STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Creekside Manor VOA Affordable Housing, LP

FHFC Case No.: 2022-53VW

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ORDER GRANTING WAIVER OF RULE 67-48.0072(26), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on October 28, 2022. On October 10, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(26), F.A.C. (7/11/19) (the "Petition") from Creekside Manor VOA Affordable Housing, LP (the "Petitioner") to allow Petitioner to extend the loan closing deadline on its Elderly Housing Community Loan ("EHCL") funding. Notice of the Petition was published on October 11, 2022, in Volume 48, Number 198, 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.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE 10/28/2022

2. Petitioner successfully applied for EHCL funding in RFA 2019-118 to assist in the rehabilitation of a 92-unit elderly housing development named Creekside Manor in Pinellas County, Florida (the "Development").

3. Rule 67-48.0072(26), Fla. Admin. Code (2019), provides:

> (26) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days 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 120 Calendar Day or 180 Calendar Day period outlined above. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after 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.

4. RFA 2018-119, Exhibit C, Section 4b, provides:

The loan 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 by the specified deadline outlined above shall result in the firm loan commitment 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 half of one percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the 180 Calendar Day period outlined above. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original loan closing deadline. Any such request must be made in writing to the Corporation. **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.**

5. Petitioner requests a waiver of the above cited Rule and RFA provision to allow Petitioner to extend the loan closing deadline for the EHCL loan. The Petitioner's credit underwriting report was approved at the July 30, 2021 Board meeting which provided an initial loan closing deadline of January 31, 2022. On December 10, 2021, at Petitioner's request the Board approved an extension of the EHCL loan closing deadline from January 31, 2022 to May 2, 2022. On April 29, 2022, at Petitioner's request the Board

approved an additional extension of the loan closing deadline to November 2, 2022. Petitioner now requests an additional six-month extension of the loan closing deadline to May 2, 2023.

6. Petitioner states that it has worked diligently to move the Development forward. Petitioner states that the Development is a HUD Section 202 senior project with two project-based Section 8 contracts. In order to close on the property, Petitioner asserts that it needs numerous approvals from HUD. According to Petitioner, it applied for such HUD approval in April of 2021 and has contacted HUD numerous times regarding the approval. Petitioner states that it has no control over whether the HUD approvals will be available in sufficient time to close before the November 2, 2022 deadline. Therefore, Petitioner requests an additional six-month extension of the loan closing deadline to May 2, 2023.

7. Petitioner states that the waiver is necessary because the Development cannot move forward without this funding source. According to Petitioner, denial of the waiver request would cause Pinellas County to lose the benefit of preserving 92 affordable housing units for the elderly.

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 were 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 waiver of Rule 67-48.0072(26), Fla. Admin. Code, and Section 4b, Exhibit C of RFA 2018-119 is hereby **GRANTED** to allow Petitioner to extend its loan closing deadline from November 2, 2022 to May 2, 2023.

DONE and ORDERED this 28th day of October 2022.

FLORIDA HOUSING FINANCE CORPORATION Tallahassee Florida

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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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.