STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: The Village of Casa Familia, Ltd. FHFC Case No.: 2022-061VW

_____/

ORDER GRANTING WAIVER
OF RULE 67-48.002(96), F.A.C.

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on December 9, 2022. On November 15, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Variance from Florida Administrative Code Rule 67-48.002(96) and the 2018 QAP (the "Petition") from The Village of Casa Familia, Ltd. (the "Petitioner") to allow Petitioner to exchange its 2021 housing credits for an allocation of 2023 housing credits. Notice of the Petition was published on November 17, 2022, in Volume 48, Number 224, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION
/s/ Ann McNamara /DATE: 12/9/2022

2. Petitioner has successfully applied for competitive housing credits and grant funding to assist in the construction of The Village of Casa Familia, a 59-unit development located in Miami-Dade County, Florida.

3. Rule 67-48.002(96) Fla. Admin. Code (2018), in relevant part, adopts and incorporates the 2018 Qualified Allocation Plan ("QAP"). Subsection II.K. of the QAP Rule states:

> Notwithstanding any other provision of this QAP, where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and such failure is due to circumstances beyond the Applicant's control, and the Applicant has returned its Housing Credit Allocation in the last calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC, the Corporation may reserve allocation in an amount not to exceed the amount of Housing Credits returned, and may issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which the Development was otherwise required to be placed in service pursuant to Section 42 of the IRC, provided the following conditions have been met: (i) the sponsor must have provided written notice to the Corporation, describing the circumstances, all remedial measures attempted by the Applicant to mitigate the delay, and any other pertinent information, prior to returning the allocation; and (ii) the Executive Director must find and determine that the delay was caused by circumstances beyond the Applicant's control, that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay, that the Development in all respects, except time placed in service, still meets the conditions

upon which the Housing Credits were originally allocated, and that the Development is still desirable in terms of meeting affordable housing needs. A Development located in a HUD-designated DDA or QCT at the time of original allocation may retain its designation as such.

4. Petitioner requests a waiver of the tax credit exchange timing requirements for the approval of a tax credit exchange before the fourth quarter of 2023. Petitioner entered into a 2019 Carryover Allocation Agreement on December 26, 2019. On June 18, 2021, Petitioner was granted a waiver of the above rules allowing an exchange of Petitioner's 2019 housing credits for an allocation of 2021 housing credits (2021-035VW), and Petitioner signed a 2021 Carryover Allocation Agreement with a 10% Test deadline of December 31, 2021. Petitioner was subsequently granted two extensions of the 10% Test deadline by staff; first to June 25, 2022, and a second extension to December 31, 2022.

5. In early 2021, a complaint was filed with the U.S. Department of Housing and Urban Development ("HUD"). Petitioner states that it has worked diligently with HUD to resolve the complaint, and on August 22, 2022, Petitioner was issued a Memorandum of Assurances ("MOA") wherein HUD requested Petitioner accept and sign the MOA to close the complaint. Petitioner states that the MOA has left Miami-Dade County unsure of its authority regarding tenant selection, and the Parties have requested further

guidance from HUD. As of the Petition date, HUD had not responded to the County's request.

6. Petitioner states that the Development will be built on county-owned land secured by a long-term lease; however, the lease has presently expired, and Petitioner does not currently have active site control from the County. Petitioner cannot close financing to start construction because the County cannot extend the lease until HUD provides clear guidance on administering the project-based vouchers and tenant selection preference.

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 67-48.002(96), Fla. Admin. Code and Subsection II.K of the 2018 Qualified Allocation Plan is hereby **GRANTED** to allow Petitioner to exchange its 2021 housing credits for an allocation of 2023 housing credits.

DONE and ORDERED this 9th day of December 2022.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Hugh R. Brown, General Counsel
Marisa Button, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Hugh.Brown@floridahousing.org
Marisa.Button@floridahousing.org

Christopher B. Lunny
Radey Law Firm
clunny@radeylaw.com

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

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.