

**BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

GATEWAY MANOR, LP

Petitioner,
vs.

FHFC No. 2015-013BP
Application No. 2015-095C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.
_____ /

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FLORIDA HOUSING
FINANCE CORPORATION

**FORMAL WRITTEN PROTEST AND
PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, GATEWAY MANOR, LP (“Gateway”), pursuant to sections 120.57(3), Florida Statutes (“F.S.”), and Rule 28-110 and 67-60, Florida Administrative Code (“FAC”) hereby files this Formal Written Protest and Petition for Administrative Hearing regarding the scoring decision of Respondent, FLORIDA HOUSING FINANCE CORPORATION (“Florida Housing”) to award funding to responsive bidders pursuant to RFA 2014-114 Housing Credit Financing for Affordable Housing Developments located in Medium and Small Counties. In support Gateway provides as follows:

1. Gateway is a Florida partnership in the business of providing affordable housing. Gateway is located at 2730 Cumberland Boulevard, Smyrna, GA 30080. For the purposes of this proceeding, Gateway's phone number is that of its undersigned attorneys.
2. Florida Housing is the allocating agency for the State of Florida that was granted the authority to issue RFA 2014-114 for the purpose of providing much needed affordable

housing. Florida Housing's address is 227 North Bronough Street, Suite 500, Tallahassee, Florida 32301.

3. On November 21, 2014, Florida Housing issued the RFA to award an estimated \$12,914,730 of competitive Low Income Housing Tax Credits ("Tax Credit") for proposed developments in medium counties and \$1,513,170 for proposed developments in small counties.

4. Through the issuance of the RFA Florida Housing sought to solicit proposals from qualified Applicants that would commit to construct and/or rehabilitate housing in accordance with the terms and conditions of the RFA, applicable laws, rules, and regulations.

5. On January 22, 2015, Gateway submitted an Application in Response to the RFA which included information concerning a 40 unit apartment complex in Gulf County, Florida named Gateway Manor. Through the Application, Gateway requested \$736,156.00 in Tax Credit funding assistance for the project which has an overall development cost of \$8,722,787.00. Florida Housing received 82 applications in response to the RFA. Gateway believed that it had satisfied all requirements of the RFA.

6. As the owner and developer of a project seeking funding from the sources being allocated through the RFA, Gateway is substantially affected by evaluation and scoring of the responses to the RFA. The results of this and related proceedings may affect Gateway's ability to obtain funding through the RFA and may establish precedent for future RFAs in which Gateway and/or its affiliates request funding.

7. Consistent with the primary mission and goal of the RFA, the Gateway Development will provide much needed affordable housing and services. The proposed Gateway Development will provide one and two bedroom apartments for lease at reduced and affordable rents. Without the funds provided by the RFA, Gateway will be unable to proceed

with the Development. Accordingly Gateway's substantial interests are affected by the decisions made by Florida Housing.

8. At Section Four the RFA lists those items which must be included in a response to the RFA as found in Exhibit A. Included in these items at Section Four (A) is information concerning the Applicant and the Developer and the Development. The total points available for the RFA were 23.

9. The RFA at Section Five describes the evaluation process as follows:

SECTION FIVE EVALUATION PROCESS

Committee members shall independently evaluate and score their assigned portions of the submitted Applications, consulting with non-committee Corporation staff and legal counsel as necessary and appropriate.

The Corporation will reject any competitive Application submittal and no action will be taken to score the Application if any of the following submission requirements are not met; the Application is not submitted online by the Application Deadline, the required number of hard copies are not submitted by the Application Deadline, the Applicant's hard copy submission is not contained in a sealed package, or the required Application fee is not submitted as the Application Deadline.

An Application will be deemed ineligible to be considered for funding if, as of close of business the day before the Committee meets to make a recommendation to the Board, there are any financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of the Applicant or Developer is in arrears to the Corporation or any agent or assignee of the Corporation as reflected on the most recently published Past Due Report posted to the Corporation's Website [http://www.floridahousing.org/PropertyOwnersAndManagers/PastDue Reports/](http://www.floridahousing.org/PropertyOwnersAndManagers/PastDueReports/), but not more recently than five (5) business days prior to the date the Committee meets to make a recommendation to the Board.

Applications will be scored based on the following Mandatory and Point items:

Mandatory Items	Point Items	Maximum Points
Demographic Commitment	Proximity to Transit and Community Services	18
Name of Applicant	Local Government Contributions	5
Evidence Applicant is a legally formed entity		
Principals for Applicant and for each Developer		
Name of Each Developer		
Evidence that each Developer entity is a legally formed entity		
Prior General Development Experience Chart for experienced Principal of Developer		
Name of Proposed Development		
County identified		
Address of Development Site		
Development Category		
Development Type		
Total Number of Units		
New construction units and/or rehabilitation units		
Estimated qualified basis in Rehabilitation Expenses per set-aside unit (if applicable)		
Any units currently occupied if Rehabilitation (if applicable)		
Status of Site Plan Approval		
Appropriate Zoning		
Availability of Electricity		
Availability of Water		
Availability of Sewer		
Availability of Roads		
Minimum Set-Aside election		
Total Set-Aside Breakdown Chart		
Evidence of Site Control		
Selection of Minimum Construction Features (if Rehabilitation or Acquisition/Rehabilitation Development Category)		
Commitment to achieve Green Certification Program (if New Construction, Redevelopment, or Acquisition/Redevelopment Development Category)		
Selection of Minimum Resident Programs (if Family or Elderly Non-ALF Demographic Commitment)		
Applicant Housing Credit Request Amount		
Financing Information, including the Development Cost Pro Forma (listing expenses or uses) and Construction/Rehab. Analysis and Permanent Analysis (listing sources) – Sources must equal or exceed uses		
Total Possible Points:		23

The Committee shall conduct at least one public meeting during which the Committee members may discuss their evaluations, select Applicants to be considered for award, and make any adjustments deemed necessary to best serve the interests of the Corporation's mission. The Committee will list the Applications deemed eligible for funding in order from highest total score to lowest total score, applying the funding selection criteria outlined in Section Four B above, and develop a recommendation or series of recommendations to the Board.

The Board may use the Applications, the Committee's scoring, and any other information or recommendation provided by the Committee or staff, and any other information the Board deems relevant in its selection of Applicants to whom to award funding. Notwithstanding an award by the Board pursuant to this RFP, funding will be subject to a positive recommendation from the Credit Underwriter based on criteria outlined in the credit underwriting provisions in Rule Chapter 67-48, F.A.C.

10. On March 11, 2015, the designated Review Committee met and considered the Responses to the RFA. At the meeting the Review Committee orally listed and manually input the scores for each section of each RFA Response and ultimately made recommendations to the Board of Directors for their consideration. The Review Committee consisted of Florida Housing staff.

11. During the meeting, the Review Committee announced that the Gateway Application was awarded 23 out of 23 points in the Small County category. However Application #2015-053C was awarded funding in the Small County category. It is believed that but for the funding of Application #2015-053C, Gateway's Application would have been funded as the next eligible Small County Development.

12. On March 20, 2015, Florida Housing's Board of Directors accepted the Review Committee's ranking and funding. (See Exhibit A)

13. On March 24, 2015, Gateway timely filed its Notice of Intent to Protest. This Formal Written Protest is being timely filed and Florida Housing has waived the bid protest bond requirement for the RFA. As a Developer of affordable housing in need of supplemental funding, Gateway's substantial interests are affected by Florida Housing's decision not to award the necessary funding pursuant to the RFA. In this challenge Gateway challenges the scoring of Application 2015-053C as it relates to the financial documentation submitted.

14. At Page 41, paragraph (d), the RFA provides the requirements for what must be included in a Non-Corporation Funding Proposal.

15. Specifically the Paragraph provides “the financing proposals must state whether they are for construction financing, permanent financing, or both, **and all attachments and/or exhibits referenced in the proposal must be included.**”

16. In response to this requirement Application #2015-053C submitted at Attachment 18 a letter dated January 19, 2015, from Credit Capital. The letter indicates that it is a Letter of Intent to Syndicate Federal Low-Income Housing Tax Credits. (See Exhibit B)

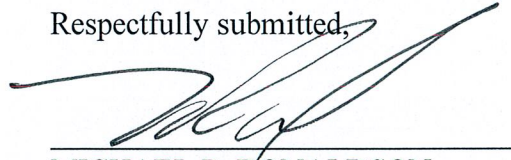
17. At Page 5, paragraph 4, the letter references “the methodology set forth on **Attachment A**. The online version of this letter however fails to include the referenced Attachment A in violation of the clear mandate of the RFA that all attachments **must** be included. Because of this violation Application No. 2015-053C should have been determined ineligible and to conclude otherwise is arbitrary and capricious.

18. Material issues to be resolved:

- a. Whether the scoring of Application #2015-101C is inconsistent with the RFA requirements.
- b. Whether Florida Housing’s scoring of Application #2015-101C was arbitrary or capricious, clearly erroneous, and contrary to competition.

WHEREFORE, Gateway requests a hearing and entry of an order determining that Florida Housing's determination concerning Applications #2015-053C is contrary to the RFA specifications and to Florida Housing's governing statutes, rules and policies to such an extent as to be arbitrary, capricious, contrary to competition, and clearly erroneous.

Respectfully submitted,

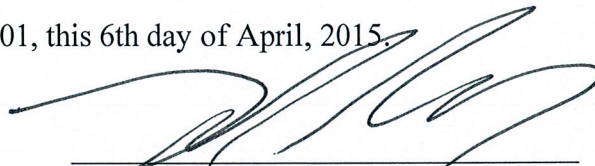


MICHAEL P. DONALDSON
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Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and a copy of the foregoing has been filed by Hand Delivery to the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301, this 6th day of April, 2015.



MICHAEL P. DONALDSON

**RFA 2014-114
Review Committee Recommendations**

Total HC Available for RFA	14,427,900.00
Total HC Allocated	14,332,928.00
Total HC Remaining	94,972.00

Small County Funding Available for RFA	1,513,170.00
HC Allocated to Small Counties	1,513,170.00
Total Small County Funding Remaining	-
Medium County Funding Available for RFA	12,914,730.00
HC Allocated to Medium Counties	12,819,758.00
Total Medium County Funding Remaining	94,972.00

Application Number	Name of Development	County	County Size	Name of Contact Person	Name of Developers	HC Funding Amount	Total Points	Small Unfunded Preference	Development Category Preference	Per Unit Construction Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
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Application selected to meet the Florida Keys Area Goal

2015-053C	73 Ocean	Monroe	S	Shane P. Server	Ti-Star Affordable Development, LLC;	1,464,217.00	23	Y	Y	Y	B	Y	45
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Application selected to meet goal to fund a second small county Application in a county other than Monroe

2015-088C**	Denton Cove	Franklin	S	Jonathan L. Wolf	Denton Cove Developer, Inc.;	48,953.00	23	Y	Y	Y	A	Y	18
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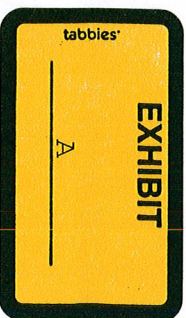
Other Medium County Applications selected

2015-106C	Villages at Halifax II	Volusia	M	Todd M. Wind	Piceme Affordable Development, LLC;	1,259,100.00	23	Y	Y	Y	A	Y	1
2015-067C	The San Juan	Osceola	M	Kim Murphy	Royal American Development, Inc.;	1,510,000.00	23	Y	Y	Y	A	Y	2
2015-073C	Clearlake Isles	Brevard	M	Kim Murphy	RAD-DFP Developer, LLC.;	1,475,000.00	23	Y	Y	Y	A	Y	6
2015-039C	Freedom Gardens	Hernando	M	Matthew Rieger	HTG Freedom Developer, LLC.;	1,510,000.00	23	Y	Y	Y	A	Y	7
2015-101C	Park at Wellington Apartments	Pasco	M	Matthew Rieger	HTG Wellington Family Developer, LLC.;	1,510,000.00	23	Y	Y	Y	A	Y	9
2015-091C	Kenwood Place	Leon	M	Jonathan L. Wolf	Kenwood Place Developer, LLC.;	1,510,000.00	23	Y	Y	Y	A	Y	20
2015-063C	City Park at Merritt Street	Seminole	M	Todd M. Wind	Piceme Affordable Development, LLC.;	1,510,000.00	23	Y	Y	Y	A	Y	26
2015-029C	The Verandas of Punta Gorda II	Charlotte	M	Paula M. Rhodes	Norstar Development USA, LP; Punta Gorda Developers, L.L.C.;	1,025,658.00	23	Y	Y	Y	A	Y	27
2015-066C	Aida Palms	Polk	M	Oscar A. Sol	Aida Palms Dev, LLC.;	1,510,000.00	23	Y	Y	Y	A	Y	28

**2015-088C is entitled to a Binding Commitment of \$890,417.

On March 20, 2015, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.



Attachment 18

Equity LOI





501 Santa Monica Blvd. Suite 702 Santa Monica, CA 90401
 MAIN: (310)393-1514 FAX: (310) 393-1504
 www.creditcapitalllc.com

1/19/2015

Keys Affordable Development, LLC
 c/o Shane P. Sarver
 4488 Heaton Park Trail
 Viera, Florida 32955

**Re: Letter of Intent to Syndicate Federal Low-Income Housing Tax Credits
 73 Ocean, 51 Proposed Units for Families in Marathon, Florida**

Dear Mr. Sarver:

Credit Capital LLC (CCL) and The Richman Group Affordable Housing Corporation (TRG) are the sponsors of investment partnerships that provide equity capital for multi-family apartment complexes which are eligible for low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986 ("Low-Income Housing Tax Credits") by investing in limited partnerships which own such apartment complexes.

You have advised us that Tri-Star Oceanside Villas, LLC will be the Member and Manager ("Member Manager") of Keys Affordable Development, LLC, a Florida Limited Liability Company ("Company") which shall own, develop, operate, and otherwise manage a project in Marathon, Florida commonly known as 73 Ocean (the "Apartment Complex"). We are pleased to provide you with this letter of intent for the acquisition by an affiliated limited partnership (the "Investor") of a 99.99% Membership Unit interest in the LLC, subject to the terms and conditions hereof. The closing of the acquisition of the Membership Unit interest is subject to (i) satisfactory due diligence and tax counsel review, (ii) our investment committee approvals, (iii) negotiation and execution of documentation acceptable to both parties, and (iv) our receipt of opinions of counsel (including corporate, tax and real estate) in a form acceptable to the Investor. Upon the execution of this letter, we will commence our due diligence review and proceed to secure the necessary approvals to acquire the Membership Unit interest. The Member Manager will negotiate and execute an amended and restated Operating Agreement of the Company in the Investor's standard form (the "Operating Agreement"), admitting the Investor to the Company. Individuals acceptable to us (the "Guarantor") will guarantee certain of the Member Manager's obligations to the Investor, as set forth herein.

All financing of the Apartment Complex will be subject to our approval. Upon closing, the following loan(s) shall have closed without conditions to funding or have been committed, as indicated below:

LOANS AVAILABLE FOR CONSTRUCTION					
LENDER	AMOUNT	TERM (in months)	RATE	PAYMENT (hard/soft)	STATUS
TBD	\$6,865,000	22	6.5%	Interest Only	Proposed

Name

**Re: Letter of Intent to Syndicate Federal Low-Income Housing Tax Credits
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4. Timing Differences: In the event that if the actual Final Reported Credit for 2016 is less than 58% of the LIHTC or for 2017 is less than 100% of the LIHTC (or LIHTC as adjusted pursuant to paragraph 2 above) then the Capital Contribution of the Investment Partnership to the Company shall be decreased or increased, as appropriate, (a "Timing Change"), by an amount sufficient to maintain an Internal Rate of Return to the Investment Partnership equal to 5.46% cash needs; such adjustment to be based upon the methodology set forth on Attachment A (assuming for this purpose that (i) the amount and timing of projected losses and deductions and (ii) the timing of the Capital Contributions will be fixed at the amounts shown in the projections attached to the Operating Agreement). In the event that the Timing Change exceeds the then unpaid Capital Contribution of the Investment Partnership, the Member Manager shall pay to the Investment Partnership, immediately upon demand, the amount by which the Timing Change exceeds such then unpaid Capital Contributions.

5. Cash Flow Distributions: Cash flow of the Company after operating expenses (including replacement reserves), debt service, and capital expenditures, will be distributed, to the extent available, in the following priority, starting from completion of the Apartment Complex:

- First: 100% to the Company to repay any operating deficit loans made by the same;
- Second: 100% to the Member Manager to repay any operating deficit loans made by the same;
- Third: 100% to the Investor in an amount equal to \$5,000 per annum for Asset Management services, escalated 3% per annum,
- Fourth: 100% to the developer (care of the Member Manager) to pay any deferred development fee to the same;
- Fifth: the balance split 10.00% to the Investor, 0.01% to the Credit Capital Limited Partner, and 89.99% to the Member Manager.

6. Sale or Refinance: Upon the sale of the Apartment Complex or a refinancing of the permanent mortgage loan, neither of which may occur prior to the termination of the Compliance Period, proceeds will generally be allocated in accordance with the following priority:

- First: Expenses of the sale and refinancing and satisfaction of underlying financing plus any other third-party obligations and debts;
- Second: Return of the outstanding balance of any operating deficit loans previously made by the Member Manager (See Guarantees);
- Third: The balance split 10% to the Investor, 89.98% to the Member Manager, 0.01% to the Credit Capital Limited Partner, and 0.01% to the TRG Special Limited Partner.

Credit Capital LLC

Name

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Notwithstanding the foregoing provisions of this Section 6, at the time of distribution of proceeds under this section, the amount distributed shall be adjusted such that the total amount of Net Cash Flow and proceeds from sale and liquidation distributed to the Investment Partner over the life of the Partnership equals 10% of all amounts distributed cumulatively under Section 5 and this Section 6.

7. Guarantees: The Member Manager and the Guarantor shall jointly and severally guarantee the following:

(A) Against recapture of the Low-Income Housing Tax Credits for 15 years except for recapture caused by (i) subsequent changes in the Tax Code or (ii) transfers of the Investor's interest in the Company.

(B) The payment in full of all costs and expenses of the acquisition and rehabilitation of the Apartment Complex in excess of the proceeds of all the construction period sources of funds and any operating deficits prior to the achievement of breakeven operations.

(C) To fund operating deficits for a five (5) year period (the "Operating Deficit Period") from the later of Breakeven Operations or funding of the permanent mortgage loan up to a maximum amount equal to 1 year of operating expenses and debt service (the "Operating Deficit Guaranty"). The Operating Deficit Period shall be deemed extended until (x) the Member Manager has provided the Investor with evidence that the Company has sufficient cash reserves to pay any accrued expenses as of the expiration of the Operating Deficit Period and (y) the Apartment Complex has achieved the "DSC Requirement" as hereinafter defined. The "DSC Requirement" means that the Apartment Complex has demonstrated a debt service coverage ratio of 1.10:1 for years four and five of the Operating Deficit Period. If the Apartment Complex has not demonstrated a 1.10:1 debt service coverage for such years the Operating Deficit Period will be extended until the Apartment Complex demonstrated a 1.10:1 debt service coverage for two consecutive years. For purposes of the Operating Deficit Guaranty, the term "Operating Deficits" shall include amounts withdrawn from the reserve for replacements during such five (5) year period. If the management agent is affiliated with the Member Manager or guarantors, it shall provide a further assurance agreeing to (i) defer and accrue its management fee, if necessary, to prevent a default under the permanent mortgage loan and (ii) to defer its fee to the extent necessary to avoid an Operating Deficit. If the Managing Agent elects not to defer its fee pursuant to subparagraph (ii) above, it must send a notice to the Member Manager and the Investor offering to resign. If no such notice is sent, the Managing Agent will be deemed to have ratified its agreement to defer its fee. If a notice is sent refusing to defer its fee, such refusal shall be grounds for removal of the Managing Agent.

(D) Repurchase of the Investor's interest in the Company by payment to the Investor of the full amount of the gross Capital Contribution paid to such date, if the Member Manager fails to (i) place the Apartment Complex in service by April 15, 2017, (ii) complete Final Closing (funding of the permanent loan) by June 15, 2017, (iii) achieve at least 70% of the aggregate projected LIHTC as set forth herein or (iv) achieve Breakeven Operations within 18 months of Substantial Completion (to be defined in the Operating Agreement) of the Apartment Complex.

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8. Representations and Warranties: The Member Manager shall provide the representations and warranties to the Investor which will be more particularly set forth in the Operating Agreement as negotiated. The Member Manager shall be obligated to recertify to the continued truth and accuracy of such representations and warranties at the time of each installment of capital contributions.
9. Duties and Obligations: The Member Manager shall be obligated to assume the duties and obligations as are set forth in the Operating Agreement as negotiated.
10. Legal Opinions: The Member Manager shall cause the attorneys for the Company to provide the legal opinions more particularly set forth in the Operating Agreement.
11. Sale or Conversion: Beginning 15 years from the date of the closing of the permanent mortgage loan, if the Investor requests the Member Manager to sell the Apartment Complex, the Member Manager will consent, provided such sale meets the approval of the lender and applicable tax credit agency. In the event the Member Manager does not consent to a sale at that time, the Member Manager will be granted an option to purchase the Apartment Complex at fair market value (as restricted by the uses mandated by the lender and the Tax Credit Agency). The Member Manager may elect to sell the Apartment Complex to itself for fair market value, in which case distributions shall occur in accordance with the Sale/Refinancing Proceeds section herein (see paragraph 5). In all events, should the Member Manager choose not to exercise this purchase option, the Investor shall reserve the right, but not the obligation, to: (i) sell its interest in the Company to the CCL Limited Partner for \$1, or (ii) transfer its Membership Unit interest in the Company to an affiliated entity. If after 15th annual anniversary of the closing of the permanent mortgage loan one party locates a purchaser, the other shall be obligated to consent to such purchaser so long as the purchase price and other terms offered by such purchaser are at least as favorable to the Local Partnership as the best offer, if any, located by the other party.
12. Accountants and Financial Reporting: The "Accountants" for the Company shall be or such other firm acceptable to the Investor. Financial information shall be submitted to the Investor by the 30th day after the end of each quarter, for the first three calendar quarters of each year. Such financial information may be unaudited and may be prepared by the Managing Agent. Annual audited financial statements and tax information will be required to be submitted to the Investor by the Member Manager by February 15 of each year.
13. Removal Rights: The Investor shall have the right to remove the Member Manager for cause as will be set forth in the Operating Agreement. No removal right without cause shall exist.
14. Indemnity Agreement: The Member Manager shall execute an agreement (the "Indemnity Agreement"), which shall indemnify Investor and its officers, directors and affiliates for any untrue statement of a material fact or omission to state a material fact necessary to make any such statements, in light of the circumstances under which they were made, not misleading, by the Member Manager or their agents set forth in any document delivered by the Member Manager or their agents in connection with the

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acquisition of the Apartment Complex, the investment by the Investor in the Company and the execution of the Operating Agreement.

15. Reserve Requirements: The Company will be required to make an annual minimum deposit to a reserve for replacements in an amount equal to the greater of (i) \$200 per unit per year increasing annually by three percent, or (ii) the amount utilized in the underwriting of the mortgage loans by the lenders (presently \$200, per unit, per year).

16. Due Diligence: CCL/TRG and the Investor will have the opportunity to perform, and you and your professionals will assist us in, the customary due diligence necessary in the acquisition of the Apartment Complex and of the investment by Investor in the Partnership. If after the developer has provided all of the requisite due diligence to the Investor, the transaction has not closed, this agreement shall, at the option of the Member Manager, cease to be binding (save for the repayment of the Investor's costs as capped and set forth below. Upon execution of this letter of intent, the Company shall provide the Investor information reasonably requested by the Investor, including without limitation, (i) market rental information, proving that the projected rents will be achieved and the rent up will occur within a reasonable absorption period, (ii) engineering report by an engineer acceptable to the Investor and (iii) a Phase 1 environmental report. The Investor shall bear the costs of its, market study, engineering review and Investors legal counsel. Additionally, approval of this transaction is subject to Investor satisfaction and completion of due diligence (including site visit, review, and investment committee approval), and receipt by the Company of a Federal LIHTC Reservation or Allocation from the appropriate state or local agency.

17. Title Insurance: The Member Manager shall provide, at Company expense, title insurance in favor of the Company in an amount not less than the sum of (i) all mortgage loans and (ii) the amount of the aggregate capital contribution (including that by the General, Special and CCL Limited Partners) with only those exceptions as may be approved by Investor.

18. Execution of Operating Agreement and Indemnity Agreements: As a condition to the Closing, the Member Manager will execute the Operating Agreement and Indemnity Agreement and any related documentation necessary to complete the transaction.

19. Hazard and Liability Insurance: As a condition to receipt of the second and third Installment of Capital Contributions (the prior period shall be covered by adequate builder's risk coverage, evidence of which shall be provided to the satisfaction of the Investor prior to Closing), the Company shall deliver evidence of hazard insurance from carriers acceptable to the Investor, in an amount equal to the replacement cost of the apartment improvements. The hazard insurance must include endorsements for inflation adjustment and code upgrade coverage. Liability insurance shall be in the amount of not less than \$5,000,000 with a deductible of not more than \$10,000.

20. Escrows: To the extent not required by any mortgage lender, the Company shall maintain funds in a segregated escrow account, in an amount sufficient to pay all real estate taxes and insurance premiums when due.

Credit Capital LLC

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21. Payment and Performance Bond or Letter of Credit: Intentionally Omitted
22. Brokers: Any and all fees due to any broker involved in this transaction will be the responsibility of the party that retained the broker. By executing this letter of intent, you represent and warrant that no broker has been involved in the negotiations among the Member Manager, its principals and TRG/CCL. You further acknowledge and agree that neither TRG/CCL nor the Investor shall be responsible for the payment of any brokerage fees in connection with the Investor's investment in the Project unless otherwise specifically agreed to in writing by TRG/CCL. TRG/CCL represents to you that no brokers were retained to represent them in this transaction.

If the above is acceptable to the Member Manager, please execute a copy of this letter and return it to the Investor by January 20, 2015.

Upon the Investor's receipt of a fully executed copy of this letter, the Investor will commence the necessary action to deliver to you a copy of the proposed Operating Agreement and Indemnity Agreement and the parties shall be bound by all of the terms and provisions hereof. If prior to the expiration of the due diligence period Investor agrees to proceed with the transaction, but notwithstanding such agreement, the Member Manager (i) fails to negotiate the Operating Agreement, Indemnity Agreement or other closing documents in good faith and/or (ii) offers the Membership Unit interest contemplated hereby to a third party, then the Member Manager shall be obligated to reimburse Investor and/or TRG for all syndication fees, costs as well as expenses incurred by Investor and/or TRG in connection with this transaction, including without limitation, all legal fees and disbursements, engineering and other professional fees, site inspection fees, market study fees, appraisal fees, background investigation costs, and other due diligence costs and expenses.

Credit Capital LLC

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LOANS AVAILABLE ON A TERM (PERMANENT) BASIS						
LENDER	AMOUNT	TERM (in years)	AMORT (in years)	RATE	PAYMENT (Hard/Soft)	STATUS
First Mortgage	\$1,769,000	30	30	6.5%	Hard	Proposed

To the extent that a change in financing structure changes the amount of Low-Income Housing Tax Credits, then capital contributions will be adjusted accordingly. The Member Manager must deliver any required approval of the admission of the Investor to Company prior to such admission (the "Closing"). The preparation, filing and processing of such application and all costs and expenses thereof, shall be the sole responsibility of the Member Manager and/or the Company. All loan documents shall provide that notices of default and foreclosure shall be sent to the Investor, as well as to the Member Manager.

2. Capital Contributions of the Investor: Subject to the terms and conditions set forth herein and in the Operating Agreement, the Investor will make capital contributions to the Company in the total amount of **\$13,762,261** (the "Capital Contribution") for the Federal Low-Income Housing Tax Credits.

CAPITAL CONTRIBUTIONS FOR FEDERAL LIHTC EQUITY:

Installment No. 1 : \$3,440,567

Paid upon admission of all Members and completion of due diligence to the satisfaction of the Investor, prior to or simultaneously with the closing of the construction loan.

Installment No. 2: \$4,128,676

Paid upon the later of 50% construction completion as certified by the Architect and on or before October 1, 2015.

Installment No. 3: \$4,816,792

Paid upon the latest to occur of the following:

- (i) Lien-free Completion of construction of the Apartment Complex and receipt of certificates of occupancy for all units in the Apartment Complex;
- (ii) Receipt of an estoppel letter from each lender to the Company (a letter addressed to the Lender at least 30 days prior to the request for payment of this installment along with proof of delivery to such Lender shall be deemed a reasonable effort) along with an executed

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- updated Member Manager Certification (Schedule B to the Operating Agreement).
- (iii) Receipt of certificates of insurance evidencing continuing coverage and compliance with the requirements described herein.
- (iv) Certificate of qualified basis, cost certification; and
- (v) April 1, 2016

Installment No. 4: \$1,376,226

Paid upon the latest to occur of the following:

- (i) Attainment of "Breakeven Operations" (as defined below);
- (ii) Achievement of 100% initial occupancy by tenants who qualify under Section 42 and who are paying rents (net of any concessions) at amounts which are at least 93% of our underwritten rent as will be set forth in the attachment to the Operating Agreement;
- (iii) Achievement of Final Closing (aka funding of the permanent loan);
- (iv) Receipt of an estoppel letter from each lender to the company (a letter addressed to the Lender at least 30 days prior to the request for payment of this installment along with proof of delivery to such Lender shall be deemed a reasonable effort) along with an executed updated Member Manager Certification (Schedule B to the Operating Agreement); and
- (v) Receipt of certificates of insurance evidencing continuing coverage and compliance with the requirements described herein.
- (vi) Evidence of recording of the LIHTC LURA in a timely manner to permit the Member Manager to claim the first years of tax credits.
- (vii) Receipt of form 8609 for each building in the Apartment Complex, and;
- (viii) January 3, 2017

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Installment No. 4 will only be released upon the achievement of Breakeven Operations. "Breakeven Operations" is generally defined as the earlier of the following: (i) the date upon which income from the normal operation of the Apartment Complex, received on a cash basis, for three consecutive months starting not earlier than the immediate three months prior to the funding of the permanent mortgage, less all mandatory debt service payments (assuming the permanent loan[s], not the construction loan[s]) for each month, exceeds all accrued operational costs for each month or, if the above is not verifiable for such three (3) month period, (ii) the date upon which income from the normal operation of the Apartment Complex (as reported under GAAP) equals or exceeds all operational costs (as reported under GAAP), as evidenced by an audited financial statement for a 12 month period prepared by the accountants of the Company.

In addition, Breakeven Operations shall not have occurred unless, at the end of such three (3) month period, the Company shall have (i) sufficiently funded segregated reserves to pay one (1) year's property insurance premiums (minus any prepaid premiums on the existing insurance policy) and one-half of the full year's assessment of real estate taxes payable (minus any prepaid [or escrowed] taxes with respect to such installment) and (ii) liquid assets not committed to the payment of any other expense or reserve fund in an amount sufficient to pay (a) one (1) month's mandatory debt service payment plus (b) any other accrued unpaid expenses.

3. Adjuster Clause: The Capital Contribution amount stated above is based upon your projection of an annual amount of Low-Income Housing Tax Credits of \$1,464,217 ("LIHTC") which in turn is based upon certain of the assumptions and projections stated in Schedule A herein. The actual amount of Low-Income Housing Tax Credits may in fact change after the determination of eligible and qualified basis. Accordingly, the Capital Contribution may be adjusted when (i) final projections of the amount of Low-Income Housing Tax Credits are completed and/or (ii) upon or after actual completion of the Apartment Complex. To the extent such final projected amount of Low-Income Housing Tax Credits varies from the LIHTC, the Capital Contribution will be adjusted as set forth in the following paragraph and as will be more particularly set forth in the Operating Agreement.

If the final amount of Low-Income Housing Tax Credits ("Final LIHTC") is greater or less than the LIHTC then the Capital Contributions shall be adjusted so that the ratio of the capital contribution attributable to the Low-Income Housing Tax Credits divided by the Final LIHTC allocable to Investor is equal to 94% ("LIHTC Ratio"). However, in the case of an increase, such increase in capital contribution will take place only if the Investor has funds available which are not committed otherwise. If the Investor does not have funds available to pay for the higher Low-Income Housing Tax Credits, then the Investor's interest in the Company will be adjusted downward accordingly, but in no event below a 90% interest. If the adjustment would result in an adjustment below 90% then TRG shall endeavor to cause an affiliated investment partnership to purchase an interest in the Partnership, but shall have no liability if it is unable to do so.

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