STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: VALOR PRESERVE, LLLP FHFC CASE NO.: 2022-001VW

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ORDER GRANTING WAIVER OF RULE 67-48.0072(26), FLORIDA ADMINISTRATIVE CODE

THIS CAUSE came on for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation on January 21, 2022, pursuant to a "Petition for Waiver of Rules 67-48.0072(26), Fla. Admin. Code" ("Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on January 5, 2022, from Valor Preserve, LLLP, Ltd ("Petitioner"). Notice of the Petition was published on January 6, 2022, in Volume 48, Number 4, of the Florida Administrative Register. Florida Housing has received no comments concerning the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

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

2. Petitioner successfully applied for financing under RFA 2020-106 (Financing for the Development of Housing For Persons With a Disabling Condition or Developmental Disabilities) and was subsequently invited into Credit Underwriting.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
ASM: Adamson DATE: 1/21/2022

3. Rule 67-48.0072(26), Fla. Admin. Code (Rev. 7-11-19), states in relevant part:

> (26) For SAIL, EHCL, and HOME, unless stated otherwise in a competitive solicitation, these Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The Board shall consider the facts and circumstances of each Applicant's request, inclusive of the Applicant's ability to close within the extension term and any credit underwriting report, prior to determining whether to grant the requested extension. The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the applicable 120 Calendar Day or 180 Calendar Day period outlined above. If an approved extension is utilized, Applicants must pay the extension fee not later than seven (7) Calendar Days after the original loan closing deadline. In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

4. Florida Housing staff executed a 2020 Carryover Allocation Agreement ("CAA") on December 15, 2020 for the allocation of its Tax

Credits and on June 21, 2021, staff issued a firm commitment to Petitioner giving it a loan closing deadline of October 19, 2021.

5. Petitioner asserts that due to labor and supply chain problems related to the COVID-19 pandemic, it experienced unforeseen pricing increases and was forced to seek additional funding sources, as well as an extension of the loan closing deadline to January 17, 2022, which was approved at the September 10, 2021 Florida Housing Board meeting.

6. Petitioner reports that to cover the construction cost increases, and mitigate the associated delay, it took remedial action, including a Pinellas County State Housing Initiatives Program (SHIP) loan. On October 22, 2021, Florida Housing's Board approved an increase of the Total Development Cost in the amount of the Pinellas County SHIP Loan.

7. Petitioner now asserts it has experienced further delays beyond its control regarding a Development Agreement with the City of Seminole. This Development Agreement is required because Petitioner must obtain approval for necessary deviations from the City's land development code, such as variances related to parking, berming and frontage.

8. Petitioner could not receive final approval of the Development Agreement and the incorporated variances until the second reading, which occurred on December 7, 2021. Despite a previous unanimous vote for

approval of the Development Agreement, the Seminole the City Council then unexpectedly voted 5-2 against approving the Development Agreement.

9. Because Petitioner has not obtained final approval of the Development Agreement, Petitioner may not pursue permit approval and/or a permit-ready letter, and because the permit-ready letter is a condition of closing, Petitioner cannot close on its financing prior to the closing deadline. Per the Rule, the closing deadline for the Development is January 17, 2022.

10. The Board finds that granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor would it have a detrimental impact on Florida Housing or the Development.

11. 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.

12. Petitioner has demonstrated that the waiver is needed in order to efficiently serve persons with a disabling condition. Petitioner has also demonstrated that the purpose of the underlying statute, which is to "encourage development of low-income housing in the state" (§420.5099, Fla. Stat.), would still be achieved if the waiver is granted.

13. The Board finds that strict application of the above Rule under these circumstances would cause substantial hardship to Petitioner, and that granting this request furthers Florida Housing's statutory mandate to provide safe, sanitary and affordable housing to the citizens of Florida.

IT IS THEREFORE ORDERED:

Petitioner's request for a waiver of Rule 67-48.0072(26), Fla. Admin. Code (Rev. 7-11-19 is hereby **GRANTED** to extend the SAIL/ELI loan closing deadline to July 17, 2022.

DONE and ORDERED this 21st day of January, 2022.

Florida Housing Finance Corporation

By: _____
Chair

Copies furnished to:

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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.