STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Phoenix Crossings, LLC FHFC Case No.: 2024-060VW

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ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b), FLA. ADMIN. CODE (2022)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 22, 2024. On October 3, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b) (the "Petition") from Phoenix Crossings, LLC ("Petitioner") for an extension to Petitioner's firm loan commitment deadline. Notice of the Petition was published October 4, 2024, in Volume 50, Number 195, 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.

2. Petitioner successfully applied for funding to assist in the construction of Phoenix Crossings, a 28-unit development located in Flagler County, Florida (the "Development").

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Anne Hamon 10/22/2024

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2022), provides in relevant part:

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> (b) For SAIL 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, which may be automatically extended to the next scheduled meeting of the Board of Directors that is after the twelve (12) month deadline. 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, which may be automatically extended to the next scheduled meeting of the Board of Directors that is after the six (6) month extension deadline, 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 requests a waiver of the above rules for an extension to Petitioner's firm loan commitment deadline. As justification for its request, Petitioner states it had encountered difficulty in procuring general contractors to construct the Development at a feasible price; however, Petitioner engaged the project architect to value engineer the Development, which has produced cost savings but slowed the credit underwriting process. Petitioner further states that environmental reviews and soil borings identified unanticipated conditions on the property, including wetlands requiring public agency delineation and unstable soils inadequate to support the Development. Petitioner has redesigned the site to accommodate the unforeseen conditions and resubmitted plans for permitting. To assist in financing the budget overages, Petitioner has applied to Federal Home Loan Bank of Atlanta under the Affordable Housing Program and received an award of $750,000.

5. 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.

6. The Board also finds that Petitioner has demonstrated that the waiver is needed because it would suffer a substantial hardship if the waiver is not granted.

7. 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 (2022) is hereby **GRANTED** to extend Petitioner's firm loan commitment deadline to May 26, 2025.

DONE and ORDERED this 22nd day of October, 2024.

Florida Housing Finance Corporation

By: _____
Sandra Einhorn, Vice Chair

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.