

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

**FHFC CASE NO.: 2026-003VW
APPLICATION NO.: 2024-317S**

BIG CYPRESS HOUSING CORPORATION,

Petitioner,
vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

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FLORIDA HOUSING
FINANCE CORPORATION

PETITION FOR WAIVER OF RULE 67-48.0072(21)(b)

Big Cypress Housing Corporation, a Florida not for profit corporation (the “Petitioner”), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the “Corporation”) for a waiver of Rule 67-48.0072(21)(b), Florida Administrative Code (“F.A.C”) (June 28, 2023) (the “Rule”), in effect at the time Petitioner submitted its Application (as defined below) in response to the Corporation’s RFA (as defined below), to allow Petitioner to extend its deadline to secure a firm loan commitment for an additional six (6) months and waive any such extension fee that may be imposed by the Corporation for such extension. Petitioner seeks a waiver of, or variance from, the Rule for reasons set forth below. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code. In support, the Petitioner states as follows:

A. THE PETITIONER

1. The mailing address, telephone number and email of the Petitioner is as follows:

Big Cypress Housing Corporation

19308 SW 380th Street, P.O. 343529
Florida City, FL 33034
Telephone: (305) 242-2188
Attention: Steven Kirk
Email: stevekirk@ruralneighborhoods.org

2. The mailing address, telephone number and email of the Petitioner's legal counsel is as follows:

Nicholas W. Heckman, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Ave., Suite 1400
Orlando, Florida 32801
Telephone: (407) 669-4241
Facsimile: (407) 425-8377
Email: nick.heckman@nelsonmullins.com

3. On May 16, 2024, Petitioner submitted an application (the "Application") in response to RFA 2024-104 SAIL Funding for Farmworker and Commercial Fishing Worker Housing (the "RFA") a State Apartment Incentive Loan ("SAIL") in an amount up to \$4,400,000 to finance the rehabilitation of a 79-unit multifamily residential housing development to be located in the city of Collier County, Florida, to be commonly known as Main Street Village (the "Development"). The Petitioner received and subsequently accepted correspondence from the Corporation providing a preliminary commitment for the SAIL Loan (the "Loan") and inviting the Petitioner to enter credit underwriting. Pursuant to the Rule, the Petitioner must receive a firm loan commitment within twelve (12) months of the Petitioner accepting its invitation to enter into credit underwriting. On July 10, 2025, the Petitioner requested the approval of the Corporation to extend the Petitioner's deadline to secure a firm loan commitment by six (6) months. On August 1, 2025, the Corporation's Board of Directors (the "Board"), approved the Petitioner's request and approved the deadline to be extended through January 8, 2026. Petitioner paid a one (1) percent extension fee in connection with approval of the foregoing extension.

B. THE RULE FROM WHICH WAIVER IS SOUGHT

4. The Petitioner requests a waiver of or variance from Rule 67-48.0072(21)(b), F.A.C (effective June 28, 2023), which provides in part:

67-48.0072 Credit Underwriting and Loan Procedures.

(21) Information required by the Credit Underwriter shall be provided as follows:

(b) 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.** 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 Board 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 deadline is approved. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the Board approves the extension of the original 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

(Emphasis added.)

C. STATUTES IMPLEMENTED BY THE RULES

5. The Rule is implementing, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statute that designated the Corporation to administer the State Apartment Incentive Loan (SAIL”) Program. See Fla. Stat. § 420.5087.

D. JUSTIFICATION FOR PETITIONER’S REQUESTED WAIVER

6. The Petitioner was previously granted an extension to secure a firm loan commitment for the Loans through January 8, 2026, and now respectfully requests an additional six-month extension to allow sufficient time to finalize the remaining approvals necessary to obtain a firm loan commitment. In connection with the planned rehabilitation, the Petitioner requested \$750,000 in Community Development Block Grant (“CDBG”) funds from Collier County, Florida to address projected cost overruns. Collier County awarded the CDBG funds pursuant to a Grant Agreement dated October 14, 2025, for roof replacement and related soffit, fascia, and downspout improvements. While the CDBG award is beneficial to the rehabilitation of the property, it required coordination with and revisions to the scope of work financed by the SAIL Loan from Florida Housing. The revisions to the scope of work caused delays in completing the Petitioner's architectural drawings, local government plan review, and execution of the construction contract. During the initial administrative extension period, the Petitioner completed a Comprehensive Needs Assessment (“CNA”) for the project site, residential buildings, and offices. Disagreements among the CNA consultant, the underwriter, and the Petitioner delayed final agreement on the scope of work; however, an agreed-upon scope has since been established. As a result, the Petitioner entered into a professional services agreement with the architect to prepare construction drawings and also selected a general contractor. Approval from the credit underwriter and/or Corporation is still required due to the contractor’s limited experience in rehabilitation, which has delayed submission of building plans to the local jurisdiction and

execution of a construction contract. The Petitioner believes that, if granted the requested extension, it will be able to obtain contractor approval, secure building permits, and execute a construction contract within the 6 month extension. In addition, the property is encumbered by a first mortgage held by USDA Rural Development (the “USDA”) under the Section 514/516 Farm Labor Housing Grant and Loan Program, which requires USDA approval for any increase or addition of subordinate Corporation debt. Prior to October 1, 2025, the Petitioner lacked sufficient information to seek this approval. Shortly thereafter, USDA operations were disrupted by a 43-day federal government shutdown, resulting in a standstill in underwriting and plan review. The Petitioner has since reinitiated contact with USDA Rural Development staff and is actively working to obtain the required approvals. During this period, the Petitioner also encountered delays related to restructuring its plans and obtaining necessary approvals and permits, which substantially consumed the previously granted six-month extension. As of the date of this request, the Petitioner is nearing completion of all remaining approvals and permits and, together with its architect and general contractor, is prepared to advance to credit underwriting as expeditiously as possible. Accordingly, the Petitioner respectfully requests a waiver or variance from the Rule to extend the firm loan commitment deadline for an additional six months to allow sufficient time to finalize the remaining approvals and permits.

7. Under Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., the Corporation has the power and authority to grant waivers to its rule requirements when strict application of the rules would lead to unreasonable, unfair and unintended consequences in particular instances. A waiver shall be granted when the person who is subject to the rule demonstrates that the application

of the rule would: (1) create a substantial hardship¹ *or* violate principles of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. *See* § 120.542(2), Fla. Stat.

8. Strict application of the firm loan commitment deadline would result in substantial hardship and an unintended consequence under the circumstances presented. Despite diligent and continuous efforts, the Petitioner's progress was delayed by factors outside its reasonable control, including prolonged resolution of the CNA scope, the need to obtain Corporation and credit underwriter approval for the selected general contractor to perform rehabilitation work, and the requirement to secure approval from the USDA for the addition or increase of subordinate Corporation debt, a process further delayed by a 43-day federal government shutdown that halted underwriting and plan review. In addition, the Development presents a unique circumstance in that the award of \$750,000 in CDBG funds from Collier County, Florida, pursuant to a Grant Agreement dated October 14, 2025, required coordination and revisions to the scope of work financed through the SAIL Loan, which delayed architectural drawings, local government plan review, and development of the construction contract. Notwithstanding these delays, the Petitioner has demonstrated good-faith progress by finalizing the CNA scope, selecting its architect and general contractor, and nearing completion of all remaining approvals and permits necessary to proceed to credit underwriting, obtain building permits, and execute a construction contract. Granting the requested six-month extension will allow the Petitioner to finalize these remaining items, thereby advancing the rehabilitation of the Development and ensuring that the purpose of the underlying statute and program requirements to facilitate the rehabilitation of affordable

¹ "Substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. Further, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. *See* Fla. Stat. § 120.542.

housing has been and will continue to be achieved by other means, consistent with Section 120.542(2), Florida Statutes, and Chapter 28-104, Florida Administrative Code.

9. The Corporation would benefit by granting the requested waiver of, or variance of the Rule. If granted, it will allow the Petitioner to finalize all its approvals and permits structure to successfully rehabilitation of 79 much-needed affordable housing units in Collier County, Florida.

10. The Florida Housing Finance Corporation Act (Section 420.501, *et seq.*) was passed to encourage private and public investment in facilities for persons of low-income. The purposes of Section 420.5089, Fla. Stat. and the Act that are implemented by Chapter 67-48, as one of the goals is for Corporation financing to be used to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households. Further, the Act was passed in order to stimulate and prioritize initiatives to increase the supply of affordable housing. By granting the requested waivers, the Corporation would promote the goal of providing persons of low-income with of affordable housing through private investment. The requested waivers or variances will not adversely impact the Development or the Corporation or provide Petitioner with an unfair advantage, and will ensure that the 79 affordable housing units of the Development will be made available for the target population in Collier County to obtain decent, safe, and sanitary housing.

E. TYPE OF WAIVER

11. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

12. For the reasons set forth herein, the Petitioner respectfully requests the Corporation (i) grant a waiver of the Rule to extend the January 8, 2026 deadline to secure a firm loan

commitment for an additional six months and waiver of the extension fee; *(ii)* grant this Petition and all the relief requested herein; and *(iii)* grant such further relief as it may deem appropriate.

Respectfully submitted the 13th day of January, 2026.

Respectfully submitted,



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Orlando, FL 32801
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Email: nick.heckman@nelsonmullins.com
COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition was filed by electronic delivery to:

Florida Housing Finance Corporation
Attn: Corporation Clerk
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
Email: corporationclerk@floridahousing.org

Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399
Email: joint.admin.procedures@leg.state.fl.us

This 13th day of January, 2026.

By: 

Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356