STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: LIBERTY SQUARE PHASE FOUR, LLC

FHFC CASE NO.: 2022-016VW

_____/

ORDER GRANTING WAIVER OF 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 on March 4, 2022, pursuant to a "Petition for Waiver of Rule 67-48.0072(21)(b), F.A.C. (7/11/19)" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on February 14, 2022, from Liberty Square Phase Four, LLC (the "Petitioner"). Notice of the Petition was published on February 15, 2022, in Volume 48, Number 31, of the Florida Administrative Register. Florida Housing has received no comments concerning the Petition. 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 successfully applied for funding under RFA 2020-208 – SAIL and Housing Credit Financing for the Construction of Workforce Housing.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Ann McAlamoy /DATE 3/4/2022

3. Rule 67-48.0072(21)(b), Fla. Admin. Code (Rev. 7-11-19) (the "Rule"), states in relevant part:

> For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within twelve (12) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve 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 twelve (12) month deadline is approved. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original twelve (12) month deadline. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

4. Petitioner requests a waiver of the above Rule to extend the firm loan commitment deadline from April 26, 2022 to October 26, 2022 (six months).

5. Petitioner entered Credit Underwriting in October 2020 and subsequently requested and paid the required fee for a six-month extension as

provided by the Rule. The Board granted this request in June 2021, extending the deadline to April 26, 2022.

6. Despite working closely with the Housing Finance Authority of Miami-Dade County (MDHFA) to finalize the Credit Underwriting report, MDHFA required revisions to address the relocation of public housing residents to the Development, as well as related design changes.

7. While Petitioner believes the Credit Underwriting report will be approved by Florida Housing's Board on June 17, 2022, the firm commitment loan deadline will expire prior to this Board meeting, and the Corporation cannot issue a firm loan commitment until the Credit Underwriting report is approved. Petitioner therefore requests a waiver of the Rule to extend the firm loan commitment deadline beyond the June meeting of the Board.

8. 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.

9. 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.

10. Petitioner has demonstrated that the waiver is needed to avoid substantial hardship and 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.

11. 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 67-48.0072(21)(b), Fla. Admin. Code (Rev. 7-11-19) is hereby **GRANTED** to extend the firm loan commitment deadline from April 26, 2022 to October 26, 2022.

DONE and ORDERED this 4th day of March, 2022.

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.