STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Melissa Grove, Ltd. FHFC Case No.: 2023-049VW

_____/

ORDER GRANTING WAIVER OF RULE 67-48.002(96), FLA. ADMIN. CODE (2021) AND SECTION II.J. OF THE 2021 QUALIFIED ALLOCATION PLAN

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on July 21, 2023. On June 23, 2023, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rule 67-48.002(96), F.A.C. (5/18/21) and the 2021 QAP (the "Petition") from Melissa Grove, Ltd. (the "Petitioner") to allow Petitioner to exchange its present allocation of housing credits for an allocation of 2023 housing credits. Notice of the Petition was published June 27, 2023, in Volume 49, Number 124, 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
/DATE: 7/21/2023

2. Petitioner successfully applied for funding to assist in the construction of Melissa Grove, a 90-unit development located in Duval County, Florida (the "Development").

3. Rule 67-48.002(96), Fla. Admin. Code (2021), adopts and incorporates the 2021 Qualified Allocation Plan ("QAP"). Subsection II.J. of the 2021 QAP 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 the Applicant has returned its Housing Credit Allocation after the end of the second 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 will reserve allocation in an amount not to exceed the amount of Housing Credits returned, and will 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) A site inspection reflecting the percentage of Development completion must be completed. If the Development is at least fifty (50) percent completed, as reflected in the site inspection, the approval may be made by Corporation staff. If the Development is less than fifty (50) percent completed, as reflected in the site inspection, the approval must be made by the Board. In making such determination, the Board must find and determine that the delay was caused by circumstances beyond the Applicant's control, and that the sponsor exercised due diligence in seeking to resolve the circumstances causing delay; and (iii) The

Corporation or Board, as applicable, must find 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.

4. Petitioner successfully applied for an allocation of the 2022 housing credits through RFA 2022-301 Housing Credit Financing For Affordable Housing Developments Located In Duval County and was invited into credit underwriting on May 5, 2022. Florida Housing staff executed a 2022 Carryover Allocation Agreement ("CAA") on August 11, 2022, which required Petitioner to incur at least ten percent of the reasonably expected basis of the Development (the 10% Test) on or before February 28, 2023 (the "CAA Deadline"). Petitioner has been previously granted a CAA Deadline extension to August 11, 2023. Failure to comply with the CAA Deadline will cause the Housing Credits allocated within the CAA to be deemed returned to Florida Housing under Section 42(h)(3)(C), Internal Revenue Code.

5. Since being selected for funding and invited to credit underwriting, Petitioner states that it has been engaged in the pursuit of all necessary development approvals and permits from the necessary jurisdictional authorities, including the City of Jacksonville, the St. Johns River Water Management District ("SJRWMD") and the U.S. Army Corp of Engineers ("ACOE"). Overall, Petitioner has invested over $530,000 to move

the Development forward; However, Petitioner cannot commence construction until the requested permits are issued. Petitioner is presently uncertain when it will obtain its building, SJRWMD, or ACOE permits. Petitioner respectfully requests this waiver because Petitioner believes that the permitting timeline may prevent it from satisfying the 10% Test by the CAA Deadline.

6. 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.

7. 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.

8. 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 (2021) and Subsection II.J. of the 2021 Qualified Allocation Plan is hereby **GRANTED** to allow

Petitioner to exchange its present allocation of housing credits for an allocation of 2023 housing credits.

DONE and ORDERED this 21st day of July, 2023.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Brian J. McDonough
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
bmcdonough@stearnsweaver.com

Betty Zachem, Interim General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Betty.Zachem@floridahousing.org
Melissa.Levy@floridahousing.org

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.