STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Tupelo Park, LP FHFC CASE NO.: 2021-038VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.0072(21)(b)

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on June 18, 2021, pursuant to a "Petition for Waiver" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on June 2, 2021, from Tupelo Park, LP ("Petitioner"). Notice of the Petition was published on June 3, 2021, in Volume 47, Number 107, 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 was selected to receive HOME funding in conjunction with Multifamily Mortgage Revenue Bonds under Request for Applications (RFA) 2019-109, HOME Financing to be used for Rental Developments in Hurricane Michael Impacted Counties and in Rural Areas, to assist in the construction of a Development serving low-income families in Bay County, Florida.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 6/18/2021

3. Rule 67-48.0072(21), Fla. Admin. Code (2018), provides in relevant part:

> (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 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.

4. Petitioner's deadline to finalize credit underwriting and receive a final loan commitment was June 28, 2020. On April 17, 2020, the Board granted Petitioner's request and extended the deadline to December 28, 2020. On December 4, 2020, the Board granted Petitioner's second request and extended the deadline to June 28, 2021.

5. Petitioner alleges that its contractor has increased the construction cost estimate by almost $3 million over the past eight months, and that Petitioner has therefore entered into negotiations with another contractor who will be submitting a cost estimate in June of 2021. If Petitioner decides to hire the alternative contractor, the credit underwriter will need additional time to review the executed construction contract. In such a case Petitioner will be unable to have an executed construction contract in time for the credit underwriting report to be completed before the June

18, 2021 Board meeting, and therefore will be unable to meet the firm loan commitment deadline of June 28, 2021.

6. 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.

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. Petitioner has demonstrated that the waiver is needed in order to efficiently serve low-income families. 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.

9. 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 (2018), is hereby **GRANTED** so that the firm loan commitment deadline may be extended from June 28, 2021 to December 28, 2021.

DONE and ORDERED this 18th day of June, 2021.

Florida Housing Finance Corporation

By: _____
Chair

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.