STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: CITADELLE VILLAGE, LLC FHFC Case No.: 2021-001VW

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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 January 22, 2021. On January 6, 20201 Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b), Florida Administrative Code (the "Petition). Notice of the Petition was published on January 7, 2021, in Volume 47, Number 04, 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 State Apartment Incentive Loan ("SAIL") and Extremely Low Income ("ELI") funding under Request for Applications 2017-108 (the "RFA"), to assist in the construction of a

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Development serving low-income families in Miami-Dade County, Florida (the "Development").

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

> (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.

4. Petitioner was invited to credit underwriting on May 4, 2018 and received a 6-month extension of firm loan commitment issuance deadline to August 4, 2019. On August 2, 2019, the Board granted Petitioner's waiver request and extended the deadline to January 31, 2020.

5. On January 23, 2020, the Board granted Petitioner's second waiver request and extended the deadline to July 31, 2020. On July 17, 2020, the Board granted Petitioner's third waiver request and extended the deadline to January 31, 2021. Petitioner asserts that it needs an additionally 180-day extension of time to obtain a firm loan commitment up to and including July 31, 2021.

6. Petitioner alleges that increased construction costs and difficulty in obtaining hard cost pricing from subcontractors have required Petitioner to significantly revise hard cost estimates, resulting in an increase of over $4,000,000.

7. In an effort to address the cost increases, Petitioner states that it is pursuing financing from several local government sources including Miami-Dade Surtax Funding and a new set-aside fund to be used for affordable housing in the Little Haiti area of Miami.

8. According to Petitioner, it has received confirmation that the Development's Surtax application is recommended for full funding, but the funding commitment has not been issued yet. Petitioner also alleges that additional funding from the new General Obligation Fund Affordable Housing ("GOB") set-aside fund, that was previously awarded, has been put

on hold due to the Covid-19 pandemic. Petitioner anticipates a firm commitment of the GOB funds from the City of Miami by the end of March.

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. The Board finds that granting the requested waiver would not impact other participants in funding programs administered by Florida Housing, nor would it detrimentally impact Florida Housing.

11. 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.

12. 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" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

IT IS THEREFORE ORDERED: Petitioner's request for a waiver of 48.0072(21)(b), Fla. Admin. Code (2017) is hereby **GRANTED** so that the firm loan commitment deadline may be extended from January 31, 2021 to July 31, 2021.

DONE and ORDERED this 22nd day of January 2021.

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.