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In re: Southward Village Phase 4, LP, FHFC File Nos: 2025-123BS/2024-504C
Petitioner. FHFC CASE NO. 2026-009VW

**PETITION FOR WAIVER OF RULE 67-48.0072(21)(b) TO
ALLOW A SECOND EXTENSION OF FIRM LOAN COMMITMENT DEADLINE**

Petitioner, Southward Village Phase 4, LP (“Petitioner” or “Southward Village 4”), a Florida limited partnership, hereby submits this Petition to the Florida Housing Finance Corporation (“FHFC” or “Florida Housing”) for a waiver from FHFC Rule 67-48.0072(21)(b), Fla. Admin. Code (July 7, 2024) in order to allow Petitioner to obtain a second extension of its firm loan commitment deadline, which currently expires in March 13, 2026.

A. NATURE OF REQUEST

1. Pursuant to Section 120.542, Fla. Stat. (2025), and Rules 28-104.001 through 28-104.006, Fla. Admin. Code, Petitioner requests a waiver of provisions of Rule 67-48.0072(21)(b), Fla. Admin. Code. Rule 67-48.0072(21)(b) requires an applicant receiving SAIL financing to obtain a firm loan commitment within twelve (12) months of its invitation to credit underwriting. The rule allows an application to request one extension of up to six months to obtain the firm loan commitment, but does not expressly authorize any subsequent extensions.

B. THE PETITIONER

2. Southward Village Phase 4 is a proposed 143-unit development that is one phase of a large development and redevelopment project in Fort Myers. The Southward Village developments, which will contain a total of 467 units, are financed in part through HUD’s Choice Neighborhoods Initiative Program.

3. Southward Village 4 was the recipient of \$16.0 million in Live Local SAIL, \$36.0

million in MMRB, and \$2,765,566 in annual non-competitive Housing Credits from FHFC for a new construction development in Lee County through Florida Housing's RFA 2024-214. The development will also receive construction and permanent loan financing from the Housing Authority of the City of Fort Myers. For purposes of this petition, Petitioner's address is that of its undersigned attorney, M. Christopher Bryant, Oertel, Fernandez, Bryant & Atkinson, P.A., 2060 Delta Way, Tallahassee, Florida 32303 (telephone (850) 521-0700, fax (850) 521-0720, E-mail: cbryant@ohfc.com).

4. The Applicant Entity for Southward Village Phase 4 is Southward Village Phase 4, LP, a Florida limited partnership. Its general partners are Fort Myers Redevelopment Manager, LLC, which is an Affiliate of McCormack Baron Salazar, Inc; and SWV Phase 4, LLC, which is an instrumentality of the Housing Authority of the City of Fort Myers.

5. The two Co-Developers of Southward Village Phase 4 are Fort Myers Developer, LLC, which is an Affiliate of McCormack Baron Salazar Inc; and Southwest Florida Affordable Development, LLC, which is an instrumentality of the Housing Authority of the City of Fort Myers.

6. Southward Village 4 received an award of Live Local SAIL, MMRB, and Noncompetitive Housing Credits in RFA 2024-214, Live Local SAIL Financing to be used for Developing and Reconstructing Affordable Multifamily Housing Developments. It was invited into credit underwriting on September 13, 2024.

7. Southward Village 4 requested and received a six-month extension of its firm loan commitment deadline, from September 13, 2025 to March 13, 2026. The request was approved by the Corporation's Board of Directors as a Consent Agenda item at its September 19, 2025 Board meeting.

8. Following the prior firm loan commitment extension, Southward Village 4 submitted a request to HUD to modify the set-asides in Phase 4 to 58 units at 60%, 61 Replacement/Project Based Voucher/LIHTC units, and 24 units at 80% AMI. (The 61 Replacement/PBV units will consist of 22 ELI units at 30% AMI, 35 units at 50% AMI, and 4 units at 80% AMI.) A comprehensive financial analysis demonstrates that capping the currently unrestricted 24 units at 80% AMI will result in a more achievable unit mix that more accurately reflects prevailing market conditions, and provides a pathway for resident households to increase their income and remain in the community.

9. The federal government shutdown that existed from October 1 until November 12, 2025, created a significant backlog for HUD to evaluate and process such change requests. Without HUD approval, Southward Village 4's investor declined to provide the necessary Letter of Intent for Southward Village 4 to meet the underwriter's deadlines for firm loan commitment on the Live Local SAIL funding for the March 20, 2026 Board meeting.

10. Southward Village 4 has just received HUD approval for the set-aside change, but the approval did not come in time to secure commitments for non-corporation funding to meet the credit underwriting deadlines for the March 20 Board meeting. Additional time is needed to provide the investor Letter of Intent and for the credit underwriter to complete its report for presentation to staff and the Board.

C. THE SOUTHWARD VILLAGE DEVELOPMENT

11. The Southward Village development is a development in four phases that is currently planned to consist of 467 units. The Housing Authority of the City of Fort Myers ("HACFM") and the City of Fort Myers sought and were awarded substantial funding through HUD's Choice Neighborhoods Initiatives (CNI) program for Southward Village, one of only three

CNI designees in Florida. A condition of the HUD CNI designation for Southward Village is that over 20% of the units across all phases must be market rate units. HUD just approved HACFM's request to satisfy the market rate target through a combination of unrestricted units and 80% AMI units.

12. Phase 4 of Southward Village was awarded funding in RFA 2024-214, Live Local SAIL Financing to be used for Developing and Reconstructing Affordable Multifamily Housing Developments. That Application, Number 2025-123BS/2025-504C, is currently proposed to consist of 143 units, originally planned to consist of 119 Set-Aside Units under the Average Income Test (including 4 units at 80% AMI) and 24 market rate units. In late 2024 Florida Housing approved the Applicant's request to change Southward Village Phase 4 from the Average Income Test to 40% of the units at 60% AMI. In February 2025, Florida Housing approved an additional set-aside change back to the Average Income Test consisting of 22 ELI units at 30% AMI, 35 units at 50% AMI, 58 units at 60% AMI, and 28 units at 80% AMI. MMRB set-asides will remain at 40% at 60% AMI.

D. RULE PROVISIONS

13. The Live Local SAIL and Housing Credit Application process is governed in part by portions of Rule Chapter 67-48, Fla. Admin. Code. Of relevance to this request is Rule 67-48.0072(21)(b), Fla. Admin. Code, which reads, in pertinent part:

For SAIL and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued by the date of the Board of Directors meeting immediately following twelve (12) months after the Applicant is invited to enter credit underwriting. Unless an extension is approved by the Board, 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.

If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

14. Petitioner seeks a rule waiver in order to obtain a second extension of time to receive a firm loan commitment for its Live Local funding. Petitioner requests that the extension be granted to September 13, 2026.

E. JUSTIFICATION FOR REQUESTED WAIVER

15. The circumstance necessitating the extension of Southward Village 4's firm loan commitment is the six-week federal government shutdown which lasted from October 1 to November 12, 2025. The shutdown delayed the processing and decisions on any matters by HUD. It also added to the backlog of items before HUD. Once HUD was able to process a request from Southward Village 4 concerning its set-asides, it was too late for Southward Village 4 to obtain a financing Letter of Intent from its investor and complete credit underwriting in time for the March 20 Board meeting.

F. RELIEF REQUESTED

16. Southward Village 4 seeks to have a waiver from Rule 67-48.0072(21)(b) to grant it a second extension of time to obtain a firm loan commitment for its Live Local SAIL funding. Without a second extension, the preliminary commitment of Live Local SAIL funding would be withdrawn, according to that same rule.

17. The requested Rule waiver will not adversely impact the development or the interests of Florida Housing, future residents, or the public; and will serve the statutory purposes of the Florida Housing process. A denial of this Petition, however, would result in substantial economic hardship to Southward Village 4, which cannot be constructed without the Live Local funding.

G. STATUTORY PURPOSE SERVED

18. Sections 420.5099 and 420.509(1), Fla. Stat., and assigns Florida Housing the responsibility to allocate and distribute SAIL funding, Multifamily Mortgage Revenue Bonds, and low-income housing tax credits. The statute also instructs Florida Housing to adopt procedures to ensure the maximum use of housing credits to encourage the development of low-income housing.

19. Section 420.50871 provides additional funding for the SAIL program through the Live Local Act, Chapter 2023-17. The Live Local Act included policies promoting the development of mixed-income projects – i.e., projects including some residential units targeted towards tenants who are not traditional low-income households (earning no more than 60% AMI) but are at higher household AMI's (80% or more).

20. Granting the requested extension would promote these purposes.

H. SUBSTANTIAL ECONOMIC HARDSHIP

21. As explained above, Petitioner would suffer substantial economic hardship if it could not obtain a firm loan commitment extension, as it would lose its preliminary funding commitment of Live Local SAIL funding.

22. The waiver being sought is temporary in nature, in that the loan commitment, if granted, would simply extend a time deadline. Upon receipt of the firm loan commitment, Petitioner would proceed to closing of financing and commencement of construction for Southward Village Phase 4.

23. If Florida Housing has questions or requires additional information, Petitioner is available to provide any information necessary for consideration of this Petition.

WHEREFORE, Petitioner Southward Village Phase 4, LP respectfully requests that the Florida Housing Finance Corporation provide the following relief:

- A. Grant the Petition for Waiver and all the relief requested herein;
- B. Enter an order granting a waiver of Rule 67-48.0072(21)(b), to extend the firm loan commitment deadline from March 13, 2026 to September 13, 2026 for Southward Village 4's Live Local SAIL funding.

RESPECTFULLY SUBMITTED this 24th day of February 2026.

/s/ M. Christopher Bryant
M. Christopher Bryant
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Counsel for *Southward Village Phase 4, LP*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition for Waiver is being filed by electronic filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, CorporationClerk@floridahousing.org, and the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, Joint.admin.procedures@leg.state.fl.us, and by electronic transmission to Ethan Katz, Assistant General Counsel, Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301, Ethan.Katz@floridahousing.org, this 24th day of February.

/s/ M. Christopher Bryant
Attorney