STATE OF FLORIDA

FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO.: 2026-065 VW
APPLICATION NO.: 2024-064CS

THE LANDINGS AT SUGARLOAF KEY, LLC

Petitioner

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

_____/

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FLORIDA HOUSING FINANCE CORPORATION

PETITION FOR WAIVER OF FLORIDA ADMINISTRATIVE CODE RULE 67-48.0072(26), F.A.C. (06/28/2023), RULE 67-48.002(96), F.A.C. (06/28/2023), AND THE 2023 QAP

The Landings at Sugarloaf Key, LLC, a Florida limited liability company (the "Petitioner"), by and through its undersigned counsel, hereby petitions Respondent, Florida Housing Finance Corporation ("Florida Housing"), for a waiver of (1) Rule 67-48.0072(26), Florida Administrative Code ("F.A.C.") (06/28/2023) (the "SAIL Closing Rule"), to allow Petitioner to extend the loan closing deadline for the State Apartment Incentive Loan ("SAIL") funding allocated to Petitioner, and (2) the provisions of the 2023 Qualified Allocation Plan ("2023 QAP"), as incorporated and adopted by Rule 67-48.002(96), F.A.C. (06/28/2023) (collectively, the "Credit Exchange Rule" and, together with the SAIL Closing Rule, the "Rules"), such that Petitioner may return its 2024 Tax Credits allocation now, as opposed to waiting until after the end of the second calendar quarter of 2027 (the "Credit Exchange"). Thus, in an abundance of caution

and in an effort to remain at all times in compliance with Florida Housing's requirements, Petitioner respectfully requests a rule waiver to (1) extend the SAIL loan closing deadline from October 9, 2026, to January 29, 2027, and (2) effectuate the Credit Exchange. In support, Petitioner states as follows:

A. THE PETITIONER AND DEVELOPMENT

1. The address, telephone number, and e-mail address for Petitioner and its qualified representative are:

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Telephone: (305) 242-2142
Email: stevekirk@ruralneighborhoods.org

2. The address, telephone number, and e-mail address of Petitioner's counsel are:

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3. Petitioner timely submitted Application No. 2024-064CS on August 7, 2023, in response to Request for Applications 2023-212 Housing Credit Viability Funding for Developments Located in Monroe County that have an Active Award of SAIL Financing and 9 Percent Housing Credits (the "RFA"), to be used for the construction of a 56-unit residential development located in Monroe County, Florida, to be known as The Landings at Sugarloaf Key (the "Development"). The Development was invited to enter credit underwriting on September 15, 2023, and Petitioner accepted the invitation. Petitioner was preliminarily awarded an allocation of 2024 Housing Credits ("Tax Credits") in an annual amount meeting the requirements of Section 42(h)(1)(E) and (F) of the Internal Revenue Code of 1986, as amended. Florida Housing staff and Petitioner executed a 2024 Carryover Allocation Agreement ("CAA") on or about May 15, 2024, for the allocation of its Tax Credits. Pursuant to the CAA and 26 U.S.C. § 42(h)(1)(E)(i), the

Development must be placed in service no later than the close of the second calendar year following the calendar year in which the allocation is made, which is December 31, 2026.

4. The Development was also preliminarily awarded $4,900,400.00 in SAIL funding under the RFA (the "SAIL Loan"). The SAIL Loan Firm Loan Commitment issuance deadline was originally September 15, 2024 (the "SAIL Commitment Deadline"), twelve (12) months from the invitation to enter credit underwriting. The SAIL Commitment Deadline was extended (i) at the October 22, 2024 meeting of the Board of Directors of Florida Housing ("Board") to March 15, 2025 and (ii) at the March 28, 2025 meeting of the Board to September 15, 2025.

5. On August 4, 2025, Florida Housing staff issued a firm commitment to Petitioner, giving it a loan closing deadline of February 2, 2026 (the "SAIL Closing Deadline"). On February 23, 2026, Petitioner requested an extension of the SAIL Closing Deadline from February 2, 2026, to May 4, 2026, which was granted at the March 20, 2026 Board meeting. On June 3, 2026, Petitioner requested an additional extension of the SAIL Closing Deadline from May 4, 2026, to October 9, 2026, which was granted at the June 26, 2026 Board meeting.

B. THE RULES FROM WHICH WAIVER IS SOUGHT

6. Petitioner requests a waiver of, or a variance from, the Rules to allow Petitioner (1) an additional extension of its loan closing deadline and (2) a return of its 2024 Tax Credits. The Rules provide, in relevant and respective parts, as follows:

> **67-48.0072(26) – Credit Underwriting and Loan Procedures.**
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> ***
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> "(26) 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 180 Calendar Days of the date 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**. 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 period outlined above**. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the Board approves the request to extend 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."

67-48.002(96) – Definitions.

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""QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2023 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on the Corporation's website under the Multifamily Programs link or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or from http://www.flrules.org/Gateway/reference.asp?No=Ref-15419."

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Subsection II.J. of the 2023 QAP provides, in pertinent part, as follows:

"Notwithstanding any other provision of this QAP, 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 pursuant to Section 42 of the IRC, provided the following conditions have been met:
(i) The sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and
(ii) A site inspection reflecting the percentage of Development completion must be completed. If the Development is at least fifty (50) percent completed, as reflected in the site inspection, the approval may be made by Corporation staff. If the Development is less than fifty (50) percent completed, as reflected in the site inspection, the approval must be made by the Board. In making such determination, the Board must find and determine that the delay was caused by circumstances beyond the Applicant's control, and that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay; and
(iii) The Corporation or Board, as applicable, must find that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.
A Development located in a HUD-designated DDA or QCT at the time of original allocation may retain its designation as such."

C. STATUTES IMPLEMENTED BY THE RULES

7. The Rules implement the Florida Housing Finance Corporation Act (the "Act"), the statute that designates Florida Housing to administer the SAIL program and 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"). See § 420.5099(1) and (2), Fla. Stat. Accordingly, the Rules implement, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for tax credit programs. *Id.*

8. Florida Housing has the authority pursuant to Section 120.542(1), *Fla. Stat.*, and Chapter 28-104, F.A.C., to grant waivers from 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 hardship[1] *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. § 120.542(2), *Fla. Stat.*

D. JUSTIFICATION FOR PETITIONER'S REQUESTED WAIVER

9. After execution of the CAA, the Development encountered significant and unforeseen challenges that materially disrupted its progress as a result of Hurricane Milton, Helene, or Debby, and the related impacts on the site and surrounding area. The hurricanes caused increased flood and wind insurance premiums which in turn required alternative staffing and operational cost reductions to offset these increased expenses. Due to these circumstances, under IRS Rev-Proc 2014-49, Petitioner submitted a request to Florida Housing seeking an extension of the placed-in-service deadline through December 31, 2027, which received approval on April 8, 2026.

10. Following the unexpected death of a principal developer and guarantor, additional estate administration and evaluation of a substitute guarantor were required. That evaluation was unanticipated and delayed the confirmation of certain financing sources. However, it has now been completed and the substitute guarantor has been accepted.

[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.*

11. The preparation and review of gap-financing documents and land-use restriction agreements required public review and approval, which were available only according to established meeting schedules and caused further delays. The required reviews have now been completed, and the loan documents were approved in September 2026.

12. Final underwriting approvals and the issuance of equity were delayed because Petitioner's investor member conducted separate, sequential evaluations rather than a concurrent review. Following satisfactory completion of those evaluations, the investor member is ready to proceed toward closing.

13. Notwithstanding these challenges, Petitioner continued to diligently advance the Development and successfully satisfied critical program requirements, including the 10% Test and site control requirements. Petitioner has secured equity and construction and permanent financing and is currently working to close on such financing.

14. Accordingly, granting the requested extension would be consistent with the objectives of the Act and would enable the successful development of a project that is demonstrably viable, substantially progressed, and positioned to proceed toward closing, construction, and eventual delivery of much-needed affordable housing units.

15. Petitioner seeks this waiver in an abundance of caution. Petitioner is actively working toward closing the transaction and continues to engage with third parties, including its investor member and lender, to explore the feasibility of closing before Florida Housing's November Board meeting as a demonstration of the parties' commitment. Although a closing before the Board meeting cannot be assured, the parties remain focused on completing the

transaction as expeditiously as possible, and Petitioner anticipates that any closing occurring after the Board meeting would take place shortly thereafter.

16. Petitioner therefore respectfully requests a waiver of the Rules to extend its loan closing deadline and permit Florida Housing to approve the Credit Exchange now, as opposed to waiting until after the end of the second calendar quarter of 2027, because neither request was necessitated by any fault of Petitioner. The delays affecting the Development arose from extraordinary market and weather events that were outside Petitioner's control. However, Petitioner has remained committed to advancing the Development, has satisfied key programmatic requirements, and has brought the Development to an advanced stage of readiness.

17. If Petitioner is not granted a waiver of the Rules, Petitioner will suffer substantial hardship because denial of the requested extension of the loan closing deadline and the Credit Exchange could cause the transaction to fail by voiding Florida Housing's commitment to fund the SAIL Loan. Therefore, by granting the requested waiver, Florida Housing will prevent Petitioner from suffering the substantial hardship that may occur if the requests are not granted.

18. Petitioner believes that a waiver of the Rules 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.

19. In this instance, Petitioner meets the standards for a waiver of the Rules. 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 56 affordable units will be made available to individuals and families in Monroe County, Florida.

20. Should Florida Housing require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

E. WAIVER IS PERMANENT

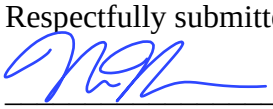
21. The waiver being sought is permanent in nature.

F. ACTION REQUESTED

22. For the reasons set forth herein, the Petitioner respectfully requests that Florida Housing (*i*) grant a waiver of Rule 67-48.0072(26), F.A.C. (06/28/2023), to extend the SAIL loan closing deadline from October 9, 2026, to January 29, 2027; (*ii*) grant the requested waiver to permit the Credit Exchange, including the immediate return of Petitioner's 2024 Tax Credits and an immediate allocation of new housing credits; (*iii*) grant a corresponding extension of deadlines applicable to those credits, including the placed-in-service deadline; (*iv*) grant this Petition and all relief requested herein; and (*v*) grant such further relief as it may deem appropriate.

Respectfully submitted on the 14th day of October, 2026.

Respectfully submitted,



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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

The 14th day of October, 2026.

By: _____
Nicholas W. Heckman, Esq.
Fla. Bar No. 0127356