STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING
FINANCE CORPORATION

RIO POINTE ON FLAGLER, LP,
Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,
Respondent.

CASE NO. 2025-059VW
FHFC Application No. 2024-302SH
RFA: 2024-206

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**PETITION FOR WAIVER OF RULE 67-48.0072(21)(b), FLORIDA ADMINISTRATIVE CODE**

Pursuant to section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, Petitioner Rio Pointe on Flagler, LP, also known as Suwannee Pointe II ("Suwannee II"), submits this Petition to Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of Rule 67-48.0072(21)(b) (2023) which was in effect at the time the Petitioner submitted its application in response to Florida Housing's Request for Applications 2024-206, HOME Financing to Be Used for Rental Developments in Certain Hurricane Idalia Impacted Counties. Suwannee II seeks to extend the time allowed requesting an additional 180 days under the Rule for the issuance of a firm loan commitment from October 30, 2025 to April 28, 2026. In support of this Petition, Suwannee II states:

## A. PETITIONER AND ATTORNEY

1. The name, address, telephone number, and email address for Petitioner is: Rio Pointe on Flagler, LP, 1022 W. 23rd Street, 3rd Floor, Panama City, FL 32405, 850-769-8981, jim.boyd@royalamerican.com. For purposes of this proceeding, the contact information for the Petitioner shall be that of the undersigned counsel.

2. The name, address, telephone number, and email address for Petitioner's attorney is: James A. Boyd, Jr., General Counsel, Royal American Development, Inc., 1022 W. 23rd Street, 3rd Floor, Panama City, FL 32405; 850-769-8981; jim.boyd@royalamerican.com.

The following background information regarding Suwannee II is provided to facilitate staff's preparation of memorandum to the Florida Housing Board of Directors ("Board"):

Development Name: Suwannee Pointe II – located in Suwannee County
Co-Developer, including at least one natural person Principal: Royal American Properties, LLC and RACB Developer, LLC (the co-developers) and Jeannette B. Chapman
County of Development: Suwannee County
Number of Units: 20
Type: Garden Style
Set Asides: 4 units at Low HOME and 16 units at High HOME
Demographics: Family
Funding Amounts: Live Local SAIL - $1,750,000; HOME - $3,520,000

## B. BACKGROUND

3. Florida Housing issued RFA 2024-206 on January 23, 2024. On March 27, 2024, the Florida Housing Board of Directors ("Board") approved final scores and recommendations to fund certain applicants. Staff issued a preliminary commitment letter and invitation to enter credit underwriting to Suwannee II on April 30, 2024. The deadline for the issuance of a firm loan commitment was originally April 30, 2025 but the Board of Directors approved a six-month extension to October 30, 2025 on May 9, 2025 in accordance with Rule 67-48.0072(21)(b).

4. Suwannee II is a planned second phase adding an additional 20 units to Suwannee Pointe (Suwannee I), a 36-unit 9% family development funded pursuant to Florida Housing RFA 2016-110. Suwannee I was developed and built with the anticipation of adding a second phase on the excess land that was acquired as part of the Suwannee I development.

5. The Petitioner has completed all civil and architectural plans, a Development Order has been issued, and vertical permits are ready to be purchased. However, the CUR cannot be finalized until written approval has been obtained from Suwannee I's permanent lender ("NLP") and syndicator ("R4") for the release of collateral – i.e., the property upon which Suwannee II will be built. While initial approval for the release of Suwannee II's property from NLP and R4 was obtained prior to submittal of Suwannee II's application, the negotiations regarding the details of the release have taken longer than initially expected. While Petitioner has received R4's written approval, NLP is still completing its due diligence required to approve the release of collateral. Once NLP's written approval is obtained, it is expected that Suwannee II's CUR will be submitted to the Board's next available meeting to secure a firm loan commitment.

6. Once Suwannee II's firm commitment is issued, the Petitioner is ready to move forward with closing.

7. In accordance with Rule 67-48.0072(21)(b), Florida Administrative Code, the deadline to issue a firm loan commitment may not be extended without a Rule waiver.

8. The requested waiver is permanent in nature.

## C. RULE FROM WHICH WAIVER IS SOUGHT

15. Rule 67-48.0072(21)(b) (2023) provides:

(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 initial 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.

## D. STATUTES IMPLEMENTED BY THE RULE

16. Rule 67-48.0072(21)(b) implements section 420.5087 (State Apartment Incentive Loan Program) and section 420.5089 (HOME Investment Partnership Program and HOME Investment Partnership Fund). All of these programs are part of the Florida Housing Finance Corporation Act, found at sections 420.501-420.517, Florida Statutes. One of the purposes of the Act is "to create new programs to stimulate the construction and substantial rehabilitation of rental housing for eligible persons and families." § 420.502(8), Fla. Stat.

## E. JUSTIFICATION FOR REQUESTED WAIVER

17. Section 120.542(1), Florida Statutes, provides that "[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation." That procedure requires those seeking a variance of, or waiver from, a particular rule to demonstrate that application of the rule would create a substantial hardship or would violate principles of fairness. *Id., §* 120.542(2), Fla. Stat. Petitions for variances and waivers also are required to demonstrate the purposes of the underlying statute will be achieved. *Id.*

18. Petitioner has diligently pursued and achieved all aspects of Suwannee II's development - including development order; permit approval; Florida Housing's release of collateral and R4's approval

of sale of collateral - and is ready to close once NLP's written release of collateral is obtained and a Firm Commitment is issued. Petitioner expects to receive NLP's written release of collateral by December 31, 2025 and will be ready to close once a firm commitment is issued.

19. The issues described above have created a "substantial hardship" for Suwannee II that justifies a waiver of rule 67-48.0072(21)(b). Suwannee II believes an additional extension of 180 days would allow Suwannee II sufficient time to have a firm commitment issued.

20. The requested waiver will not adversely affect any party, including any other party that applied to receive SAIL and HOME funding in the RFA or Florida Housing. A denial of the requested waiver, however, would result in substantial economic hardship to Suwannee II, as it has incurred significant costs to date in an effort to ensure that the proposed development proceeds to completion. Additionally, denial of the waiver would deprive Suwannee County much needed new affordable rental units due to the lasting impact of Hurricane Idalia. If this Petition is not granted, Suwannee II will be unable to close, which would lead to a hurricane ravaged Suwannee County losing desperately needed affordable housing units.

21. The statutes underlying rule 67-48.0072(21)(b) will be served by the approval of Suwannee II's waiver request. One of the statutory goals of the Florida Housing Finance Corporation Act is for proceeds of a SAIL and HOME loan to be used to facilitate the availability of decent, safe, and sanitary housing in Florida to low-income persons and households. § 420.502(4), Fla. Stat. This Act was passed 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 waiver request, Florida Housing would further the goal of increasing the supply of affordable housing units through the construction of new developments.

## F. ACTION REQUESTED

22. For the reasons expressed, Suwannee II respectfully requests that the Florida Housing Board grant the requested waiver of Rule 67-48.0072(21)(b), as the Petitioner has demonstrated a "substantial hardship." Suwannee II is specifically requesting an additional 180 days - up to and including April 28, 2026 – to secure a firm commitment on its SAIL and HOME funding.

Respectfully submitted on November 18, 2025.

*James A. Boyd, Jr.*
James A. Boyd, Jr.
Florida Bar No. 994405
General Counsel
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1022 W. 23rd Street, 3rd Floor
Panama City, FL 32405
Tel: (850)769-8981
Email: jim.boyd@royalamerican.com
Counsel for Petitioner

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition for Waiver is being filed by electronic filing (with a copy by U.S. Mail) with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301 this _18th_ day of November, 2025. The document is also being served on this same day to the Joint Administrative Procedures Committee at joint.admin.procedures@leg.state.fl.us and Room 680, Pepper Building, 111 W. Madison Street, Tallahassee, FL 32399-1400.

*James A. Boyd, Jr.*
James A. Boyd, Jr.