STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Culmer Apartments, Ltd. FHFC Case No.: 2023-025VW

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ORDER GRANTING WAIVER OF
RULE 67-48.0072(4)(c) and (26) (2019)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on March 10, 2023. On February 21, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Florida Administrative Code Rules 67-48.0072(4)(c) and (26) (the "Petition") from Culmer Apartments, Ltd. (the "Petitioner") requesting an extension Petitioner's Sail, ELI, and NHTF loan closing deadline. Notice of the Petition was published on February 23, 2023, in Volume 49, Number 37, 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
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/DATE: 3/10/2023

2. Petitioner successfully applied for funding to assist in the construction of the Culmer Apartments, a 239-unit development located in Miami-Dade County, Florida (the "Development").

3. Rule 67-48.0072(4), Fla. Admin. Code (2019), in relevant part, provides:

> 4) If the invitation to enter credit underwriting is accepted:
>
> ...
>
> (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(26), Fla. Admin. Code (2019), in relevant part, provides:

> 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.

5. Petitioner requests a waiver of the above rules to extend its loan closing deadlines. Under the above rules, Petitioner was initially granted two extensions which extended the firm loan commitment deadline to July 14, 2022. On June 20, 2022, Petitioner was issued a firm loan commitment for the SAIL, ELI, and NHTF loans giving a loan closing deadline of December 22, 2022.

6. On September 22, 2022, Petitioner was issued an updated firm loan commitment that included a proposed increase to MMRB and SAIL funding increases through the CHIRP program. On January 27, 2023, Petitioner was granted a loan closing deadline extension to March 22, 2023. Petitioner now requests an additional six-month extension to September 22, 2023.

7. As grounds for this current request, Petitioner asserts it has experienced significant delays in the HUD 221(d)(4) financing review process, the HUD Environmental Review, the State Historic Preservation architectural review, and the Rental Assistance Demonstration program. Petitioner reports that it is working diligently with the aforementioned entities, however, Petitioner states that, under the present circumstances, it seems unlikely that Petitioner will ultimately close its HUD financing by that date.

8. 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.

9. 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.

10. 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 Rule 67-48.0072(4)(c) and 67-48.0072(26), Fla. Admin. Code

(2019), is hereby **GRANTED** to extend Petitioner's loan closing deadline from March 22, 2023, to September 22, 2023.

DONE and ORDERED this 10th day of March 2023.

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.