**STATE OF FLORIDA**
**FLORIDA HOUSING FINANCE CORPORATION**

In Re: Country Club Magnolia Family, LP.

FHFC Case No.: 2021-090VW

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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 18, 2021, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.0072(21)(b) (the "Petition") to allow Petitioner to extend the firm loan commitment issuance deadline from Country Club Magnolia Family, LP (the "Petitioner"). Notice of the Petition was published on November 19, 2021, in Volume 47, Number 225, 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") funding, Extremely Low Income ("ELI") funding, and non-

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
Ann McManus 12/13/2021
DATE

competitive housing credits in RFA 2019-116 to assist in the construction of a 130-unit affordable housing development named Magnolia Family to be located in Leon County, Florida (the "Development").

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

> (21) Information required by the Credit Underwriter shall be provided as follows:
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> ...
>
> (b) 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.

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 July 22, 2020. Petitioner initially had a firm loan commitment issuance deadline of July 22, 2021, which was later extended by the Board at Petitioner's request to January 22, 2022. Petitioner states that while attempting to meet the January 22, 2022 deadline, it has encountered several issues outside of its control that have caused delay.

5. Specifically, over the past year Covid constraints have caused delays that have impacted the construction industry. Increases to construction costs have drastically impacted the ability to accurately price raw materials construction and firmly hire a contractor for a fair and equitable price on a national scale. According to Petitioner, the increases in costs of construction has impacted and delayed Petitioner's ability to finalize its price estimates, and lock in a firm construction bid. Petitioner also states that Covid constraints have caused delays in almost every aspect of the Development which have then caused delay in Petitioner's ability to produce its due diligence necessary to receive its firm commitment. Due to those delays, it is

unable to get its credit underwriting report finalized which is required prior to the firm loan commitment.

6. In spite of the delays, Petitioner states that it has worked diligently to complete the necessary due diligence items needed to receive its firm loan commitment. Petitioner is in the middle of satisfying the requirements of its HUD Environmental Part 58 Review and National Housing Trust Fund environmental review. Petitioner has been working diligently with the City of Tallahassee and expects to close within the first quarter of 2022.

7. 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.

8. 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.

9. 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.

10. 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 is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from January 22, 2022 to July 22, 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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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.**