STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Timbers Preservation, LP FHFC Case No.: 2024-062VW

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ORDER GRANTING WAIVER OF RULE 67-48.002(96), FLA. ADMIN. CODE (2019) AND A PORTION OF THE 2019 QUALIFIED ALLOCATION PLAN

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 4, 2024, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.002(96) (2019) and 2019 Qualified Allocation Plan (the "Petition") from Timbers Preservation, LP ("Petitioner") to allow Petitioner to make a tax credit exchange. Notice of the Petition was published October 7, 2024, in Volume 50, Number 196, 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.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
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2. Petitioner successfully applied for funding to assist in the acquisition and preservation of Timbers Apartments, a 32-unit development located in Dixie County, Florida (the "Development").

3. Rule 67-48.002(96), Fla. Admin. Code (2019), incorporates by reference the 2019 Qualified Allocation Plan ("QAP"), which, at Subsection II.K, provides in relevant part:

> K. Notwithstanding any other provision of this QAP, where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and such failure is due to circumstances beyond the Applicant's control, and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which the Development was otherwise required to be placed in service pursuant to Section 42 of the 67-48.002(96), F.A.C. IRC, provided the following conditions have been met: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs.

4. Petitioner requests a waiver of the above rule and QAP to exchange its current tax credits for a later allocation (not to exceed the amount of the credits returned) and the issuance of a new Carryover Agreement allocating the credits to Petitioner with a new placed-in-service deadline of December 31, 2026. As justification for its request, Petitioner states that it is unable to comply with the current deadlines because of the cumulative effects of the following:

a. The Petitioner applied in RFA 2019-115, which required that the Development Category consist of Preservation or Acquisition and Preservation; the Petitioner met this requirement and provided a Development Category Qualification Letter from RD reflecting that 31 units were receiving and would continue to receive RD Rental Assistance. In addition, the Petitioner reflected that it would assume an existing RD515 loan provided by the United States Rural Development Administration ("RD"). Petitioner states that beginning in 2020, RD began a nationwide reorganization that greatly reduced RD's ability to process Petitioner's requests. Petitioner notes that this was further exacerbated by the COVID-19 pandemic, during which RD effectively shut down. RD has recently processed Petitioner's loan assumption

request and issued its letter of conditions on March 4, 2024, approving the loan transfer.

b. Due to the long delays in RD processing, Petitioner states that its original financial partners and lenders withdrew from the deal. Petitioner states that it has worked diligently to obtain new financing, but the process took several additional months. Petitioner has now agreed to terms with a new partner and lenders.

5. Petitioner initially stated that it anticipated closing on the construction financing and the partnership no later than October 31, 2024. On October 8, 2024, Petitioner confirmed with staff that a closing date has been set for November 11, 2024. However, closing cannot occur unless the placed-in-service deadline and other deadlines are extended.

6. 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.

7. 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.

8. 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 67-48.002(96), Fla. Admin. Code (2019), and the referenced portion of the 2019 Qualified Allocation Plan is hereby **GRANTED** to allow Petitioner to return its current housing credit allocation and receive an allocation of 2024 housing credits on the condition that the Principals of the Petitioner's Applicant and Developer entities, or their Affiliates, will not be awarded any competitive funding from the Corporation until the Petitioner closes on the limited partnership agreement or limited liability company operating agreement, as applicable and provides a copy of the recorded Notice of Commencement from the Official Records of the applicable jurisdiction(s) for the Development. If Petitioner does not close on the limited partnership agreement or limited liability company operating agreement, as applicable, or provide a copy of the recorded Notice of Commencement but instead returns the housing credits to the Corporation, the Principals of the Petitioner's Applicant and Developer entities would be permitted to participate in the next year's competitive RFA cycle.

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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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.