STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Citadelle Village, LLC FHFC Case No.: 2021-097VW

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ORDER GRANTING WAIVER FROM RULE 67-48.0072(21)(b), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 10, 2021. On November 22, 2021, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b), Florida Administrative Code (the "Petition") from Miami Citadelle Village, LLC. (the "Petitioner") to allow Petitioner to extend the firm loan commitment issuance deadline. Notice of the Petition was published on November 23, 2021, in Volume 47, Number 227, 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 State Apartment Incentive Loan ("SAIL") funding, Extremely Low Income ("ELI") funding, non-competitive housing credits, and Multifamily Mortgage Revenue Bonds ("MMRB") in

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RFA 2017-108 to assist in the construction of a 96-unit affordable housing development named Citadelle Village to be located in Miami-Dade County, Florida (the "Development").

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (2017), in relevant part provides:

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> ...
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> (b) For SAIL, EHCL, and HOME that is not in conjunction with competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Corporation shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

Emphasis added.

4. Petitioner requests a waiver of the above cited Rule to allow Petitioner to extend the firm loan commitment issuance deadline. Petitioner accepted an invitation to credit underwriting on May 4, 2018, which provided a firm loan commitment issuance deadline of February 4, 2019.

5. At Petitioner's request the firm loan commitment issuance deadline was extended to August 4, 2019. In August of 2019, this Board granted a petition to extend Petitioner's firm loan commitment issuance deadline to January 31, 2020. In January of 2020, this Board granted Petitioner's petition to extend the firm loan commitment issuance deadline to July 31, 2020. The Board approved a third petition in July of 2020 to extend Petitioner's firm loan commitment issuance deadline to January 31, 2021. The Board approved a fourth petition in January of 2021, to further extend Petitioner's firm loan commitment issuance deadline to July 31, 2021. In July of 2021, the Board approved a fifth petition to extend Petitioner's firm loan commitment issuance deadline to December 31, 2021. Petitioner now requests an additional 180-day firm loan commitment extension.

6. Petitioner states that several obstacles have prevented it from obtaining a firm loan commitment. Due to increased construction costs, Petitioner had to significantly revise hard cost estimates which resulted in an

increase of over $4,000,000. In an effort to address the cost increases, Petitioner sought financing from other sources include Miami-Dade Surtax funding and a new set aside Miami-Dade General Obligation ("GOB") fund specifically for affordable housing in the Little Haiti area of Miami. In addition to the $1,000,000 of funding from Miami-Dade as stated in the application, Miami-Dade has awarded an additional $2,400,000 to the Development. Petitioner states that the GOB fund has been delayed due to the COVID-19 Pandemic, but Petitioner expects to receive the final tranche of GOB funding once the allocation process reopens.

7. On October 29, 2021, the Housing and Commercial Loan Committee for the City of Miami approved Petitioner's request for $3,000,000 of GOB funds. Petitioner anticipates a final approval by the City within the next 30 days. According to Petitioner, the Director of the Miami Dade Public Housing Authority is willing to commit 25 Project Based Vouchers to Petitioner if this waiver is granted. Petitioner asserts that with the additional funding and the vouchers, it can now move forward to a firm commitment.

8. 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.

9. 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.

10. 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.

11. 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(21)(b), Fla. Admin. Code (2017), is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from December 31, 2021 to June 30, 2022.

DONE and ORDERED this 10th day of December 2021.

FLORIDA HOUSING FINANCE CORPORATION Tallahassee Florida

Florida Housing Finance Corporation

By: _____
Chairperson

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.