STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Pollywog Creek Mews, LLC FHFC Case No.: 2024-027VW

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ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b), FLA. ADMIN. CODE (2021)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 28, 2024. On June 7, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b) (the "Petition") from Pollywog Creek Mews, LLC (the "Petitioner") to allow Petitioner to extend the Firm Loan Commitment deadline for its HOME Funding. Notice of the Petition was published June 11, 2024, in Volume 50, Number 114, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Anne Alamong /DAT 6/28/2024

2. Petitioner successfully applied for funding to assist in the construction of Pollywog Creek Mews, a 28-unit development located in Hendry County, Florida (the "Development").

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2021), provides in relevant part:

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> (b) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within twelve (12) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, 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 Corporation 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 initial twelve (12) month deadline is approved. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original twelve (12) month 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.

4. Petitioner's initial firm loan commitment deadline for its HOME funding was April 4, 2023. On March 10, 2023, the Board granted Petitioner an extension of its firm loan commitment deadline to October 4, 2023. On October 27, 2023, the Board granted Petitioner a second extension of Petitioner's firm loan commitment deadline to June 4, 2024. Petitioner requests a third extension of its firm loan commitment to December 4, 2024.

5. As justification for its request, Petitioner states that has made progress towards closing its financing and commencement of construction, including, amongst other things, completing building and civil plans and various permit approvals. However, due to interest rate increases to its construction and permanent loans, and an insufficient budget for labor and materials, exacerbated by the Development's rural location, Petitioner has had to seek additional funding. Petitioner was awarded $2,475,000.00 in Viability Funding from Florida Housing and received an award of $750,000 from the Federal Home Loan Bank of Atlanta under the Affordable Housing Program. Petitioner states that the plans have undergone a value engineering process, and new construction pricing is currently being obtained for the revised plans. Petitioner expects to complete credit underwriting before the October 22, 2024 Board meeting.

6. The Board finds that granting the requested waiver will not impact other participants in funding programs administered by Florida Housing, nor will it detrimentally impact Florida Housing.

7. The Board also finds that Petitioner has demonstrated that the waiver is needed because of circumstances beyond its control and that it would suffer a substantial hardship if the waiver is not granted.

8. The Board further finds that Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state," would still be achieved if the waiver is granted. §420.5099, Fla. Stat.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-48.0072(21)(b), Fla. Admin. Code (2021), is hereby **GRANTED** to allow Petitioner to extend the Firm Loan Commitment deadline for its HOME Funding from June 4, 2024 to December 4, 2024.

DONE and ORDERED this 28th day of June, 2024.

FLORIDA HOUSING FINANCE CORPORATION Tallahassee Florida

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.