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STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FINANCE CORPORATION

FHFC CASE NO. 2026-008
Application No.: 2023-164H

PHOENIX CROSSINGS, LLC,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

**PETITION FOR WAIVER OF RULES 67-48.0072(26) FLORIDA ADMINISTRATIVE
CODE (EFFECTIVE July 6, 2022)**

Petitioner, Phoenix Crossings, LLC, a Florida limited liability company (“Petitioner”), by and through its undersigned counsel, hereby petitions Florida Housing Finance Corporation (“Florida Housing”) for a waiver of Rule 67-48.0072(26) F.A.C.(07/6/2022) (the “Rule”); so that Petitioner may extend its closing deadline of January 30, 2026, for reasons set forth in more detail below. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104 F.A.C. In support of this Petition, Petitioner states as follows:

A. PETITIONER AND THE DEVELOPMENT

1. The name, address, e-mail address, and telephone number for Petitioner and the qualified representative is:

Phoenix Crossings, LLC
Attn: Steven Kirk
19308 SW 380 Street
Florida City, Florida 33034
E-mail: stevekirk@ruralneighborhoods.org
Telephone: (305) 242-2142

2. The name, address, e-mail address, and telephone number of Petitioner’s counsel is:

Nicholas W. Heckman, Esq.
Nelson Mullins Riley & Scarborough LLP
390 N. Orange Avenue, Suite 1400
Orlando, Florida 32801-4961
Email: nick.heckman@nelsonmullins.com
Telephone: 407-669-4241

3. On January 24, 2023, Petitioner submitted Application No. 2023-164H (the “Application”) to Florida Housing in response to RFA 2022-206 HOME Financing to be Used for Rental Development in Certain Hurricane Ian Impacted Counties (the “RFA”) seeking HOME Investment Partnership Program (“HOME”) funds in order to finance the construction, development and operation of a 28-unit affordable housing development located in Flagler County, Florida, to be known as Phoenix Crossings (the “Development”).

4. Petitioner was selected for funding and soon thereafter received an invitation from Florida Housing to enter into credit underwriting with a preliminary award for HOME funds in an amount of \$6,250,000 (the “Loan”). On or around June 2, 2025, Florida Housing’s Board of Directors (the “Board”) approved Petitioner’s final credit underwriting report and on June 17, 2025, Petitioner received its firm loan commitment (“Firm Commitment”) from Florida Housing, which established a loan closing deadline of October 15, 2025, for the Loan (i.e., 120 calendar days of the Firm Commitment).

5. On October 13, 2025, Petitioner submitted a letter to Florida Housing requesting a ninety (90) calendar day extension to the loan closing deadline from October 15, 2025, to January 30, 2026, due to significant delay in the local government unit ultimately issuing AHAP funds because the recent government shutdown prevented HUD approval for the Subsidy Layering

Review (the “Request Letter”). The Board approved Petitioner’s Extension Request at its October 24, 2025 meeting.

B. TYPE OF WAIVER

6. The waiver being sought is permanent in nature.

C. RULES FOR WHICH A WAIVER IS REQUESTED

7. Petitioner requests a waiver of, or a variance from, the Rule to allow Petitioner an additional extension of its loan closing deadline, which provides, in relevant part, as follows:

67-48.0072(26) – Credit Underwriting and Loan Procedures.

... For SAIL and HOME, unless stated otherwise in a competitive solicitation, 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).** These deadlines may be automatically extended to the next scheduled meeting of the Board of Directors that is after the 120 or 180 Calendar Days deadline, as applicable. 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, which may be automatically extended to the next scheduled meeting of the Board of Directors that is after the 90 Calendar Day extension deadline.** All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The Board shall consider the facts and circumstances of each Applicant’s request, inclusive of the Applicant’s ability to close within the extension term and any credit underwriting report, prior to determining whether to grant the requested extension. The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the applicable 120 Calendar Day or 180 Calendar Day period outlined above. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original loan closing deadline. 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...”

Emphasis added.

D. STATUTES IMPLEMENTED BY THE RULES

8. The Rule implements, among other sections of the Florida Housing Finance Corporation Act (the “Act”), the statutes relating to the HOME Investment Partnership Program; HOME Investment Partnership Fund are contained in Section 420.5089 the Florida Statutes.

9. Florida Housing has the authority pursuant to Section 120.542(1), Fla. Stat., and Chapter 28-104, F.A.C., to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended results in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship¹ or violate principals of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. § 120.542(2), Fla. Stat.

E. JUSTIFICATION FOR GRANTING WAIVER OF THE RULES

10. Petitioner is requesting the Board’s approval for waiver of, or variance from, the Rule to allow Petitioner an additional extension of its closing deadline for an additional 90 calendar day period (which may be automatically extended to the next scheduled Board meeting that is after the 90 calendar day extension) as Petitioner has experienced timing delays outside of its control in receiving HUD approval to finalize the Subsidy Layering Review due to the federal government shutdown that occurred earlier this year, which is needed to close on the AHAP loan, which is

^[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 Section 120.542, *Fla. Stat.*

in turn needed to close on the Loan. Furthermore, the Applicant noticed after the initial approval of the Request Letter that some issues with its financing documents it received from the county regarding the Development's SHIP funding needed to be amended. Such amendments needed to be approved by the county's board of commissioners set to occur in February. The Applicant is diligently working with Development's financing parties and the County recently approved the amendments at its February 9th board meeting.

11. As of this date, Petitioner received HUD's approval necessary to finalize the Subsidy Layering Review and the County loan amendment have been approved by the County board of county commissioners, as stated above . At this time, Petitioner is working to finalize its construction and permanent financing loan documents and was anticipating closing late February. Notwithstanding the above, Petitioner and the working group are still working tirelessly to close the Loan; however, Petitioner requests this extension, given the delays it encountered in regard to the federal government shutdown.

12. Petitioner respectfully requests waiver of the Rule to extend its loan closing deadline as this request was not necessitated through any fault of the Petitioner. If Petitioner is not granted a waiver of the Rule, Petitioner will suffer substantial hardship as such denial to extend the loan closing date would otherwise cause the deal to fail by voiding the Florida Housing's commitment to fund Loan, when Petitioner has overcome and received the necessary items it needed to close on the Loan and its other financing. Therefore, by granting the requested waiver, the Florida Housing will prevent Petitioner from suffering substantial hardship that may occur should the additional extension not be granted.

13. Petitioner believes that a waiver of this Rule will serve the purposes of Section 420.5089, Fla. Stat. and the Act that are implemented by Chapter 67-48 F.A.C., as one of the goals

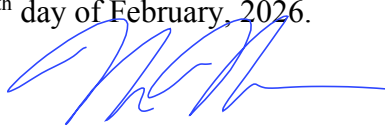
is for the proceeds of Florida Housing financing to be used to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households. The Act was passed in order to create inducements and opportunities for private and public investment in rental housing to increase the supply of affordable housing for low-income persons and households. By granting this Petition, Florida Housing would recognize the goal of increasing the supply of affordable housing units via the construction of new developments throughout Florida.

14. In this instance, Petitioner meets the standards for a waiver of the Rule. The requested waiver will not adversely affect Petitioner, the Development, any other party that applied to receive funding in the RFA or Florida Housing and will ensure that 28 affordable units will be made available for individuals and families in Flagler County, Florida.

F. ACTION REQUESTED

15. For the reasons set forth herein, the Petitioner respectfully requests the Florida Housing (i) grant a waiver of Rule 67-48.0072(26) F.A.C. (July 6, 2022) for an additional extension of 90 calendar days; (ii) grant this Petition and all the relief requested herein; and (iii) grant such further relief as it may deem appropriate.

Respectfully submitted this 20th day of February, 2026.



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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
CorporationClerk@floridahousing.org,

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

This 20th day of February, 2026.



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