/25
65	16340	4th Floor Window	15d	03/04/25	03/24/25
66	16350	5th Floor Window	15d	03/25/25	04/14/25
67	16435	Podium Enclosure with Air Barrier	25d	03/31/25	05/02/25
68	16445	Hoisting Roofing Material	3d	02/05/25	02/07/25
69	16450	Flash Roof Curbs	2d	02/10/25	02/11/25
70	16455	Install Roofing Membrane	20d	02/12/25	03/11/25
71	16465	Detail Roof	10d	03/12/25	03/25/25



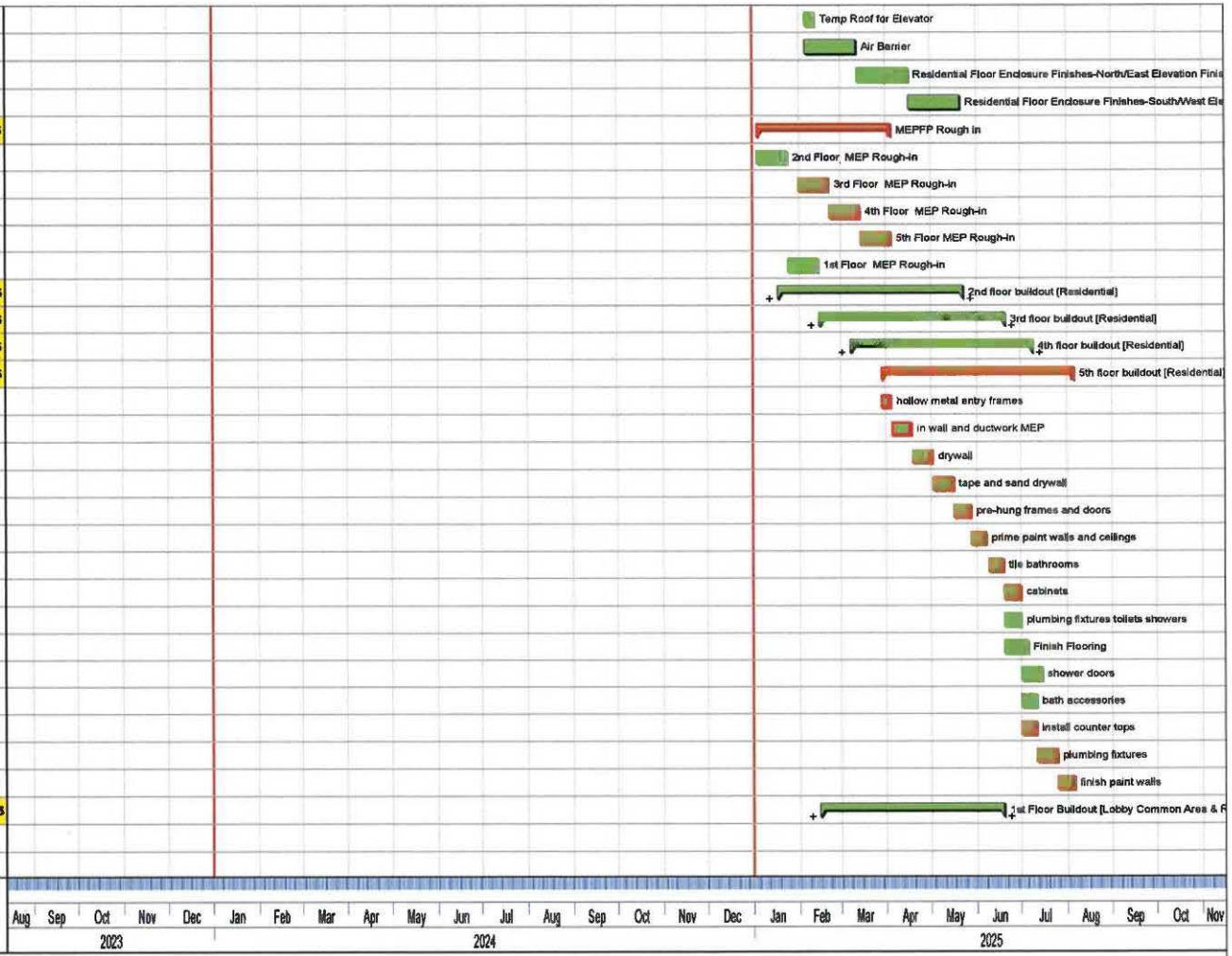
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Date	Revision	Checked	Approved
8/16/2023	0		

Line	Activity ID	Activity Description	Duration	Start	Finish
72	16505	Temp Roof for Elevator	5d	02/05/25	02/11/25
73	16890	Air Barrier	25d	02/05/25	03/11/25
74	17000	Residential Floor Enclosure Finishes-North/East Elevation Finish	25d	03/12/25	04/15/25
75	17005	Residential Floor Enclosure Finishes-South/West Elevation Finish	25d	04/16/25	05/20/25
76	**16400**	**MEPFP Rough in**	**65d**	**01/03/25**	**04/03/25**
77	16305	2nd Floor MEP Rough-in	15d	01/03/25	01/23/25
78	16310	3rd Floor MEP Rough-in	15d	01/31/25	02/20/25
79	16315	4th Floor MEP Rough-in	15d	02/21/25	03/13/25
80	16320	5th Floor MEP Rough-in	15d	03/14/25	04/03/25
81	16340	1st Floor MEP Rough-in	15d	01/24/25	02/13/25
82	**16500**	**2nd floor buildout [Residential]**	**90d**	**01/17/25**	**05/22/25**
83	**16600**	**3rd floor buildout [Residential]**	**90d**	**02/14/25**	**06/19/25**
84	**16700**	**4th floor buildout [Residential]**	**88d**	**03/07/25**	**07/08/25**
85	**16800**	**5th floor buildout [Residential]**	**93d**	**03/28/25**	**08/05/25**
86	1025	hollow metal entry frames	5d	03/28/25	04/03/25
87	1030	in wall and ductwork MEP	10d	04/04/25	04/17/25
88	1035	drywall	10d	04/18/25	05/01/25
89	1040	tape and sand drywall	10d	05/02/25	05/15/25
90	1045	pre-hung frames and doors	8d	05/16/25	05/27/25
91	1050	prime paint walls and ceilings	8d	05/28/25	06/06/25
92	1055	tile bathrooms	8d	06/09/25	06/18/25
93	1060	cabinets	8d	06/19/25	06/30/25
94	1065	plumbing fixtures toilets showers	8d	06/19/25	06/30/25
95	1070	Finish Flooring	12d	06/19/25	07/04/25
96	1075	shower doors	10d	07/01/25	07/14/25
97	1085	bath accessories	8d	07/01/25	07/10/25
98	1100	install counter tops	8d	07/01/25	07/10/25
99	1102	plumbing fixtures	10d	07/11/25	07/24/25
100	1110	finish paint walls	8d	07/25/25	08/05/25
101	**16900**	**1st Floor Buildout [Lobby Common Area & Retail White Box]**	**89d**	**02/14/25**	**06/18/25**



Symbols
Critical | Negative float | Start On | Finish By

Milestone Appearances
Diamond

Activity Bar | Target Bar | Progress Bar | Critical Bar | Summary Bar | Milestone

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Date	Revision	Checked	Approved
8/16/2023	0		