STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING FINANCE CORPORATION

CASE NO. 2021-097VW

CITADELLE VILLAGE, LLC,

Petitioner,

vs.

FHFC Application No. 2018-033BS
REQUEST FOR APPLICATIONS: 2017-108

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

PETITION FOR WAIVER OF RULE 67-48.0072(21)(b), FLORIDA ADMINISTRATIVE CODE

Pursuant to section 120.542, Florida Statutes, and rule 28-104.002, Florida Administrative Code, Petitioner Citadelle Village, LLC ("Citadelle") submits this Petition to Respondent Florida Housing Finance Corporation ("Florida Housing") for a waiver of rule 67-48.0072(21)(b) (2017), which was in effect at the time the Petitioner submitted its application in response to Florida Housing's Request for Applications 2017-108, SAIL Financing of Affordable Multifamily Housing Developments to be used in conjunction with Tax-Exempt Bond Financing and Non-Competitive Housing Credits (the "RFA"). Citadelle Village seeks to extend the time allowed under the rule for the issuance of a firm loan commitment. In support of this Petition, Citadelle Village states:

A. PETITIONER AND ATTORNEY

1. The name, address, telephone number, and email address for Petitioner is: Citadelle Village, LLC, 1022 W. 23rd Street, 3rd Floor, Panama City, FL 32405, 850-769-8981,

jim.boyd@royalamerican.com. For purposes of this proceeding, the contact information for Petitioner shall be that of the undersigned counsel.

2. The name, address, telephone number, and email address for Petitioner's attorney is: James A. Boyd, Jr., General Counsel, Royal American Development, Inc., 1022 W. 23rd Street, 3rd Floor, Panama City, FL 32405; 850-769-8981; jim.boyd@royalamerican.com.

B. BACKGROUND

3. Florida Housing issued the RFA on August 31, 2017. On December 8, 2017, the Florida Housing Board of Directors ("Board") approved recommendations to fund certain Applicants. Following litigation, the Board on May 4, 2018, approved a Final Order that resolved all pending litigation, which allowed staff to proceed with all necessary credit underwriting activities. Staff issued a preliminary commitment letter and invitation to enter credit underwriting to Citadelle Village.

4. In accordance with rule 67-48.0072(21)(b), Florida Administrative Code, the preliminary commitment letter to Citadelle Village stated that the firm loan commitment must be issued within nine months of the acceptance to enter credit underwriting. The acceptance was acknowledged on May 4, 2018, which gave Citadelle Village a firm loan commitment issuance deadline of February 4, 2019.

The following background information regarding Citadelle Village is provided to facilitate staff's preparation of memorandum to the Florida Housing Board of Directors ("Board"):

- Development Name: Citadelle Village – Located in the Little Haiti area of Miami
- Developer, including at least one natural person Principal: Citadelle Village Developer, LLC.
- Jeannette B. Chapman
- County of Development: Miami-Dade
- Number of Units: 96
- Type: High Rise
- Set Asides: 10% at 28% AMI; 90% at 60% AMI
- Demographics: Family
- Funding Amounts: SAIL - $3,600,000; ELI - $600,000; Annual 4% Housing Credits - $754,301; and MMRB - $12,050,000

5. Rule 67-48.0072(21)(b) allows Applicants to ask for one extension of up to six months to secure a firm loan commitment. On January 4, 2019, Florida Housing received an extension request from Citadelle Village to extend the firm loan commitment issuance deadline to August 4, 2019. The letter cited rising construction cost creating a gap in funding projections. Based on the staff recommendation that the extension request was in compliance with the RFA, the Board approved the request at its Board meeting on February 1, 2019. *See* Consent Agenda, p. 39, Board Agenda, February 1, 2019. Citadelle Village paid a non-refundable extension fee of one percent of the loan amount after approval of the extension, as required by rule 67-48.0072(21)(b). On July 17, 2019 Florida Housing Finance Corporation received a Petition from Citadelle Village, LLC. Notice of the Petition was published on July 18, 2019 with no comments regarding the petition. After review from the corporation the request was approved by the Board of Directors extending the date to January 31, 2020.

6. On January 7, 2020 Florida Housing Finance Corporation received a second extension request Petition from Citadelle Village, LLC. Notice of the Petition was published on January 8, 2020 with no comments regarding the petition. After review from the corporation the request was approved by the Board of Directors extending the date to July 31, 2020.

7. On July 1, 2020 Florida Housing Finance Corporation received a third extension request Petition from Citadelle Village, LLC. Notice of the Petition was published on July 2, 2020 with no comments regarding the petition. After review from the corporation, the request was approved by the Board of Directors extending the date to January 31, 2021.

8. On January 6, 2021 Florida Housing Finance Corporation received a fourth extension request Petition from Citadelle Village, LLC. Notice of the Petition was published on January 7, 2021 with no comments regarding the petition. After review from the corporation, the request was approved by the Board of Directors extending the date to July 31, 2021.

9. On July 14, 2021 Florida Housing Finance Corporation received a fifth extension request Amended Petition from Citadelle Village, LLC. Notice of the Amended Petition was published July 15, 2021 with no comments regarding the petition. After review from the corporation, the request was approved by the Board of Directors extending the date to December 31, 2021.

10. Citadelle Village is in need of a an additional 180-day extension of the time to obtain a firm loan commitment, up to and including June 30, 2022, for the reasons discussed below. Because rule 67-48.0072(21)(b) allows only one six-month extension of up to six months to secure a firm loan commitment, which has already been approved, an additional rule waiver is now required and is requested through this Petition.

11. The requested waiver is permanent in nature.

C. RULE FROM WHICH WAIVER IS SOUGHT

12. Rule 67-48.0072(21)(b) (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 he 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 supplied).

D. STATUTES IMPLEMENTED BY THE RULE

13. Rule 67-48.0072(21)(b) implements section 420.5087 (State Apartment Incentive Loan Program), section 420.5089 (HOME Investment Partnership Program and HOME Investment Partnership Fund), and section 420.5099 (allocation of the low-income housing tax credit program). All of these programs are part of the Florida Housing Finance Corporation Act, found at sections 420.501-420.517, Florida Statutes. One of the purposes of the Act is "to create new programs to stimulate the construction and substantial rehabilitation of rental housing for eligible persons and families." § 420.502(8), Fla. Stat.

E. JUSTIFICATION FOR REQUESTED WAIVER

14. Section 120.542(1), Florida Statutes, provides that "[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation." That procedure requires those seeking a variance of, or waiver from, a particular rule to demonstrate that application of the rule would create a substantial hardship or would violate principles of fairness. *Id., §* 120.542(2), Fla. Stat. Petitions for variances and waivers also are required to demonstrate the purposes of the underlying statute will be achieved. *Id.*

15. Several obstacles have prevented Citadelle Village from obtaining a firm loan commitment. Due to a variety of market conditions and the Covid-19 Pandemic, construction costs have increased across all trades. Due to these increased costs, Citadelle has to significantly revise hard cost estimates, resulting in an increase of over $4,000,000, approximately 20% over similar costs just three years ago. Despite these increases, Citadelle is still within the Total Development cost per Unit Limitation described in pages 67-68 of the RFA.

16. In an effort to address the significant cost increases facing the project, Citadelle Village is pursuing financing from several local government sources including Miami-Dade Surtax Funding and a new City of Miami set-aside GOB fund to be used for affordable housing in the Little Haiti area of Miami. In addition to the $1,000,000 in County Surtax Citadelle was initially awarded as part of its FHFC application, Miami-Dade County has awarded an additional commitment of $2,400,000 to Citadelle.

17. While Citadelle Village has been awarded Miami-Dade Surtax Funding totaling $3,400,000.00, the process for the new General Obligation Fund Affordable Housing ("GOB") set-aside fund has been put on hold due to the Covid-19 pandemic. The GOB contains a $100,000,000 set aside for the development of affordable housing in the City of Miami. The first $15,000,000 of the GOB was awarded at the beginning of 2020. However, due to the impact of Covid-19 upon the City of Miami, the remaining $85,000,000 has not been distributed and the process for allocating the remaining funds – up to now – has been put on hold. Citadelle Village anticipates receiving the final tranche of funding necessary to move forward with the project once the City of Miami reopens the allocation process for the GOB funding. Citadelle Village anticipates the allocation process for the GOB funds to restart shortly.

18. To further complicate the GOB award process, Citadelle Village has been working with its respective City Commissioner to facilitate the award of the GOB funds in his district. Unfortunately, this commissioner has moved on to become a Dade County Commissioner and Citadelle Village had to "restart the conversation" with its new City Commissioner – Jeffrey Watson. Accordingly, on December 15, 2020 Citadelle Village had a virtual meeting with Commissioner Wilson and anticipate his support in awarding an allocation of GOB funds to close the funding gap. Citadelle Village anticipates a firm commitment of the GOB funds from the City of Miami by the end of December 2021.

19. On October 29, 2021, the Housing and Commercial Loan Committee for the City of Miami approved Citadelle Village's request for the $3,000,000 in gap financing from the GOB set aside. Citadelle Village expects final approval by the City of Miami Commission within the next 30 days. (See attached Exhibit A)

20. In addition, Michael Liu, Director of Miami-Dade County Public Housing, is willing to commit twenty-five (25) Project Based Vouchers to Citadelle Village as long as Citadelle Village receives this requested extension. Between the additional funds referenced in Paragraph 19 above and the commitment of Project Based Vouchers, Citadelle Village can now move forward to a firm commitment. (See attached Exhibit B)

21. The issues described above have created a "substantial hardship" for Citadelle that justifies a waiver of rule 67-48.0072(21)(b). Citadelle believes an additional extension of 180 days would allow Citadelle sufficient time to secure the firm loan commitment.

22. The requested waiver will not adversely affect any party, including any other party that applied to receive SAIL funding in the RFA or Florida. Housing. A denial of the requested waiver, however, would result in substantial economic hardship to Citadelle Village, as it has incurred significant costs to date in an effort to ensure that the proposed development proceeds to completion. Additionally, denial of the waiver would deprive Miami-Dade County and the Little Haiti community of much-needed new affordable rental units. If this Petition is not granted, Citadelle will be unable to obtain SAIL funding, which would cause the proposed development to be infeasible.

23. The statutes underlying rule 67-48.0072(21)(b) will be served by the approval of Citadelle Village's waiver request. One of the statutory goals of the Florida Housing Finance Corporation Act is for proceeds of a SAIL loan to be used to facilitate the availability of decent, safe, and sanitary housing in Florida to low-income persons and households. § 420.502(4), Fla. Stat. This Act was passed to create

inducements and opportunities for private and public investment in rental housing to increase the supply of affordable housing for low-income persons and households. By granting this waiver request, Florida Housing would further the goal of increasing the supply of affordable housing units through the construction of new developments.

F. ACTION REQUESTED

24. For the reasons expressed, Citadelle Village respectfully requests that the Florida Housing Board grant the requested waiver of rule 67-48.0072(21)(b), as Citadelle has demonstrated a "substantial hardship." Citadelle Village is specifically requesting an additional 180 days - up to and including June 30, 2022– to secure the firm loan commitment.

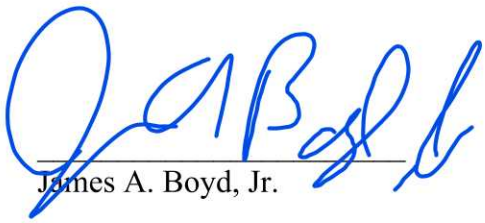
Respectfully submitted on November 22, 2021



James A. Boyd, Jr.
Florida Bar No. 994405
General Counsel
ROYAL AMERICAN DEVELOPMENT, INC.
1022 W. 23rd Street, 3rd Floor
Panama City, FL 32405
Tel: (850)769-8981
Email: jim.boyd@royalamerican.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Petition for Waiver is being filed by electronic filing (with a copy by U.S. Mail) with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Fifth Floor, Tallahassee, Florida 32301 this 22nd day of November, 2021. The document is also being served on the Joint Administrative Procedures Committee at joint.admin.procedures@leg.state.fl.us



James A. Boyd, Jr.

Exhibit A

CITY OF MIAMI, FLORIDA

INTER-OFFICE MEMORANDUM

TO : Members of the Housing and Commercial Loan Committee

DATE : October 29, 2021

FILE :

SUBJECT : Citadelle Village, LLC: Citadelle Village

FROM : George Mensah, Director
Department of Housing & Community Development

REFERENCES :

ENCLOSURES:

BORROWER:

Citadelle Village, LLC, a Florida limited liability company created for the development of the project.

HACDC Citadelle Village, LLC is a Florida limited liability company, Managing Partner (0.01% interest). Managing partners are HACDC CV Manager, LLC (51% interest) and Royal American Development, Inc. (49% interest).

Little Haiti Housing Association, Inc. is a Florida corporation, Managing Partner (99.99% interest). The principal is Ms. Tessa P. Pienson, Executive Director of Haitian American Community Development Corporation.

Haitian American Community Development Corporation ("HACDC"), a subsidiary of Little Haiti Housing Association, Inc ("LHHA"), is a Florida non-profit community-based organization. Incorporated in 1987, LHHA was formed by residents and community stakeholders of Little Haiti to address the need for affordable housing. From its inception, the organization has facilitated the closing of over 300 homes, developed or co-developed over 169 for-sale units and educated thousands of low-income households in areas of budgeting, credit repair and homebuyer counseling. HACDC has leveraged approximately $60 million in residential first mortgages and in grant funds for down payment assistance. HACDC is a City of Miami certified Community Housing Development Organization ("CHDO").

Royal American Development is a subsidiary of Royal American Companies that was founded in 1968 in Panama City by Joseph F. Chapman III, the principal. Over the years, Mr. Chapman formed the development, management, hospitality, real estate and insurance companies. Committed to developing projects and programs to benefit the community, Royal American Group of Companies has been linked to many milestones and landmarks in Florida. Royal American has developed over 10,000 units most of all of them employing some form of governmental financing. Royal American Management manages over 20,000 units, including Miami-Dade's public housing units. Royal American has developed a total of 5,939 units of which 2,344 are affordable housing units.

PROJECT

Citadelle Village will be new construction of 12-story mixed-use multifamily rental building with a total of ninety-six (96) units located at 181 NE 82 Street in the Little Haiti neighborhood. The project consists of a total of ninety-six (96) units of which nineteen (19) one-bedroom/one-

bathroom units; sixty-four (64) two bedroom/two-bathroom units; and thirteen (13) three-bedroom/ three-bathroom units. The ground floor will be used for commercial space. The project will be targeting low and very low-income households (30% to 60% of AMI). 85 units will be GOB-assisted and 11 units will be HOME-assisted.

BACKGROUND

On February 25, 2019, the Housing & Commercial Loan Committee ("Department") issued a Request for Proposals ("RFP") in HOME Investment Partnerships Program ("HOME") funds; Community Development Block Grant ("CDBG") funds; State Housing Initiatives Partnership Program ("SHIP") funds; Affordable Housing Trust Funds ("AHTF") funds; and Miami Forever General Obligation Bonds ("GOB") for the construction and rehabilitation financing of multifamily rental housing projects.

On June 18, 2019, the Housing and Commercial Loan Committee ("HCLC") approved an allocation of $990,000 in HOME Investment Partnerships ("HOME") for the development of the project.

BORROWER'S REQUEST

On September 27, 2021, the Borrower submitted a letter requesting an additional allocation of $3,000,000 in gap financing for the development of the project. All units will be GOB-assisted targeting low and very low-income households. In addition, besides this project being a tax credit deal, its initial total Debt Service Coverage Ratio is 1.17% which is over the minimum required ratio of 1.15%. The Citadelle Village project will be located at 181 NE 82nd Street in the Little Haiti neighborhood.

DEPARTMENTAL RECOMMENDATION

Based on the Borrower's request, the Department has reviewed and determined recommending the allocation of up to $3,000,000 in GOB funds to Citadelle Village, LLC in gap financing for the development of Citadelle Village project.

The following loan terms and conditions shall apply:

1. *Use of Funds*: City funds will be used for development costs.
2. *City Assisted Units*: 85 project units shall be assisted with GOB funds for low and very low-income households. 11 project units shall be assisted with HOME funds for extremely low-income households.
3. *Maximum Rent Levels*: Rents charged on GOB-assisted units will be subject to Florida Housing Finance Corporation for Multifamily Rental Programs and CWHIP Homeownership according to the income target proposed by the Borrower. The rent and income limits are published annually by the US Department of Housing and Urban Development ("HUD") and Florida Housing Finance Corporation ("FHFC"). Rent charged on HOME-assisted units will be subject to Low HOME Rents (up to 50 percent of area of median income).
4. *Affordability Period*: an affordability period of 30 years will apply commencing from the date the City approves the closeout of the project.

5. *Loan Repayment & Interest Rate Terms*: This is a deferred loan provided to the Borrower with no debt service payments required. The property must maintain the required affordability structure for a period of 30 years. Failure to comply with these requirements will result in the full repayment of principal and an agreed upon interest rate. Full repayment of principal is due at the 30-year maturity.
6. *Draw Disbursements*: The City shall not fund any draw request in an amount that exceeds the City's initial contribution percentage of the entire development cost of the project.
7. *City Incurred Costs*: Borrower understands and agrees that $10,000 of the GOB funds may be used by the City to cover costs incurred by the City on behalf of the project.
8. *Increase in Project Costs*: If the project costs increase ten percent (10%) or more of the original budget, and the Borrower is not able to secure additional funding within 60 days before the project commencement, the project will be subject to recommendation to the Housing and Commercial Loan Committee for de-obligation of the project funding.
9. *Retainage(s)*: Five percent (5%) of each draw request will be retained until the City has received as part of the close-out, at the Borrower's sole cost, a Final Cost Certification prepared by an independent certified public accountant, both in form and substance acceptable to the City.
10. *Commitment Fee*: There will be a $5,000 commitment fee.
11. *Eligible Project Costs*: Eligible project costs will be effective from the date of environmental clearance.
12. *Reporting Compliance*: Borrower is subject to compliance reporting requirements in the process of construction and during the affordability period.
13. *Development Benchmarks/Scope of Work*: The project shall: (a) commence construction within six (6) months from the Effective Date[1] of the contract; (b) obtain all certificates of occupancy required for the project within 18 months from the Effective Date; and (c) have all project units rented within 12 months after the issuance of project's certificate(s) of occupancy, but in no event later than 30 months from the Effective Date.
14. *Insurance Requirements*: Borrower shall obtain and furnish evidence of insurance coverage as the City may require in connection with the Project.
15. *Affirmative Marketing Plan*: Borrower shall provide an Affirmative Marketing Plan using HUD's approved form and report to the City annually on all actions taken to comply with said plan. Borrower shall comply with the requirements of the affordable housing notice to City Officials Ordinance #13491.
16. *Lottery*: Selection of eligible tenants shall be from the results of a tenant lottery, which shall be conducted with a representative of the City of Miami present. In addition, the project shall comply with the requirements of the City of Miami Ordinance 13645, Resident Preference.
17. *Project Signage*: Borrower shall furnish signage identifying the Project and shall acknowledge the contribution of the City by incorporating the seal of the City and the names of the City commissioners and officials in all documents, literature, pamphlets, advertisements, and signage, permanent or otherwise. All such acknowledgments shall be in a form acceptable to the City and its costs should be covered under the City Incurred Cost line item.

[1] The "Effective Date" is the date on which the contract has been signed by the City Manager and attested to by the City Clerk.

18. *De-obligation of Funds*: The City may at its sole discretion de-obligate the funding approved herein, if by no later than six (6) months from the date of approval of the City funds, the Borrower has failed to close on all funding commitments represented herein.
19. *Discretionary Action by Administration*: Staff shall have the discretion to approve and, by way of Memorandum, authorize the City Manager to execute any and all documents needed to further the Project Completion, provided, however, that the lien position nor the project terms are not materially affected.
20. *Project Default*: If the City determines that the project is in default, the following conditions will apply:
    - The highest interest rate available under the law will be applicable for the funds disbursed from date of disbursement.
    - The Restrictive Covenant will remain as a restriction on the Project property throughout the Affordability Period; and
    - The borrower, project developer, managing partner(s) of the borrower and/or other individuals, principals and/or other entities as determined by the City will be debarred from receiving any City funding for a period of five (5) years.

HOUSING AND COMMERCIAL LOAN COMMITTEE DECISION:

Approved as Recommended by Staff	**Yes** ☑ **No** ☐ **N/A** ☐
To Include Additional Conditions or Restrictions	**Yes** ☐ **No** ☑ **N/A** ☐
Disapproved	**Yes** ☐ **No** ☑ **N/A** ☐
To Include Further Action	**Yes** ☐ **No** ☑ **N/A** ☐

Specify any further action, conditions or restrictions:

Chairperson or Representative

HOUSING LOAN COMMITTEE
OCT 29 2021
APPROVED

HOUSING LOAN COMMITTEE
OCT 29 2021
APPROVED

Stamp Date

Due to the realities of financing affordable housing developments, the total dollar amount of this development's senior debt is subject to change. Please be advised that so long as the dollar amount of the senior debt, as listed herein, does not increase more than 9.99%, then such changes will be deemed approve by the City of Miami's ("City") Housing and Commercial Loan Committee even if such change negatively impacts the City's mortgage's lien priority.

The Department also hereby requests your authorization to utilize funding provided to the City under the American Rescue Act in place of the Miami Forever Bond Program if it is felt to be in the best interest to the City. All project conditions would meet both funding sources.

Exhibit B

From: Liu, Michael (PHCD)
To: Joey Chapman
Cc: Doug Mayer; Jim Boyd
Subject: Will consider/Contact FHFC RE: Citadelle
Date: Tuesday, November 9, 2021 7:56:49 AM

Mr. Chapman: I am willing to review and consider issuing 25 PBVs per your request contingent on the withdrawal of your current application to our Surtax RFA. This removes the compliance problem that we would have if we continued this discussion. You must also contact FHFC to ascertain whether or not a letter from PHCD indicating that we are giving serious consideration to your PBV request would suffice to maintain the viability of your SAIL loan. If your contact would also like to get a call from me, let me know and I will call.

Michael Liu

Michael Liu
Director
Miami-Dade County Public Housing
and Community Development Dept.
701 NW 1st Court, 16th Flr
Miami, Florida 33136
786-469-4106

From: Joey Chapman <joey.chapman@royalamerican.com>
Sent: Tuesday, November 2, 2021 5:30 PM
To: Liu, Michael (PHCD) <mliu88@miamidade.gov>; Benton, John (PHCD) <John.Benton@miamidade.gov>
Cc: Doug Mayer <doug.mayer@stonesoupdevelopment.net>; Jim Boyd <jim.boyd@royalamerican.com>
Subject: Citadelle

EMAIL RECEIVED FROM EXTERNAL SOURCE

Please note we are using what we believe to be the correct section-8 rents as well as the utility allowances. You will also see that I was being conservative in our ask limiting the number of section-8 units to 25. By using 25 we are left with needing $1.044m from GOB which is down from our current $3m request.

Regards,

Joey Chapman

Joey Chapman | **PRESIDENT**
ROYAL AMERICAN CONSTRUCTION & DEVELOPMENT

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