

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

MELISSA GROVE, LTD.,

Petitioner,

FHFC Case No.: 2022-026BP
DOAH Case No.: 22-0949BID
RFA No. 2022-301

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent,

ABILITY SWV, LLC,

Intervenor.

FINAL ORDER

This cause came before the Board of Directors of the Florida Housing Finance Corporation (the “Board”) for consideration and final agency action on April 29, 2022. On April 13, 2022, Melisa Grove, Ltd. (“Melissa Grove”), Florida Housing Finance Corporation (“Florida Housing”), and Ability SWV, LLC (“Ability”) executed a Consent Agreement, attached as Exhibit “A.”

Based on the Consent Agreement, Ability agrees that it is ineligible for funding. Pursuant to the funding and selection process outlined in RFA 2022-301 Housing Credit Financing for Affordable Housing Developments Located in Duval County (the “RFA”), Melissa Grove is selected for funding, subject to the

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

Thomas Blamoy ATL 5/2/2022

requirements of credit underwriting. The Consent Agreement is adopted and incorporated by reference as though fully set forth in this Order.

IT IS HEREBY ORDERED:

1. Ability is ineligible for funding in RFA 2022-301; and
2. Melissa Grove is selected for funding, subject to the requirements of credit underwriting.

DONE and ORDERED this 29th day of April, 2022.



FLORIDA HOUSING FINANCE CORPORATION

By: 
Chair

Copies to:

Hugh R. Brown, General Counsel
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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329, AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 2000 DRAYTON DRIVE, TALLAHASSEE, FLORIDA 32399-0950, OR IN THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MELISSA GROVE, LTD.,

Petitioner,

DOAH CASE NO. 22-0949BID
RFA No. 2022-301

v.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent,

and

ABILITY SWV, LLC,

Intervenor.

CONSENT AGREEMENT

Petitioner Melissa Grove, Ltd. (“Melissa Grove”), Intervenor Ability SWV, LLC (“Ability”) and Respondent Florida Housing Finance Corporation (“Florida Housing”) by and through undersigned counsel, hereby present the following Consent Agreement in accordance with Section 120.57(4), Florida Statutes.

PRELIMINARY STATEMENT

1. On January 24, 2022, Florida Housing issued RFA 2022-301 Housing Credit Financing for Affordable Housing Developments Located in Duval County (the “RFA”).
2. Melissa Grove submitted Application No. 2022-252C in response to the RFA. Ability submitted Application No. 2022-250C.
3. Florida Housing received four (4) Applications in response to the RFA.

4. The designated Review Committee recommended that Florida Housing's Board of Directors (the "Board") find four applications including Melissa Grove and Ability eligible for funding. The Review Committee further recommended that the Board select (1) Application for funding, Ability's Application No. 2022-250C.

5. At the March 4, 2022 Board meeting, the Board approved the preliminarily funding recommendations from the Review Committee.

6. Melissa Grove timely filed its Notice of Intent to Protest followed by a Formal Written Protest and Petition for Administrative Hearing (the "Petition") challenging the eligibility determination of the Ability Application specifically its demonstration of Site Control and its award of Transit Proximity Points. The Petition was forwarded to the Division of Administrative Hearings ("DOAH") and a formal administrative hearing is scheduled to commence on April 22, 2022.

7. Florida Housing issued a Notice to All Bidders on the RFA. The Notice informed all bidders that their substantial interests might be affected by the disposition of Melissa Grove's Petition and advised the bidders of their opportunity to intervene.

8. Ability timely filed a Notice of Intervention and Appearance in this matter.

STIPULATED FINDINGS OF FACT

9. Florida Housing is a public corporation that is organized to provide and promote the public welfare by administering the governmental function of financing and refinancing housing and related facilities in the State of Florida.

10. Chapter 67-60, Florida Administrative Code, establishes the procedures by which Florida Housing administers the competitive solicitation funding process for the allocation of funding.

11. The RFA was issued pursuant to and in accordance with Rule 67-60.003, Florida Administrative Code, and is adopted and incorporated herein by reference.

12. In reviewing the Applications, the requirements of the RFA, issues raised in the Petition, discovery conducted to date and these stipulated facts, the parties agree that the Ability Application is ineligible for funding because it fails to demonstrate Site Control consistent with the requirements of the RFA.

13. By entering into this Agreement, Ability denies any wrongdoing or intentional misrepresentation, and neither Melissa Grove nor Florida Housing assert any wrongdoing or intentional misrepresentation by Ability.

14. The Parties agree that this Agreement does not constitute the withdrawal of an Application by Ability, or by its Developer, Principals of the Applicant or Developer, affiliate of the Applicant or Developer or Financial Beneficiary of the Applicant or Developer, and shall not result in any points loss, preference loss, ineligibility determination, penalty, or negative impact in any pending or future Florida Housing program.

STIPULATED CONCLUSIONS OF LAW

15. In light of the foregoing stipulated facts and in order to avoid the time, expense, and uncertainty of litigation, the parties agree that Ability's Application is not eligible for funding in RFA 2022-301. The Parties further agree that pursuant to the funding and selection process outlined in the RFA, Melissa Grove is selected for funding subject to the Credit Underwriting requirements.

16. The undersigned attorneys represent that they have the authority to execute this Consent Agreement on behalf of their respective clients.

17. Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 67-60, Florida Administrative Code, the Florida Housing Board has jurisdiction over the parties to this proceeding.

18. With the execution of this Agreement the Parties will file a joint motion to relinquish jurisdiction of this proceeding at DOAH to allow the Board to take final agency action.

19. This Consent Agreement is subject to approval of the Board. If the Board does not approve this Consent Agreement, no Final Order will be issued, and this Consent Agreement shall be null and void as if it were never executed. The Parties agree that in the event the Board does not approve this Agreement, Melissa Grove shall be allowed to reopen its challenge at DOAH.

20. The parties waive all rights to appeal this Consent Agreement and the Final Order to be issued in this case. Each party shall bear its own costs and attorney's fees.

Respectfully signed this 13th day of April 2022.

/s/ Michael P. Donaldson
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