STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Citadelle Village, LLC FHFC Case No.: 2023-003VW

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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 (the "Board") on January 27, 2023. On January 11, 2023, Florida Housing received a Petition for Waiver of Rule 67-48.0072(21)(b), Florida Administrative Code (the "Petition") from Citadelle Village, LLC (the "Petitioner") to allow the firm loan commitment deadline to be extended. Notice of the Petition was published on January 12, 2023, in Volume 49, Number 08, 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"), Extremely Low Income ("ELI") funding, Multi-Family Mortgage Revenue Bonds ("MMRB"), and non-competitive housing credits

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/DATE: 1/30/2023

funding in RFA 2017-108 to assist in the construction of a 96-unit affordable housing development named Citadelle Village in Miami-Dade County, Florida (the "Development").

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

> 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 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 May 4, 2018, which provided a firm loan commitment issuance deadline of February 4, 2019.

5. Beginning in July of 2019, Petitioner has requested seven extensions of time to obtain a firm loan commitment, all of which have been granted by the Board. Through these requests the deadline has been extended from August 4, 2019, to its current date of December 27, 2022. Petitioner now requests an additional extension of the firm loan commitment issuance deadline from December 27, 2022 to June 26, 2023.

6. The Development is located in an area of Miami referred to as Little Haiti. Over the last few years massive gentrification of Little Haiti, led by the Magic City Development, is pushing out the lower socioeconomic residents of Little Haiti.

7. Petitioner states that the initial Application financial numbers and amount requested were flawed as there were insufficient sources to develop Citadelle Village. The result was compounded by the impacts of the COVID pandemic and increased construction costs.

8. In 2019, Petitioner replaced members of the original Development team and began the process of solving the financial shortfalls in an effort to move the Development forward.

9. Petitioner states that several obstacles have prevented it from obtaining a firm loan commitment. Due to increased construction costs, the Development Team had to significantly revise the hard cost estimates,

resulting in an increase of over $4,000,000 (approximately 20% over initial costs calculated three years ago). As a result, Petitioner was required to seek further financing from other sources to address the cost increases. Petitioner explains that it received final approval of the additional financing needed to proceed with the Development in February 2022. All additional funding sources for the Development are from sources other than Florida Housing.

10. Beginning in February of 2022, the Development Team spent or committed more than $750,000 for various third-party reports and professional fees on environmental reports, geotechnical reports, survey, re-platting services, market study, attorney's fees, civil plans, and architectural plans. According to Petitioner, the Site Plan approval package is ready for submittal pending an updated survey. Once the site plan is submitted, Petitioner anticipates an additional 90 days until permit ready plans will be completed. If the underwriter receives the permit ready plans by the end of March 2023, Petitioner projects that it will present its credit underwriting report to the Board in June of 2023.

11. The attachments to the Petition include letters from the Mayor of Miami, the Director of Community and Economic Development for the City of Miami, the City of Miami District 5 Commissioner, and the Director of

Public Housing & Community Development for Miami-Dade County. All of which request the Board to grant Petitioner's extension.

12. A representative of Petitioner appeared before the Board on January 27, 2023 to further explain the numerous extension requests and respond to questions.

13. 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.

14. 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.

15. 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 were not granted.

16. 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 waiver of Rule 67-48.0072(21)(b), Fla. Admin. Code (2017), is hereby **GRANTED** to allow Petitioner to extend its firm loan commitment issuance deadline from December 27, 2022 to June 26, 2023.

DONE and ORDERED this 27th day of January 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
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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.