STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Innovare, LP FHFC CASE NO.: 2020-062VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.004(3)(g)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on October 16, 2020, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on September 28, 2020, from Innovare, LP ("Petitioner"). Notice of the Petition was published on September 30, 2020, in Volume 46, Number 191, of the Florida Administrative Register. No public comments regarding the petition have been received. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Petitioner was selected to receive SAIL/ELI funding and 9% housing tax credits under Request for Applications (RFA) 2020-103, to assist in the construction of a Development serving homeless households and persons with special needs in Pinellas County, Florida.

3. Rule 67-48.004(3)(g), Fla. Admin. Code, provides:

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 10/16/2020

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

* * *

(g) Development Type. . . .

4. In its Application for funding under the RFA, Petitioner selected the Development Type of "Garden Apartments." Petitioner originally intended to construct two apartment buildings, a three-story building and a four-story building, housing 50 units with residential units on the ground floor of both buildings. Petitioner now alleges that the St. Petersburg Innovation District requires that retail, office or amenity space comprise a majority of the ground floors.

5. To accommodate this requirement, Petitioner proposes to amend its application to change its development type to two five-story mid-rise buildings containing 51units (Florida Housing staff approved a request to increase the unit count to 51 units on September 22, 2020) and reserving the majority of the ground floor for a community room and office space. Had Petitioner selected Mid-Rise 5-6 stories in its Application, the ultimate outcome of which applications were selected for funding would not have been affected.

6. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

7. Section 120.542(2), Fla. Stat. 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.

8. Petitioner has demonstrated that the waiver is needed in order to efficiently serve homeless persons and persons with special needs. Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

9. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-48.004(3)(g), Fla. Admin. Code, is hereby **GRANTED** to permit Petitioner to change its Development Type from "Garden Apartments" to "Mid-Rise 5-6 Stories" and to allow Petitioner to use the Total Development Cost Per Unit limitation for the Development of "Mid-Rise 5-6 Stories" excluding the portion allocated to the maximum (16%) developer fee which shall stay at the "Garden Apartments" limit.

DONE and ORDERED this 16th day of October, 2020.

Florida Housing Finance Corporation

By: _____
Chair

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.