STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Valor Preserve, LLLP. FHFC Case No.: 2022-033VW

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ORDER GRANTING WAIVER FROM 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 (the "Board") on June 17, 2022. On May 27, 2022, Florida Housing Finance Corporation ("Florida Housing") received a Petition Waiver of Rule 67-48.0072(26), F.A.C. (7/11/19) (the "Petition") from Valor Preserve, LLLP (the "Petitioner"). Notice of the Petition was published on June 1, 2022, in Volume 48, Number 106, 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 competitive housing credits, Extremely Low Income ("ELI") funding, and State Apartment Incentive Loan ("SAIL") funding in RFA 2020-106 to assist in the construction of a 64-unit

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
/DATE: 6/17/2022

affordable housing development named Valor Preserve at Lake Seminole to be located in Pinellas County, Florida (the "Development").

3. Rule 67-48.0072(26), Fla. Admin. Code (2019), states:

> 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. RFA 2020-106, Financing for the Development of Housing For Persons With a Disabling Condition or Developmental Disabilities, Exhibit C, Section 4.g. in relevant part, states:

> SAIL loans must close within the timeframes outlined in subsections 67-48.072(21) and 67-48.072(26), F.A.C. For all SAIL loans, a request for an extension of the deadline for closing the loan(s) may be considered by the Board for an extension term of up to 90 Calendar Days. The Corporation shall charge an extension fee of 1 percent of each Corporation loan amount if the Board approves the request to extend the loan closing(s).

5. Petitioner requests a waiver of Rule 67-48.0072(26), Fla. Admin. Code (2019) and RFA 2020-106, Exhibit C, Section 4.g. so that it may extend the SAIL and ELI closing deadlines six months, from July 17, 2022, to and including January 17, 2023.

6. After accepting an invitation to credit underwriting, Petitioner entered into a Carryover Allocation Agreement with Florida Housing on December 18, 2020. This deadline was later extended to December 18, 2021, at Petitioner's request.

7. On June 21, 2021, a firm commitment was issued giving Petitioner a loan closing deadline of October 19, 2021.

8. Due to labor and supply chain issues associated with the COVID-19 pandemic, Petitioner experienced unforeseen price increases and was forced to seek additional funding sources as well as an extension of the loan

closing deadline to January 17, 2022. To mitigate the cost increases and associated delay, Petitioner secured a SHIP loan from Pinellas County. On October 22, 2021, the Board approved this additional subordinate SHIP debt.

9. Petitioner experienced delays beyond its control in relation to negotiating and satisfying requirements of a Development Agreement with the City of Seminole. The Development Agreement was initially required because Petitioner's plan contained deviations from the City's land development code that required approval, such as variances related to parking, berming and frontage. Although the City Council initially nearly unanimously approved the Development Agreement on November 16, 2021, by a vote of 6-1, it voted 5-2 against approving the Development Agreement at its second reading on December 7, 2021.

10. Because the closing deadline was January 17, 2022, and the Development Agreement was a necessary prerequisite for moving towards closing, Petitioner was forced to request an additional 6-month extension to and including July 17, 2022. Florida Housing's Board approved this request on January 21, 2022.

11. Petitioner worked diligently with Norstar and Pinellas County Housing Authority to develop a plan that eliminated the need for variances, and therefore eliminated the need for a Development Agreement. The only

remaining issue is that Petitioner must either obtain a variance for the site's non-compliant frontage width or purchase a 25-foot wide strip of land to comply with the City's frontage requirement. Petitioner already has such a parcel under contract with an adjacent owner. Petitioner met with the City regarding the new site plan and obtained clearance to proceed with the full site plan design once the purchase of that strip of land is complete. Petitioner has engaged third-party reports and their engineers and architectures are finalizing plans that will then go to bid and contract. While the purchase should be final in the next few weeks, and Petitioner is on track to close mid-August, Petitioner is requesting an additional six- month extension of the July 17, 2022, SAIL and ELI closing deadline in an abundance of caution.

12. 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.

13. 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.

14. 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.

15. 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 67-48.0072(26), Fla. Admin. Code (2019) and RFA 2020-106, Exhibit C, Section 4.g. is hereby **GRANTED** so that Petitioner may extend the SAIL and ELI closing deadlines six months, from July 17, 2022, to and including January 17, 2023.

DONE and ORDERED this 17th day of June 2022.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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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.