STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: SANDCASTLES FOUNDATION INC. FHFC Case No.: 2023-035VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.0072(26) FLORIDA ADMINISTRATIVE CODE (2021)

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 17, 2023, Florida Housing received a Petition for Waiver of Rule 67-48.0072(26), Florida Administrative Code (the "Petition") from Sandcastles Foundation, Inc. (the "Petitioner") to allow Petitioner to extend the loan closing deadline. Notice of the Petition was published on February 20, 2023, in Volume 49, Number 35, 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.

2. Petitioner successfully applied for HOME funding in RFA 2020-206 to assist in the construction of Sandcastle Pines in Bradford County, Florida (the "Development").

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/s/ Jamoris DATE: 6/12/2023

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

> For SAIL 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). These deadlines may be automatically extended to the next scheduled meeting of the Board of Directors that is after the 120 or 180 Calendar Days deadline, as applicable. 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, which may be automatically extended to the next scheduled meeting of the Board of Directors that is after the 90 Calendar Day extension deadline. 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. Petitioner requests a waiver of the above-cited Rule to allow Petitioner to extend the loan closing deadline. After the January 22, 2021,

Board meeting which approved Petitioner's application for funding, Petitioner accepted an invitation to credit underwriting, which provided a deadline of March 29, 2022 for the completion of the credit underwriting report and firm loan commitment issuance.

5. On March 4, 2022, the Board approved the credit underwriting report with a positive recommendation for HOME funding in the amount of $5,826,000 and a Viability Laon of $186,042.33, which were scheduled to close by July 8, 2022.

6. On July 21, 2022, Petitioner requested a 90-day extension of the loan closing deadline to October 6, 2022 and notified Florida Housing that Petitioner needed to seek additional funding due to significant increases in construction costs. On August 5, 2022, the Board approved the 90-day extension of the loan closing deadline. On September 23, 2022, Florida housing issued Petitioner a revised firm loan commitment for HOME funding of $5,826,000 and increased the Viability Loan to $1,000,000, both of which were scheduled to close by October 7, 2022.

7. During this same time period, it worked with officials from the City of Starke to acquire all necessary approvals, at which time it was determined that a zoning map amendment was required. The zoning map amendment was approved on September 19, 2022, by the Starke City

Commission. On October 4, 2022, during the second reading of the zoning map amendment, the City of Starke denied the request because of citizen concerns. Petitioner has worked with City staff to address the concerns.

9. On October 12, 2022, Petitioner filed a waiver with Florida Housing to address the citizen concerns by reducing the number of units from 25 to 21, reducing the loan amount, and allowing for an extension of the closing date. On October 28, 2022, the Board granted the requests including extending the loan closing deadline from October 7, 2022 to February 6, 2023.

10. Petitioner submitted the updated Site Plan to the City of Starke on November 16, 2022. The City's technical review was completed on February 2, 2023. According to Petitioner, the City stated that its engineering firm needed multiple items to complete its review. Petitioner provided those items and was placed on the March 21, 2023 meeting of the Starke City Council.

11. On February 10, 2023 Petitioner filed a petition for waiver requesting an extension of the loan closing deadline due to the aforementioned issues. On March 10, 2023, the Board granted the petition and extended the firm loan commitment issuance deadline from February 6, 2023 to May 8, 2023.

12. At the March 21, 2023, Starke City Commission meeting, a quasi-judicial hearing was commenced to determine if the proposed site plan meets the requirements in the land development code. Four homeowners raised concerns regarding possible traffic impacts and potential flooding. Petitioner states that it presented two traffic studies which demonstrated that any traffic impacts met the level of service required by the City's land development code and that the requirements imposed on Petitioner by the North Florida Water Management District will improve the flooding issues previously experienced by the homeowners. The matter was bifurcated and reconvened on April 4, 2023. During that reconvened meeting, the City denied Petitioner's application by a vote of 3 to 2 and raised new issues regarding placement of sidewalks and possible elimination of the community center.

13. On April 27, 2023, Petitioner refiled the application with the City Commission and made the requested modifications. At the time of filing this Petition, Petitioner anticipates being placed on the City Commission agenda for a May 16, 2023 meeting. In the interim, Petitioner advises that it is scheduling meeting with individual commissioners.

14. After the filing of the Petition, Petitioner informed Florida Housing that the matter was not placed the May 16, 2023 City Commission

meeting. Representatives of Petitioner attended that meeting to provide information regarding the proposed Development. Petitioner is working diligently to have the matter heard, however, at the time of this write-up, it is not known if the matter will be placed on the agenda for approval at the next City Commission meeting on June 6, 2023.

15. 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.

16. 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.

17. 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.

18. 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, is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from May 8, 2023 to August 7, 2023.

DONE and ORDERED this 9th day of June 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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.