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**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

FLORIDA HOUSING
FINANCE CORPORATION

COCO VISTA COMMUNITY, LTD.,
a Florida Limited Partnership,

Petitioner,

FHFC CASE NO. 2026-012VW
CASE NO.

vs.

FHFC APPLICATION: 2021-320CS; 2024-065C
RFA: 2021-208, 2023-212

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent

PETITION FOR WAIVER OF RULE 67-48.0072(17)(f) (6/23/20)

Petitioner, Coco Vista Community, Ltd., a Florida limited partnership (“Petitioner”) submits its Petition to Respondent Florida Housing Finance Corporation (the “Corporation”) for a waiver of Rule 67-48.0072(17)(f), Florida Administrative Code (the “Rule”). At the time Petitioner submitted its first application, in response to RFA 2021-208, the applicable version of the Rule (effective 6/23/20) prohibited the General Contractor (“GC”) from performing work that is ordinarily performed by subcontractors. By the time Petitioner submitted its second application, in response to RFA 2023-212, the Rule was amended (effective 6/28/23) to provide exceptions to allow the GC to “perform its duties to manage and control the construction of the Development” and to “self-perform work of a de minimis amount,” defined as the “lesser of \$350,000 or 5 percent of the construction contract.” However, RFA 2023-212 expressly provided that “[f]or Applicants that have closed on their Loan Funding, all Corporation funding will be subject to Rule Chapter 67-48, F.A.C., in effect at the time of Original Application,” meaning that Petitioner remained subject to the June 23, 2020 version of the Rule.

The GC misunderstood the Rule and believed it could self-perform up to 5% of the work. As a result, the GC self-performed earthwork, site utilities, and roadwork, sidewalks, and paving amounting to \$885,815 (or 3.54% of the actual construction costs) and is therefore in need of a

Rule waiver. Regardless of the misunderstanding, the GC had no cost-effective option but to self-perform this work because, due to the lack of a qualified local workforce in the Florida Keys, it did not receive any alternate bids for that work. Since the GC is a large sitework contractor in the Keys, and the highest qualified company to perform that scope of work, it would have needlessly increased costs to bring in a non-local site subcontractor.

In support of this request, Petitioner states as follows:

A. THE PETITIONER

1. The name, address, telephone and facsimile numbers, and email address for Petitioner and its qualified representative are:

Coco Vista Community, Ltd.
Attention: Elena Adames
1649 Atlantic Blvd.
Jacksonville, FL 32207
Telephone: 305-216-1894
Facsimile: N/A
E-Mail: eadames@ambarco.com

2. The name, address, telephone and facsimile numbers for Petitioner's attorneys are:

Brian J. McDonough, Esq.
Stearns, Weaver, Miller, Weissler,
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Telephone: (305) 789-3350
Facsimile: (305) 789-3395
E-Mail: bmcdonough@stearnsweaver.com

Bridget Smitha
Stearns, Weaver, Miller, Weissler,
Alhadeff & Sitterson, P.A.
106 E. College Ave. Suite 700
Tallahassee, FL 32301
Telephone: (850)329-4852
Facsimile: (850) 329-4864
E-Mail: bsmitha@stearnsweaver.com

B. THE DEVELOPMENT

3. Petitioner timely submitted application number 2021-320CS in response to RFA 2021-208 (SAIL and Housing Credit Financing for the Construction of Workforce Housing), on April 22, 2021.

4. Petitioner submitted application number 2024-065C in response to RFA 2023-212 (Housing Credit Viability Funding for Developments located in Monroe County that have an Active Award of SAIL Financing and 9 Percent Housing Credits) on August 8, 2023.

5. The housing credits from RFA 2021-208 were returned to Florida Housing in exchange for a new allocation of housing credits under RFA 2023-212.

6. The following information pertains to the development underlying Petitioner's applications (the "Development"):

- Development Name: Coco Vista
- Developers: TVC Development, Inc.
- Address: Coco Plum Dr. NW of intersection of Coco Plum Dr. and Ave. D, Marathon, FL; and Pescayo Ave., SW of intersection of Pescayo Ave. and Coco Plum Dr., Marathon, FL
- County: Monroe
- Number of Units: 109
- Type: new construction (ESS) garden apartments
- Set Asides: 17 units (15.60%) at or below 30% AMI; 37 units (33.94%) at below 60% AMI; 20 units (18.35%) at below 70% AMI; 5 units (4.59%) at or below 80% AMI; 30 units (27.52%) at or below 120% AMI
- Demographics: Workforce
- Funding Amounts: \$5,250,000 in SAIL funding and an annual amount not to exceed \$3,000,000 in 9% Competitive Housing Credits

7. The waiver being sought is permanent in nature.

C. RULE FROM WHICH WAIVER IS SOUGHT

8. Petitioner requests a waiver from Rule 67-48.0072(17)(f), Florida Administrative Code (6/23/20), which provides, in relevant part, as follows:

(17) The General Contractor must meet the following conditions:

...

(f) Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor;

Rule 67-48.0072(17)(f), Florida Administrative Code was made retroactive at the Corporation's April 29, 2022 Board meeting. A Rule waiver is nonetheless required here pursuant to the express terms of RFA 2023-212 ("For Applicants that have closed on their Loan Funding, all Corporation funding will be subject to Rule Chapter 67-48, F.A.C., in effect at the time of Original Application.").

D. STATUTES IMPLEMENTED BY THE RULE

9. The Rule for which a waiver is requested is implementing, among other sections of the Florida Housing Finance Corporation Act (the "Act"), the statute that created the SAIL loan program (*See* Section 420.5087, Florida Statutes), the statute that created the HOME Investment Partnership Program; HOME Investment Partnership Fund (*See* Section 420.5089), and the statute that designated the Corporation as the housing credit agency responsible for the allocation and administration of Low-Income Housing Tax Credits (*See* Section 420.5099, Florida Statutes).

E. JUSTIFICATION FOR WAIVER

10. Under Section 120.542(1), Florida Statutes, and Chapter 28-104, F.A.C., the Corporation has the authority to grant waivers to its rule requirements when strict application of these rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers must be granted when: (1) the person who is subject to the rule demonstrates that the application of the rule would create a substantial hardship or violate principles of fairness,

and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. *See* Section 120.542(2), Florida Statutes.

11. Petitioner respectfully requests a Rule waiver because the GC self-performed earthwork, site utilities, and roadwork, sidewalks, and paving amounting to \$885,815 (or 3.54% of the actual construction costs) (the “Sitework”). A draft GCCC was provided to Corporation staff in conjunction with this Petition.

12. Petitioner’s principals have been involved with several affordable housing projects in Monroe County that were large enough to absorb the cost of out-of-town laborers into the developments’ total costs. Since that time, construction costs in the Keys have risen sharply, making utilization of a local general contractor and local workforce imperative. Accordingly, Petitioner hired Charley Toppino & Sons, Inc. (“Toppino”) to serve as the Development’s GC. Toppino is one of the largest local general contractors in the Keys and large enough to be able to bond a project of that size. Toppino is also a large sitework contractor. Thus, when Toppino did not receive any alternate bids for the Sitework, Toppino had no viable option other than to self-perform that work. As the highest qualified company for the Sitework, it was not cost effective to bring in a site subcontractor from out of town and pay for the associated housing costs – especially when housing costs in the Keys are disproportionately high.

13. Because finding subcontractors and qualified laborers in the Florida Keys is so challenging, Petitioner had no real option other than to self-perform the Sitework. The GC also mistakenly believed that the Rule permitted it to self-perform this de minimis amount.

14. If the Petition is denied, and Petitioner was required to use an out-of-town subcontractor for the Sitework, it would suffer a substantial hardship. For example, using non-local laborers for The Quarry I and The Quarry II caused delays of approximately 75 days, which

resulted in a loss of rents and equity. Similar delays and losses would presumably occur if Petitioner was required to use a non-local subcontractor.

15. A denial would also result in substantial economic hardship to Petitioner. Specifically, failure to satisfy the technical requirements of the Rule would result in rescission of: (a) FHFC's allocation of SAIL funds, and (b) allocation of housing credits awarded to the Development. Because the Development could not be completed without this funding, Petitioner would lose the costs it has already incurred to date. Moreover, it would deprive Monroe County of essential affordable rental units set aside for persons of limited means who desperately need the housing, as well as other amenities and services which the Development would offer.

16. In contrast, the requested waiver will not adversely affect the Corporation, the Development, or any other applicant.

17. A waiver of the Rule would serve the purposes of Section 420.5099, Florida Statutes, and the Act as a whole, because one of the Act's primary purposes is to facilitate the availability of decent, safe, and sanitary housing in Florida to households of limited means.

18. Should the Corporation require additional information, a representative of Petitioner is available to answer questions and to provide all information necessary for consideration of this Petition.

F. RELIEF REQUESTED

WHEREFORE, Petitioner Coco Vista Community, Ltd., respectfully requests that the Corporation:

- a. Grant Petitioner a waiver from Rule 67-48.0072(17)(f), Florida Administrative Code such that its General Contractor may self-perform work normally performed by a subcontractor in an amount totaling approximately 3.54% (*i.e.*, \$885,815) of the actual construction costs.
- b. Grant the Petition and all the relief requested therein; and
- c. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.

Counsel for Petitioner

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Miami, Florida 33131

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By: s/ Brian J. McDonough
BRIAN J. MCDONOUGH, ESQ.

CERTIFICATE OF SERVICE

The Petition is being served via e-mail for filing with the Corporation Clerk for the Florida Housing Finance Corporation, CorporationClerk@FloridaHousing.org, with copies served by U.S. Mail on the Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 West Madison Street, Tallahassee, Florida 32399-1400, this 25th of February, 2026.

s/ Brian J. McDonough
BRIAN J. MCDONOUGH, ESQ.