STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Silver Lakes Village
VOA Affordable Housing, LP
_____/

FHFC Case No.: 2022-035VW

ORDER GRANTING WAIVER OF RULES 67-48.0072(4)(c) and (21)(b), FLORIDA ADMINISTRATIVE CODE (2020)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 17, 2022. On June1, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(4)(c) and (21)(b), F.A.C. (6/23/20) (the "Petition") from Silver Lakes Village VOA Affordable Housing, LP (the "Petitioner") to allow Petitioner to extend the firm loan commitment issuance deadline. Notice of the Petition was published on June 2, 2022, in Volume 48, Number 107, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in 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 Elderly Housing Community Loan ("EHCL) funding in RFA 2020-101 to assist in the rehabilitation of a

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/DATE: 6/17/2022

104-unit elderly housing development named Silver Lakes Village Apartments in Orange County, Florida (the "Development").

3. Rule 67-48.0072(4)(c), Fla. Admin. Code (2020), provides:

> (c) For SAIL, EHCL, and HOME, the credit underwriting process must be completed within the time frame outlined in subsection 67-48.0072(21), F.A.C., below and the loan must close within the time frame outlined in subsection 67-48.0072(26), F.A.C., below.

4. Rule 67-48.0072(21)(b), Fla. Admin. Code (2020), in relevant part provides:

> (21) Information required by the Credit Underwriter shall be provided as follows:
>
> ...
>
> (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.

(Emphasis added).

5. Petitioner requests a waiver of the above cited Rules to allow Petitioner to extend the firm loan commitment issuance deadline. Petitioner accepted an invitation to credit underwriting on February 2, 2021, which provided a firm loan commitment issuance deadline of February 2, 2022. At Petitioner's request the firm loan commitment issuance deadline was extended to August 2, 2022 by approval of the Board at the January 22, 2022 meeting. Petitioner now requests an additional six-month extension of the firm loan commitment issuance deadline.

6. Petitioner states that it has worked diligently to move the Development forward. Petitioner states that construction cost and interest rate increases have forced Petitioner to make significant changes to the Development's budget. As a result of those changes, Petitioner asserts that the credit underwriting report will not be available in enough time for consideration at Florida Housing's June 17, 2022 Board meeting. Rule 67-48.0072(21)(a), Fla. Admin. Code (2020) prevents Florida Housing from

issuing the firm loan commitment until after the credit underwriter's recommendation for funding is approved by Florida Housing's Board.

7. Since the final credit underwriting report will not be before the Board prior to the firm loan commitment issuance deadline of August 2, 2022, Petitioner needs the requested extension. Petitioner believes that the credit underwriting report will be considered by the Board at the October 28, 2022 meeting. Petitioner seeks the six-month extension out of an abundance of caution. Petitioner requests the extension of the deadline for issuance of the firm loan commitment from August 2, 2022 to February 2, 2023.

8. Section 120.542(2), Florida Statutes, provides in pertinent part:

> Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

9. 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.

10. 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.

11. 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 a waiver of Rules 67-48.0072(4)(c) and (21)(b), Fla. Admin. Code (2020) is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from August 2, 2022 to February 2, 2023.

DONE and ORDERED this 17th day of June 2022.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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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.