

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

NEW TIDEWATER APARTMENTS, LLC

Petitioner,  
vs.

FHFC No. 2012-001  
Application No. 2011-056C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

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**PETITION FOR REVIEW**

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005(5), Florida Administrative Code (F.A.C.), Petitioner, New Tidewater Apartments, LLC. ("Tidewater ") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("Florida Housing") scoring actions concerning Universal Cycle Application No. 2011-056C. In support of this Petition, Tidewater provides as follows:

1. Tidewater is a Florida for-profit corporation with its address at Post Office Box 62109, North Charleston, South Carolina 29419. Tidewater is in the business of providing affordable rental housing units in the State of Florida.

2. Florida Housing is the state agency delegated the authority and responsibility for administering and awarding funds pursuant to Chapter 420, F.S., and Rules 67-21 and 67-48, F.A.C.

### **Nature of the Controversy**

3. On December 6, 2011, Tidewater applied to Florida Housing for funding pursuant to the Low Income Housing Tax Credit Program (LIHTC). The purpose of the requested funds was to supplement the rehabilitation of an affordable housing apartment complex in Perry, Florida, named Perrytowne Apartments.

4. Pursuant to section 420.5099, Florida Statutes, Florida Housing is the designated “housing credit agency” for the State of Florida and administers Florida’s low-income housing tax credit program. Through this program, Florida Housing allocates Florida’s annual fixed pool of federal tax credits to developers of affordable housing.

5. The tax credits allocated annually to each state are awarded by state “housing credit agencies” to single-purpose applicant entities created by real estate developers to develop specific multi-family housing projects. An applicant entity will then sell this ten-year stream of tax credits, typically to a “syndicator,” with the sale proceeds generating much of the funding necessary for development and construction or rehabilitation of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at rents that are affordable to low-income and very-low-income tenants.

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code (“IRC”), by which federal income tax credits are allotted annually to each state on a per capita basis to encourage private developers to build and operate affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder’s federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. Because Florida Housing’s available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, Florida Housing has established a competitive application process pursuant to Chapter 67-48, F.A.C. Specifically, Florida Housing’s application process for 2011, as set forth in Rules 67-48.002-.005, F.A.C., involves the following:

- (a) The publication and adoption by rule of an application package;
- (b) The completion and submission of applications by developers;
- (c) Florida Housing’s preliminary scoring of applications;
- (d) An initial round of administrative challenges in which an applicant may take issue with Florida Housing’s scoring of another application by filing a Notice of Possible Scoring Error (“NOPSE”)

- (e) Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- (f) An opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- (g) A second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- (h) Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;
- (i) An opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- (j) Final scores, ranking, and allocation of tax credit funding the applicants through the adoption of final orders.

8. At the completion of this process a Final Score is assigned to each Application. Based on these Final Scores, and a series of Tie Breakers, Applications are then ranked. Funds are awarded to applicants starting with applicable preferences and set asides and the highest scoring applicants, until the available funds are exhausted. Applicants compete for funds, in large part, against other applicants in the same county size group, and against other applicants seeking to provide housing to the same demographic group.

9. Based on a review of Florida Housing's Scoring Summary dated March 27, 2012, Tidewater received a final score of 79 out of a possible 79 points for its Application. Additionally, Tidewater received 3.50 out of 6.00 ability to proceed points and 23.50 out of 37 Tie-Breaker Proximity Points. This score should allow Tidewater to receive a full award of its funding request. However, Florida Housing has also concluded that Tidewater failed to meet threshold.

10. Florida Housing's scoring action in the instant case concerns whether Tidewater has sufficiently demonstrated Site Control pursuant to the Universal Cycle Application and Rule. As will be explained more fully below, Florida Housing's scoring action in the instant case is erroneous.

#### **Substantial Interests Affected**

11. As an applicant for funds allocated by Florida Housing, Tidewater's substantial interests are adversely affected by the scoring decisions here. The final scoring actions of Florida Housing resulted in Tidewater's application not achieving threshold. Since the purpose of the loan program in general is to provide funding to developers of apartment projects for low income residents, then Tidewater interests are adversely and substantially affected by the loss of funding. Indeed, without the requested funding, Tidewater's ability to provide much needed affordable housing units will be severely jeopardized.

**Scoring of Tidewater Application**

12. The Universal Cycle Application at Part III(C)(2) requires an applicant to demonstrate, as a threshold requirement, Site Control by providing specified documentation which may include a Qualified Contract that has: a term that does not expire before the date that is seven (7) months after the Application Deadline; specifically states that the buyers remedy for default on the part of the seller includes or is specific performance; and has the buyer must be the Applicant.

13. In response to the Application requirement Tidewater submitted in its initial Application an Agreement for Purchase and Sale for Perrytowne Apartments. ("Agreement") The Agreement lists Griffin Heights, LLC, as the Seller and New Tidewater Apartments, LLC, as the Purchaser. (See Attachment A)

14. After reviewing the initial Application, Florida Housing in its Preliminary Scoring Summary concluded as follows:

<b>Item #</b>	<b>Description</b>	<b>Reason</b>
6T	Site Control	The Agreement of Purchase & Sale provided to demonstrate site control is incomplete. Exhibit A, legal description, as not provided in the Application.
7T	Site Control	Section 7.17 of the Agreement for Purchase & Sale states that "The sale of the property by the Seller to the Purchaser requires the written consents of its partners." No evidence of the consent of the partners has been provided.

(See Attachment B)

15. In response to these identified Site Control scoring issues Tidewater submitted CURES which addressed both issues including an Addendum to the Agreement of Purchase and Sale. ("Addendum") (See Attachment A)

16. In response to Tidewater's CURES Florida Housing in its Final Scoring Summary determined that Tidewater failed threshold for the following reasons:

<b>Item #</b>	<b>Description</b>	<b>Reason</b>
6C	Site Control	The Agreement of Purchase and Sale provided in the Application to demonstrate site control is dated December 2, 2011. The Addendum to the Agreement for Purchase and Sale, submitted in an attempt to cure Item 7T, fails to satisfy the partners' consent requirement of Section 7.17 of the Agreement because the Agreement referenced in the Addendum is dated November 27, 2011, not December 2,2011.

17. Apparently Florida Housing has discovered an alleged inconsistency that causes it confusion as to whether the Addendum applies to the initial Purchase and Sale Agreement and whether Site Control has been achieved.

18. Florida Housing's conclusion is erroneous in that there is no confusion caused by the alleged inconsistency. Indeed the Addendum is signed by the same parties Griffin Heights, LLC (Seller) and New Tidewater Apartments, LLC (Purchaser) and the same representatives of those parties as those identified in the Agreement. Similarly the same persons witnessed the signing of both documents.

Moreover James J. Kerr, Sr. is a member of both the Seller and Purchaser and executed both the Agreement and the Addendum.

19. The Agreement and Addendum themselves both reference the identical project "the 100-unit apartment complex located in Perry, Taylor County, Florida, and known as "Tidewater Apartments." Specifically, the Addendum even references Section 7.17 of the Purchase and Sale Agreement and quotes it so there would be no misunderstanding as to what the Addendum was addressing and actually doing.

20. Perhaps as important as the above, the Agreement was included in the same CURE package to Florida Housing as the Addendum. While obviously the Addendum includes a November 27, 2011, date it is clear that the Addendum was in fact an Addendum to the Agreement and no confusion should have resulted.

21. Moreover the inconsistency discovered by Florida Housing as a matter of law does not invalidate the intent of the parties to amend the Agreement as required by Florida Housing's Scoring Summary. (See Attachment C)

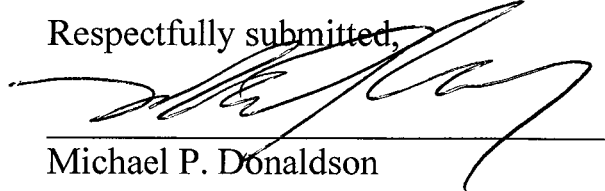
22. Tidewater has provided sufficient information to show Site Control in the instant case.

WHEREFORE, Tidewater requests that it be granted an administrative proceeding to contest Florida Housing's erroneous scoring decisions. To the extent there are disputed issues of fact, this matter should be forwarded to the



Division of Administrative Hearings. Ultimately, Tidewater requests the entry of a Recommended and Final Order which finds that it has met threshold and awards Tidewater all applicable points.

Respectfully submitted,



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Counsel for Applicant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301; and a copy furnished to Wellington H. Meffert, II, Esq., Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 17<sup>th</sup> day of April, 2012.



MICHAEL P. DONALDSON

Brief Statement of Explanation regarding  
Application 2011 – 056C

Provide a separate brief statement for each Cure

Part, III, C, 2, Item 6T

Site Control

“The Agreement of Purchase & Sale provided to demonstrate site control is incomplete. Exhibit A, legal description, was not provided in the Application.”

Attached is the complete Agreement of Purchase & Sale with the Legal Description “Exhibit A” attached as Exhibit 27 of the Application package.

As a result of curing this document for the application, this application will be deemed to have met Threshold for this item.

Exhibit 27 attached.

AGREEMENT OF PURCHASE AND SALE

for

PERRYTOWNE APARTMENTS  
(Perry, Taylor County, Florida)

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT is made this 2<sup>nd</sup> day of December, 2011, by and between Griffin Heights, LLC., a South Carolina limited liability company (the "Seller"), and New Tidewater Apartments, LLC., a Florida limited liability company (the "Purchaser").

### Recitals:

A. The Seller desires to sell on the terms and conditions of this Agreement (i) in fee simple that certain tract of land described in Exhibit A attached hereto, (ii) the improvements thereon, including without limitation, the 100- unit apartment complex located in Perry, Taylor County, Florida, and known as "Tidewater Apartments," (iii) all related buildings, structures, improvements, appurtenances, easements, rights of way, fixtures, personal property, amenities, furnishings, equipment, appliances, inventory and supplies, (iv) all related warranties, guarantees, bonds, claims and rights, (v) all related trade names, trademarks, franchises, licenses, leases, and goodwill, and (vi) all related drawings, plans, specifications, surveys, manuals and contracts, all of the foregoing to the extent owned by the Seller and related to the development, construction, ownership, maintenance and/or operation of the facility (collectively, the "Property");

B. The Property is receiving rental subsidies from HUD pursuant to a Housing Assistance Payments Contract (the "HAP Contract"); and

C. The Purchaser desires to acquire the Property on the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration for the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

### I. TERMS OF SALE

#### 1.1 Sale and Purchase.

(A) The Seller shall sell and the Purchaser shall purchase the Property on the terms and conditions set forth in this Agreement.

(B) The purchase price for the Property (the "Purchase Price") shall be \$3,210,000.00 payable in cash at the Closing (as defined below).

#### 1.2 Deposit.

(A) Upon execution of this agreement, the Purchaser shall deposit \$10,000 in cash with an escrow agent designated by the Purchaser (the "Escrow Agent"), as a deposit under this Agreement (the "Deposit"). The Deposit shall be invested in a federally-insured account designated by the Purchaser. Any earnings on the Deposit shall be released to the Purchaser when the Deposit is released to either the Purchaser or the Seller.

(B) The Escrow Agent shall release the Deposit to the Seller only if (i) the Seller has delivered notice to the Escrow Agent certifying that the Purchaser is in default, and the Seller is not in default, under this Agreement, (ii) the Escrow Agent delivers a copy of such notice to the Purchaser and (iii) the Purchaser does not deliver to the Escrow Agent, within 10 days after such notice, notice certifying that the Purchaser is not in default, or the Seller is in default, under this Agreement. Otherwise, the Deposits shall be credited to the Purchase Price at Closing or released to the Purchaser upon termination of this Agreement. If there is any dispute between the Purchaser and the Seller concerning release of the Deposit, the Deposit shall be released to an appropriate court in Charleston County, South Carolina, until the dispute is resolved.

## II. FEASIBILITY PERIOD

### 2.1 Property Documents

(A) The Seller, at its sole cost and expense, shall deliver the following documents to the Purchaser (including all amendments or supplements), to the extent available after the use of best efforts and diligence, upon execution of this Agreement (or as soon thereafter as such documents become available or are received):

- (1) A certified rent roll for the Property (including, without limitation, tenant names and apartment unit numbers, tenant income certifications, monthly rents, security deposits, housing assistance payments, lease commencement and expiration dates, rent delinquencies and concessions) as of the first day of the month of this Agreement (which shall be updated monthly through Closing) and all documents evidencing or with respect to tenant leases;
- (2) Documents with respect to the design, development, construction, and renovation of the Property;
- (3) Employment, service, management, leasing, maintenance, service, supply and other operating contracts for the Property;
- (4) Other written contracts and detailed summaries of other verbal contracts for the Property;
- (5) Certificates of occupancy and other operating licenses and permits for the Property;
- (6) Certificates of insurance and insurance policies for the Property;
- (7) List of furniture, fixtures, equipment, and inventory;
- (8) Utility bill and real and personal property tax statements and assessment notices for the Property for the three most recent complete fiscal years and year-to-date (which shall be updated monthly through Closing);
- (9) Most recent termite certificate for the Property;
- (10) Outstanding government notices of violations for the Property;

- (11) Engineering analyses, including soil borings, compaction tests and concrete tests;
- (12) Plats, site plans, "as built" plans, specifications, and site elevation drawings;
- (13) The operating statements for the Property for the three most recent complete fiscal years and year-to-date (which shall be updated monthly through Closing);
- (14) The income tax returns for the Seller for the 10 most recent fiscal years;
- (15) Documents with respect to the HAP Contract;
- (16) A summary of all capital repairs, replacements and improvements (and the costs thereof) made to the Property for the 10 most recent fiscal years (which shall be updated monthly through Closing);
- (17) Existing title reports (including copies of exceptions and matters referenced therein) and surveys for the Property;
- (18) A statement of all replacement and other reserve balances for the Property;
- (19) All partnership agreements and certificates (and all amendments thereto) of the Seller; and
- (20) All other documents and information relating to the Property requested by the Purchaser.

(B) The Seller shall not be in default under this Agreement for failing to deliver the documents required under Section 2.1 (A) to the extent that such documents are not available to the Seller after the use of best efforts and due diligence. In such event, the only remedy of the Purchaser for failing to receive documents required under Section 2.1 (A) shall be to terminate this Agreement, in which event the Deposit shall be promptly returned to the Purchaser and the parties shall have no further rights, duties or obligations hereunder.

2.2 Physical Inspection. The Purchaser and its agents shall be entitled, during normal working hours, to (i) enter upon the Property for the purpose of making tests, surveys, engineering and other inspections, financial analysis, appraisals and similar reviews of the Property, and (ii) review the books and records of the Seller which pertain to the Property. The Seller shall cooperate with the Purchaser in any such matters. The Purchaser shall (i) engage in such activities in a manner which does not interfere with the tenants' quiet enjoyment of the Property and (ii) indemnify and hold harmless the Seller for all losses, costs, damages and expenses incurred as a result of actions by the Purchaser or its agents in connection with such matters.

### 2.3 Feasibility Period.

(A) The Seller hereby acknowledges that the Purchaser has entered in to this Agreement prior to reviewing all information with respect to the Property. In recognition thereof, the Purchaser shall have until the later of (i) 45 days after the date of this Agreement, (ii) 45 days after the Purchaser receives the information required pursuant to Section 2.1 and (iii) 45 days after the Purchaser receives notice of receipt of partner approvals pursuant to Section 7.17, to confirm, in its sole discretion and without regard to the merits or reasonableness of the decision, its desire to purchase the Property (the "Feasibility Period").

(B) If the Purchaser is not able to satisfactory confirm, in its sole discretion, its desire to purchase the Property during the Feasibility Period, this Agreement shall be deemed terminated upon expiration of the Feasibility Period without any further action by the Purchaser required, in which event the Escrow Agent shall promptly return the Deposit to the Purchaser and the parties hereto shall have not further rights, duties or obligations hereunder. Any failure by the Purchaser to terminate this Agreement pursuant to this Section 2.3(B) shall not affect its remedies pursuant to Section 4.2 upon a default by the Seller.

### 2.4 Title Report and Survey

(A) Upon execution of this Agreement and at the Purchaser's cost, the Purchaser shall apply for a commitment for ALTA Form B Owners Policy of Title Insurance which (i) sets forth the status of the title of the Property and all liens, claims, encumbrances, easements, rights-of-way, encroachments, reservations, restrictions and any other matters affecting the Property, (ii) is accompanied by copies of all matters of record referenced therein, (iii) contains an endorsement over any filed or unfilled mechanics liens, (iv) contains an "extended coverage" endorsement over the general and printed exceptions, and (v) at the election of the Purchaser, contains an ALTA 3.1 zoning endorsement (the "Title Commitment").

(B) Upon execution of this Agreement and at the Purchaser's cost, the Purchaser shall obtain a Uniform Commercial Code search, judgment report search, tax report search and lien search certificates with respect to the Property (the "Lien Certificates").

(C) Upon execution of this Agreement and at the Purchaser's cost, the Purchaser may, in its discretion, engage a surveyor to prepare a current "as built" survey of the Property) or to re-certify any existing survey) acceptable to the Title Company for purposes of its issuance of an extended coverage endorsement over matters of survey without exception (the "Survey"). The Survey shall be certified and shall (i) comply with, and the certificate shall so state that it complies with American Land Title Association standards, (ii) locate all improvements on the Property, (iii) show all improvements to be entirely located within all boundary and building lines, easements and rights-of-way, (iv) show the location and course of all visible and recorded easements and rights-of-way and all visible sewage, water, electricity, gas and other utility facilities and conduits upon or adjacent to the Property, and (v) indicate that the Property is adjacent and accessible to a dedicated street or right-of-way.



(D) The Purchaser shall examine the Title Commitment, the Lien Certificates and the Survey, and specify to the Seller those items which the Purchaser will accept (the "Permitted Encumbrances") and those matters which the Purchaser determines are objectionable (the "Objectionable Encumbrances"). If the Purchaser does not object to the Title Commitment, the Lien Certificates and the Survey, it shall be deemed that all matters reflected on the Title Commitment, the Lien Certificates and the Survey are Permitted Encumbrances. If any Objectionable Encumbrances are reflected in the Title Commitment and Lien Certificates, the Seller, at its sole cost and expense, may elect to remove all Objectionable Encumbrances prior to Closing. If the Seller does not so remove all Objectionable Encumbrances, the Purchaser may elect to (i) terminate this Agreement, in which event the Deposit shall be returned to the Purchaser and the parties hereto shall have no further rights, duties, or obligations hereunder, or (ii) waive the Objectionable Encumbrance.

(E) The Seller shall not cause any Objectionable Encumbrances after the date of this Agreement. The Seller, at its sole cost and expense, shall remove all Objectionable Encumbrances which arise between the date of this Agreement and the date of Closing. If the Seller fails to cause all of such Objectionable Encumbrances to be removed or cured prior to Closing the Purchaser shall have the following rights:

(1) The Purchaser may unilaterally extend the date of Closing to afford the Seller additional time within which to cure such Objectionable Encumbrances (without prejudice to the Purchaser's rights);

(2) The Purchaser may terminate this Agreement, in which event the Deposit shall be returned to the Purchaser and the parties hereto shall have no further rights, duties or obligations hereunder; or

(3) The Purchaser may elect to purchase the Property subject to the Objectionable Encumbrance not so removed or cured (or not appropriately secured by bonding or escrow to the reasonable satisfaction of the Purchaser).

### III. CLOSING

3.1 Time and Place. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur at a location in metropolitan Charleston, South Carolina, designated by the Purchaser, during normal business hours, on the date designated by the Purchaser which is not later than December 30, 2012.

3.2 Status of Title. At the Closing, the Seller shall convey good, indefeasible, fee simple marketable title to the Property to the Purchaser, insurable at standard rates by a reputable title insurance company, and free and clear of all mortgages, pledges, liens, conditionals sales, encumbrances, leases, tenancies, licenses, security interests, covenants, preferences, conditions, restrictions, rights-of-way, easements, encroachments or other matters of any nature affecting title, except for the Permitted Encumbrances.

3.3 Closing Documents.

(A) The Seller shall deliver (or cause to be delivered) the following documents (in form and substance satisfactory to the Purchaser) dated as of the Closing:

(1) A special warranty deed in recordable form conveying the Property to the Purchaser, without exceptions other than Permitted Encumbrances;

(2) An estoppel affidavit stating all representations and warranties made by the Seller pursuant to Section 6.1 are true and correct as of the Closing;

(3) A bill of sale and assignment for all personal property, if any, included as part of the Property;

(4) An assignment of all tenant leases, reserve accounts, and rights under contracts, permits, warranties, certificates of occupancy, licenses and other agreements included as part of the Property;

(5) A certified rent roll for the Property current as of the date of Closing;

(6) Any affidavits and indemnifications as may be reasonably required by the Title Commitment which are normal and customary for transactions of this type;

(7) A certification that the Seller is not a foreign person within the meanings of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended (the "Code"); and

(8) All documents reasonably necessary to satisfy the conditions set forth in Section 3.5(A) that are to be satisfied by the Seller.

(B) The Purchaser shall deliver (or cause to be delivered) the following documents (in form and substance satisfactory to the Seller) at the Closing:

(1) Cash, cashier's check or wired funds for the Purchase Price;

(2) An estoppel affidavit stating that all representations and warranties made by the Purchaser pursuant to Section 6.2 are true and correct as of the Closing;

(3) All documents reasonably necessary to satisfy the conditions set forth in Section 3.5(B) that are to be satisfied by the Purchaser; and

(4) An assumption of leases, licenses, contracts, and other agreements which are assigned to the Purchaser.

(C) The Purchaser and/or the Seller shall deliver (or cause to be delivered) the following documents (in form and substance reasonably satisfactory to the Purchaser and the Seller) at the Closing:

(1) A settlement statement reflecting costs and adjustments pursuant to Sections 4.1 through 4.4;

(2) All documents required in connection with assumptions of the HAP Contract; and

(3) All other documents reasonably required in connection with the transactions contemplated by this Agreement.

3.4 Conduct Pending Closing. From the date of this Agreement until the Closing, the Seller shall:

(A) Refrain from any sale, assignment, disposition or encumbrance of the Property;

(B) Refrain from creating any Objectionable Encumbrances;

(C) Refrain from any default under any material contract, agreement or obligation with respect to the Property, including, without limitation, the HAP Contract;

(D) Maintain the Property in substantially the same physical condition as of the date of this Agreement, other than (i) normal wear and tear and (ii) damages due to casualty;

(E) Operate the Property in substantially the same manner as of the date of this Agreement;

(F) Promptly furnish the Purchaser copies of (i) any and all notices or communications which it receives from any governmental entities, any board of fire underwriters and from any body having jurisdiction with respect to the use and occupancy or physical condition of the Property or (ii) any notice of the filing of a lawsuit against the Seller;

(G) Maintain current amount of fire, extended coverage, hazard and other insurance for the Property;

(H) Refrain from the adoption of any management, maintenance, service, or other contract relating to the Property which is not terminable without cause on not more than 30 days' notice; and

(I) Refrain from (i) incurring any debt or obligation not in the normal course of business or (ii) intentionally diminishing the financial condition of the Property.

3.5 Conditions to Closing.

(A) The Purchaser's obligations under this Agreement shall be conditioned upon the following (unless waived in the discretion of the Purchaser):

(1) Delivery of the items required to be delivered by the Seller under Sections 3.3(A) and 3.3 (C);

- (2) The Seller not being in default under this Agreement, including, without limitation, the failure of any representation, warranty or covenant by the Seller;
- (3) Expiration of the Feasibility Period without termination of this Agreement by the Purchaser;
- (4) Receipt of an Owner's Title Insurance Policy at standard rates and in accordance with the Title Commitment, without exceptions other than the Permitted Encumbrances;
- (5) Receipt of approval of HUD to the assumption by the Purchaser of the HAP Contract without change in its terms and conditions;
- (6) Receipt by the Purchaser of evidence that (i) all appropriate utilities and public services are available for the Property, (ii) the Property is not located in a flood plain, (iii) the Property is free of radon, toxic substances, environmental hazards, or similar conditions, (iv) the Property is free of termite or other pest infestation and (v) the Property is zoned for its present use; and
- 7) Receipt by Purchaser of (i) an award of Low Income Housing Tax Credits (LIHTC) from Florida Housing Finance Corporation (FHFC), (ii) a firm commitment from HUD for first mortgage financing, and (iii) a firm commitment for equity contributions from a LIHTC equity investor in the amounts and on substantially the same terms and conditions as listed and further described in the 2011 Universal Application for the Housing Credit Program administered by FHFC that will be submitted to FHFC by the Purchaser no later than December 6, 2011.

(B) The Seller's obligations under this Agreement shall be conditioned upon the following (unless waived in the discretion of the Seller):

- (1) Delivery of the items required to be delivered by the Purchaser under Section 3.3(B);
- (2) The Purchaser not being in default under this Agreement; and
- (3) Receipt by the Seller of the consents of its partners pursuant to Section 7.17.

#### IV. COSTS AND ADJUSTMENTS

##### 4.1 Costs

(A) The Seller shall bear the following costs:

- (1) All grantor, transfer or similar taxes or fees in connection with transfer of the Property typically borne by a seller; and

(2) All costs incurred in connection with providing the information pursuant to Section 2.1.

(B) The Purchaser shall bear the following costs:

(1) All grantee, transfer or similar taxes or fees in connection with transfer of the Property typically borne by a purchaser;

(2) All costs of the Title Commitment and title insurance premiums;

(3) All cost of the Survey; and

(4) All cost of its investigations, studies and reports in connection with its acquisition of the Property.

(C) The Purchaser and the Seller shall each bear the fees of their respective counsel and advisors.

4.2 Security Deposits. The Seller shall assign all tenant security deposits (with statutory tenant interest), if any, to the Purchaser at the Closing, and no additional payment or adjustment shall be made therefore, provided that such accounts are at least fully funded as of such date. To the extent that such deposits shall be underfunded at the Closing, the Seller shall indemnify the Purchaser against such deficiencies and the cash due at the Closing shall be reduced by the amount necessary to fund them, and any additional amounts shall be funded by the Seller at the Closing.

4.3 Rent Roll and Unpaid Rents. At the Closing, the Seller shall furnish to the Purchaser a rent roll for the Property current as of the date of the Closing. Adjustments shall be made on a per diem basis at the Closing for prepaid rents. Rents in arrears at the time of the Closing and which are collected by the Purchaser after the Closing shall be applied first to amounts due after the Closing and then to amounts due from such tenants for the period prior to the Closing. The Purchaser assumes no obligation to collect or enforce the payment of any amounts which may be due to the Seller. The Seller may, at its own cost and expense, sue tenants for any unpaid rents and charges due at Closing, but shall indemnify the Purchaser against all cost and liabilities.

4.4 Adjustments.

(A) The Seller shall be entitled to all income and shall be responsible for all expenses produced from the operation of the Property which are allocable to the period ending prior to the close of business on the date of the Closing. The Purchaser shall be entitled to income and shall be responsible for all expenses which are allocable to the period from and after the close of business on the date of the Closing. At the Closing, all items of income and expense (including, without limitation, debt service, if applicable) shall be prorated in accordance with this principle and the following rules:

(1) All rentals shall be adjusted in accordance with Section 4.3 and all other payments shall be prorated on a per diem basis as of the Closing;

(2) The portion of the real and personal property taxes and assessments on the Property for the current tax period for which the Seller is responsible shall be determined on the basis of the number of days which have elapsed from the first day of the current tax period to the Closing, whether or not the same shall be payable prior to the Closing. If, as of the Closing, the actual tax bills for the years in question are not available and the amount of taxes to be prorated cannot be ascertained, then rates, millages, and assessed valuation of the previous year, with known changes, shall be used, and when the actual amount of taxes and assessments for the years in question shall be determinable such taxes and assessments shall be re-prorated between the parties to reflect the actual amount of such taxes and assessments; and

(3) Gas, water, electricity, heat, fuel sewer and other utilities and other operating expenses related to the Property shall be prorated on a per diem basis as of the Closing. The Seller shall use its best efforts to arrange for a billing of all service contracts for which fees are based on usage (such as utilities) for all service used prior to the Closing and shall pay the resultant bills. If it is not possible to arrange for a measurement of usage with respect to any such service contract as of the Closing, the Seller and the Purchaser shall prorate the period between (i) the last measurement of usage preceding the Closing, and (ii) the Closing, on the basis of the average daily usage for the bill reflecting said last measurement of usage, unless in the context of facts known about usage some other proration is more equitable.

(B) The pro-rations and payments to be made at the Closing under the foregoing provisions shall be made on the basis of a written statement or statements of estimates of such amounts delivered to the Purchaser by the Seller three business days prior to the Closing and approved by the Purchaser prior to the Closing, with confirmatory statements delivered to the Purchaser at Closing. If any pro-rations, apportionments, or computations shall prove to be incorrect for any reason, the neither party shall be entitled to an adjustment to the correct the same.

(C) All accounts receivable and expense reimbursements of the Property which have accrued prior to the Closing shall remain the property of the Seller. As soon as practicable after the Closing, the Seller shall compute the amounts thereof due for the calendar year and shall deliver a statement thereof to the Purchaser. The Seller shall be entitled to collect such amounts, and the Purchaser shall have no further responsibility for such collections other than the obligation to reasonably cooperate with the Seller in its collection efforts. The Seller shall consult with the Purchaser concerning their efforts to collect such amounts, and shall take no action which will result in the termination of any lease assigned hereunder.

(D) Notwithstanding any other provision of this Agreement, the Purchaser shall not assume any employee, obligations incurred by the Seller and there shall not be pro-rations at the Closings for salaries, vacation, or other employee benefits unless such obligations are expressly assumed by the Purchaser.

## V. DEFAULT

5.1 Default by Purchaser. If the Purchaser defaults under the Agreement, the Seller shall be entitled to terminate this Agreement, in which event the Deposit shall be forfeited to the

Seller as liquidated damages and the parties hereto shall thereafter have no further right, duties, or obligations hereunder. THE PURCHASER AND SELLER UNDERSTAND THAT FORFEITURE OF THE DEPOSIT SHALL BE THE EXCLUSIVE REMEDY TO SELLER FOR A DEFAULT BY PURCHASER.

5.2 Default by Seller. If the Seller defaults under this Agreement, the Purchaser shall be entitled to (i) pursue specific performance, or (ii) if Closing has not occurred, terminate this Agreement, in which event the Deposit shall be returned to the Purchaser, and the parties hereto shall thereafter have no further rights, duties, or obligations hereunder.

## VI. REPRESENTATIONS AND WARRANTIES

6.1 By the Seller. As of the date hereof, the Seller hereby represents and warrants as follows to the best of its knowledge:

(A) The Property is not (i) subject to any right of first refusal or option to acquire in favor of any person, (ii) subject to any reversion of title or (iii) subject to any restrictions on use, other than normal zoning restrictions and other matters of record;

(B) At Closing, there will be no leases (other than tenant leases) or management, service, maintenance, employment or other similar contracts affecting the Property which are not terminable without cause on not more than 30 days notice without penalty, except for the matters set forth on Exhibit B hereto;

(C) The Seller has not received any notice from any insurance company or public authority, no such notice is threatened, of the existence of any condition or situation which requires work to be done to cure an unsatisfactory condition with respect to the Property;

(D) The Seller has not received any notice of any pending proceedings to change, re-zone or down-zone the existing zoning classification as to any portion of the Property and has no knowledge of the threat of any such action;

(E) The Seller is the legal and beneficial owner, of record and in fact, of the Property and, subject to Section 7.17, has full power and authority to enter into this Agreement;

(F) No assessments for public improvements have been made against the Property which remain unpaid, except as may be disclosed in the Title Commitment;

(G) All bills and claims for labor performed and services and materials furnished for the Property will be paid in full by the Closing and the Property will be free from recorded or unrecorded mechanics' or materialsmen's liens at the Closing;

(H) With respect to each tenant lease at the Closing, (i) there will be no monetary or other material default by the landlord or, any tenant thereunder, and there will not exist a state of facts which with notice and/or the passage of time would develop into such a material default, (ii) no tenant will have any defenses, offsets, credits, or counterclaims under its tenant lease, (iii) the Seller has satisfied all of its material obligations under the tenant leases, and (iv) there will be no persons or entities entitled to possession of the Property other than the tenants;

(l) The Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition by its creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or judicial seizure of all, or substantially all, of its assets, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally.

6.2 By the Purchaser. As of the date hereof, the Purchaser hereby represents and warrants as follows to the best of its knowledge:

(A) The Purchaser has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition by its creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or judicial seizure of all, or substantially all, of its assets, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally;

(B) The execution and delivery of this Agreement and the performance of all acts contemplated hereby have been duly authorized by all requisite action of the Purchaser; and

(C) It will cooperate to the fullest extent possible with the Seller and any other entity whose approval is required to consummate the transaction contemplated herein.

## VII. MISCELLANEOUS

7.1 Casualty. The risk of loss or damage to the Property caused by fire or other casualty prior to the Closing shall be borne by the Seller. The Seller shall notify the Purchaser promptly of any damage to the Property, and give the Purchaser a right to inspect such damage and be kept informed of the status of the insurance claim by the Seller. If there is any such damage to the Property prior to the Closing, the Purchaser shall have the right, at Purchaser's option, either to (i) terminate this Agreement, in which event the Deposit shall be returned to the Purchaser, and the parties here to shall thereafter have no further rights, duties or obligations hereunder, unless such damage is 10 % of the Purchase Price or less and the Seller, in its discretion and at its sole cost and expense, repairs the damage prior to the Closing to the reasonable satisfaction of the Purchaser, or (ii) proceed with the Closing and accept title to the Property without any reduction in the Purchase Price, and the Seller shall deliver or assign the Purchaser any insurance award paid or due the Seller with respect to such damage and lost revenues.

7.2 Condemnation. In the event of any actual or pending condemnation, eminent domain or similar proceeding of or against the Property, the Purchaser shall have the right, at its option, either to (i) terminate this Agreement, in which event the Deposit shall be returned to the Purchaser and the parties hereto shall thereafter have no further rights, duties or obligations hereunder or (ii) proceed with the Closing and take such title to the Property as the Seller is able to deliver, together with an assignment of any award in connection with any such proceeding, without reduction of the Purchase Price.



7.4 Further Assistance. The Purchaser and the Seller agree to execute such additional documents and to furnish such additional data as may be reasonably necessary to consummate the transaction provided for in this Agreement.

7.5 Amendment. This Agreement may not be modified, altered or amended except pursuant to a written instrument executed by both the Purchaser and the Seller.

7.6 Notices. Any notice, report, demand, request, approval or other communication required, permitted or desired hereunder shall be in writing and hand delivered or deposited in the United States registered or certified mail, return receipt requested, postage prepaid, at the following addresses, and shall be deemed delivered when received or refused:

To Seller: Griffin Heights, LLC  
2409-A Mall Drive  
North Charleston, SC 29406  
Attn: James J. Kerr

To Purchaser: New Tidewater Apartments, LLC  
2409-A Mall Drive  
North Charleston, SC 29406  
Attn: James J. Kerr

And

New Tidewater Apartments, LLC  
8300 Greensboro Drive, Suite 800  
McLean, VA 22102  
Attn: Stephen P. Wilson

7.7 Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

7.8 Waiver. No consent or waiver, express or implied, by either party to or of any breach or default by the other party in the performance of this Agreement shall be construed as a consent or waiver to or of any subsequent breach or default in the performance by such other party of the same or any other obligations hereunder.

7.9 Survival. All terms and provisions of this Agreement and the covenants, agreements, representations, warranties, undertakings and obligations of the parties hereto shall survive terminate at the Closing.

7.10 Entire Agreement. This Agreement (including all exhibits hereto) supersedes any prior agreement, and contains the entire agreement of the parties or their predecessors in interest, with respect to the Property.

7.11 Assignment. This Agreement may not be assigned, in whole or in part, by either party hereto without the consent of the other party, except that the Purchaser may assign this Agreement to a person or entity controlled by or affiliated with the Purchaser or its affiliates.

7.12 Successors and Assigns. All terms, conditions, covenants, warranties, representations, agreements, undertakings and obligations hereunder (and under all documents executed at Closing in connection herewith) shall be binding upon and inure to the benefit of the parties hereto and their respective legal representative, successors and assigns.

7.13 Time is of Essence. Time is of the essence under this Agreement.

7.14 Exhibits. Certain exhibits from a part of this Agreement as set forth herein. All of such exhibits are hereby incorporated into this Agreement by reference.

7.15 Counterparts. The Agreement may be executed in counterparts and all counterparts shall be considered part of one Agreement binding all parties hereto.

7.16 Days. Reference in this Agreement to "days" shall refer to business days and shall excluded Saturdays, Sundays or federal holidays. If a date referenced in this Agreement falls on a Saturday, Sunday or federal holiday, it shall be deemed to fall on the next business day.

7.17 Partner Consents. The sale of the Property by the Seller to the Purchaser requires the written consents of its partners. The Seller shall promptly solicit such consents and shall diligently and in good faith attempt to obtain such consents within 45 days after the date of this Agreement. The Seller shall promptly notify the Purchaser when such consents or disapprovals are received.

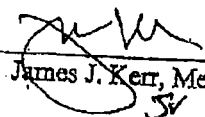
7.18 HUD Funds. Notwithstanding any provision of this Agreement, if U.S. Department of Housing and Urban Development ("HUD") funds including, but not limited to, HOME funds, are used in connection with the Property, this Agreement does not constitute a commitment of funds or site approval, and such commitment of funds or approval may occur only upon satisfactory completion of an environmental review and receipt of a release of funds notice from HUD under 24 CFR Part 58. The provision of any federal funds to the Property is conditioned on the determination to proceed with, modify or cancel the Property based on the results of a subsequent environmental review. If no HUD funds are utilized in regard to this Property, the provision shall be considered null and void.

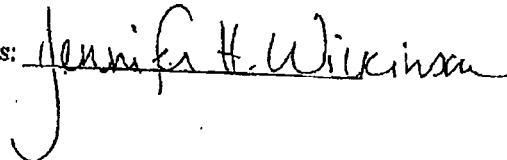
\* \* \* \*

IN WITNESS WHEREOF, the Seller and the Purchaser have executed this Agreement as of the date first above written.

SELLER:

GRIFFIN HEIGHTS, LLC

By:   
James J. Kerr, Member

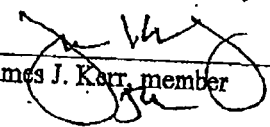
Witness: 

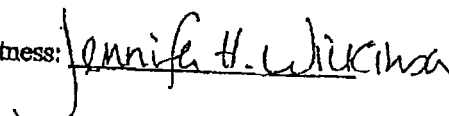
PURCHASER:

NEW TIDEWATER APARTMENTS, LLC, a Florida limited liability company,

By: New Tidewater GP LLC, a Florida limited liability company, its Managing Member

By: AMCS Development, LLC, a managing member

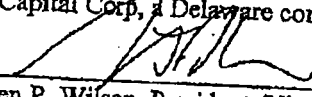
By:   
James J. Kerr, member

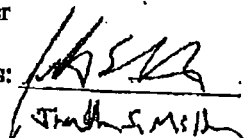
Witness: 

and,

By: Stratford Capital Group, LLC, a Delaware limited liability company, a managing member

By: SCG Capital Corp, a Delaware corporation, its manager

By:   
Stephen P. Wilson, President (Virginia Office)

Witness: 

Tidewater Apartments Perry, FL

O.R. 569, PG. 962 (DESCRIPTION AS PROVIDED)

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (NW 1/4 OF SE 1/4) OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 7 EAST, TAYLOR COUNTY, FLORIDA, THENCE RUN NORTH 200.0 FEET, THENCE RUN NORTH 89°39' EAST 38.0 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING RUN NORTH 633.31 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF THE SOUTHERN RAIL ROAD; THENCE RUN NORTH 68°43' EAST ALONG SAID RIGHT-OF-WAY LINE 500.45 FEET; THENCE RUN SOUTH 00°11' EAST 987.10 FEET; THENCE RUN SOUTH 89°39' WEST 307.7 FEET; THENCE RUN NORTH 140.0 FEET; THENCE RUN SOUTH 89°39' WEST 162.0 FEET TO THE WEST PROPERTY LINE; THENCE RUN NORTH ALONG SAID PROPERTY LINE 35.0 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 9.126 ACRES AND IS LOCATED IN THE NW 1/4 OF THE SE 1/4 OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 7 EAST, PERRY, TAYLOR COUNTY FLORIDA

THE ABOVE DESCRIBED LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 7 EAST, TAYLOR COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 26; THENCE NORTH 00°01'49" WEST, 200.19 FEET; THENCE NORTH 89°33'33" EAST, 38.00 FEET TO THE EASTERLY LINE OF WARNER AVENUE (PER FOUND MONUMENTATION AND LOCAL RECOGNITION) AND THE POINT OF BEGINNING; THENCE NORTH 00°01'49" WEST, ALONG LAST SAID LINE, 633.31 FEET TO THE SOUTHERLY LINE OF A SOUTHERN RAILROAD RIGHT OF WAY; THENCE NORTH 68°43'00" EAST, ALONG LAST SAID LINE, 500.45 FEET TO THE EASTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS 569, PAGE 962 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 00°14'12" EAST, ALONG LAST SAID LINE, 986.44 FEET TO THE NORTHERLY LINE OF THOMAS DEMPS ROAD (PER FOUND MONUMENTATION AND LOCAL RECOGNITION); THENCE SOUTH 89°33'33" WEST, ALONG LAST SAID LINE, 307.96 FEET A WESTERLY LINE OF SAID LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS 569, PAGE 962; THENCE NORTH 00°01'49" WEST, ALONG LAST SAID LINE, 140.08 FEET TO A SOUTHERLY LINE OF LAST SAID LANDS; THENCE

exhibit A

SOUTH 89°33'33" WEST, ALONG LAST SAID LINE, 162.02 FEET TO THE  
AFORESAID EASTERLY LINE OF WARNER AVENUE; THENCE NORTH 00°01'49"  
WEST, ALONG LAST SAID LINE, 35.00 FEET TO THE POINT OF  
BEGINNING;

CONTAINING 9.13 ACRES, MORE OR LESS.

exhibit 27

ATTACHMENT A - NO. 2011-056C

ADDENDUM TO THE AGREEMENT OF PURCHASE AND SALE

THIS ADDENDUM TO THE AGREEMENT is made this 27th day of December, 2011, by Griffin Heights, LLC., a South Carolina limited partnership (the "Seller") and its Partners regarding the Purchase and Sale Agreement dated November 27, 2011 by and between Griffin Heights, LLC., a South Carolina limited partnership (the "Seller") and New Tidewater Apartments, LLC., a Florida limited partnership (the "Purchaser").

The Seller and the Purchaser have executed a Purchase Agreement as of November 27, 2011 for the improvements thereon, including without limitation, the 100- unit apartment complex located in Perry, Taylor County, Florida, and known as "Tidewater Apartments" as indicated in the legal description Exhibit A attached.

This Addendum serves as sufficient and timely notice to the Seller and its Partners as evidence of written consent as required in Section 7.17 of the executed said Purchase Agreement as represented below:

"7.17 Partner Consents. The sale of the Property by the Seller to the Purchaser requires the written consents of its partners. The Seller shall promptly solicit such consents and shall diligently and in good faith attempt to obtain such consents within 45 days after the date of this Agreement. The Seller shall promptly notify the Purchaser when such consents or disapprovals are received."

SELLER:

GRIFFIN HEIGHTS, LLC

By: [Signature]  
James J. Kerr, Jr., Managing Member

Witness: [Signature]

By: [Signature]  
James J. Kerr, Sr., Member

Witness: [Signature]

Purchaser acknowledges and accepts receipt of this addendum from Seller.

PURCHASER:

New Tidewater Apartments, LLC, a Florida limited liability company,

By: New Tidewater GP LLC, a Florida limited liability company, its Managing Member

By: AMCS Development, LLC, a managing member

By: [Signature]  
James J. Kerr, Member

Witness: [Signature]

Date: 12/27/11

Exhibit 27

## Scoring Summary Report

**File #: 2011-056C    Development Name: Perrytowne Apartments**

**As of: 03/27/2012**

	Maximum Points/Eligibility	Preliminary	NOPSE	Final	Final Ranking
Met Threshold	Y/N	N	N	N	
Total Points	79	75.00	75.00	79.00	
Ability to Proceed Tie-Breaker Points	6	1.00	1.00	3.50	
Proximity Tie-Breaker Points	37	22.50	22.50	23.50	
Eligible for 1/8th Mile Ranking Preference	Y/N	N	N	N	
Eligible for Age of Development Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	
Eligible for Concrete Construction Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	
Eligible for Florida General Contractor Tie-Breaker Ranking Preference	Y/N	Y	Y	Y	
RA Level Classification (preference given to the lowest RA Level Classification)	1 - 6	1	1	1	

Scores:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
<b>Developer</b>									
1S	II.	B.	1.c.	Housing Credit Development Experience	3.00	3.00	3.00	3.00	
<b>Construction Features and Amenities</b>									
2S	III.	B.	3.a.	Optional - NC & Rehab. Units	9.00	9.00	9.00	9.00	
3S	III.	B.	3.b.	Optional - All Developments Except SRO	12.00	12.00	12.00	12.00	
3S	III.	B.	3.c.	Optional - SRO Developments	12.00	0.00	0.00	0.00	
4S	III.	B.	3.d.	Optional - Universal Design & Visitability	10.00	10.00	10.00	10.00	
5S	III.	B.	5.a.(1)	Green Building Features (NC & Redev.)	7.00	0.00	0.00	0.00	
5S	III.	B.	5.a.(2)	Green Building Certification (NC & Redev.)	10.00	0.00	0.00	0.00	
5S	III.	B.	5.b.	Green Building Features (Rehab. & Preserv.)	10.00	10.00	10.00	10.00	
<b>Set-Aside Commitments</b>									
6S	III.	E.	1.b.(2)	Special Needs Households	4.00	4.00	4.00	4.00	
7S	III.	E.	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
8S	III.	E.	3.	Affordability Period	5.00	5.00	5.00	5.00	
<b>Resident Programs</b>									
9S	III.	F.	1.	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
9S	III.	F.	2.	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
9S	III.	F.	3.	Programs for Elderly	6.00	0.00	0.00	0.00	
10S	III.	F.	4.	Programs for All Applicants	8.00	8.00	8.00	8.00	
<b>Local Government Contributions</b>									
11S	IV.	A.		Contributions	5.00	5.00	5.00	5.00	
<b>Local Government Incentives</b>									
12S	IV.	B.		Incentives	4.00	0.00	0.00	4.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
12S	The Development Location stated on all four (4) of the Local Government Verification of Affordable Housing Incentives forms (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.). Due to this inconsistency, the Application is not eligible for points for any of the incentives.	Preliminary	Final



Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	V.	B.		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$2,808,306.	Preliminary	Final
2T	V.	B.		Permanent Analysis	The Applicant has a permanent financing shortfall of \$2,517,761.	Preliminary	Final
3T	II.	A.	3.	Principals	The Applicant failed to identify the manager(s) or member manager(s) of Stratford Interim Housing, LLC, the limited partner of the Applicant entity.	Preliminary	Final
4T	II.	A.	3.	Principals	The Applicant failed to identify the manager(s) or member manager(s) of the co-Developer entity SCG Development Co, LLC.	Preliminary	Final
5T	III.	C.	1.	Site Plan Approval/Plat Approval	The Development Location stated on the Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final
6T	III.	C.	2.	Site Control	The Agreement of Purchase & Sale provided to demonstrate site control is incomplete. Exhibit A, legal description, was not provided in the Application.	Preliminary	Final
7T	III.	C.	2.	Site Control	Section 7.17 of the Agreement for Purchase & Sale states that "The sale of the property by the Seller to the Purchaser requires the written consents of its partners." No evidence of the consent of the partners has been provided.	Preliminary	
8T	III.	C.	3.b.	Availability of Water	The Development Location stated on the Verification of Availability of Infrastructure – Water form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final
9T	III.	C.	3.c.	Availability of Sewer	The Development Location stated on the Verification of Availability of Infrastructure – Water form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final
10T	III.	C.	3.d.	Availability of Roads	The Development Location stated on the Verification of Availability of Infrastructure – Roads form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
11T	III.	C.	4.	Zoning	The Development Location stated on the Local Government Verification That Development Is Consistent With Zoning And Land Use Regulations form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final
12T	III.	C.	5.	Environmental Site Assessment	The Development Location stated on the Verification of Environmental Safety – Phase I Environmental Site Assessment form (500 Warner Ave.) is inconsistent with the location stated at Part III.A.2.b.(1) of the Application (500 S. Warner Ave.).	Preliminary	Final
13T	V.	D.	1.	Non-Corporation Funding	The Applicant submitted a loan commitment from M&T Realty Capital Corporation. Part V.D.1.(e) of the 2011 Universal Application Instructions states "If the commitment is not from a regulated Financial Institution in the business of making loans or a governmental entity, evidence of ability to fund must be provided." The loan does not appear to be from a regulated Financial Institution and no evidence of ability to fund was provided with the loan commitment. Therefore, neither the construction nor the permanent loan commitments can be considered a source of financing.	Preliminary	Final
14T	II.	B.	3.	General Contractor	The Applicant provided two (2) General Contractor or Qualifying Agent of General Contractor Certification forms. Both of the forms reflect the same "Florida License Number of Signatory"; however, each form is signed by a different signatory.	Preliminary	Final

Ability To Proceed Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III.	C.	1.	Site Plan/Plat Approval	1.00	0.00	0.00	0.50	
2A	III.	C.	3.a.	Availability of Electricity	1.00	1.00	1.00	1.00	
3A	III.	C.	3.b.	Availability of Water	1.00	0.00	0.00	0.50	
4A	III.	C.	3.c.	Availability of Sewer	1.00	0.00	0.00	0.50	
5A	III.	C.	3.d.	Availability of Roads	1.00	0.00	0.00	0.50	
6A	III.	C.	4.	Appropriately Zoned	1.00	0.00	0.00	0.50	

**Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:**

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 5T above.	Preliminary	Final
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 8T above.	Preliminary	Final
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 9T above.	Preliminary	Final
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 10T above.	Preliminary	Final
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 11T above.	Preliminary	Final

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Maximum Available Points	Preliminary	NOPSE	Final	Final Ranking
<b>Transit Services</b>									
1P	III.	A.	10.a	Public Bus Stop	2.00	2.00	2.00	2.00	
1P	III.	A.	10.a	Public Bus Transfer Stop or Public Bus Transit Stop	6.00	0.00	0.00	0.00	
1P	III.	A.	10.a	Public Rail Station	7.00	0.00	0.00	0.00	
<b>Tier 1 Services</b>									
2P	III.	A.	10.a	Grocery Store	4.00	2.50	2.50	2.50	
3P	III.	A.	10.a	Public School	4.00	1.00	1.00	1.00	
3P	III.	A.	10.a	Senior Center	4.00	0.00	0.00	0.00	
4P	III.	A.	10.a	Medical Facility	4.00	2.00	2.00	2.00	
<b>Eligible for Tier 1 Service Score Boost (Yes/No)</b>						N	N	N	
<b>Total Tier 1 Service Score</b>					12.00	5.50	5.50	5.50	
<b>Tier 2 Services</b>									
5P	III.	A.	10.a	Public Park	2.00	1.00	1.00	2.00	
6P	III.	A.	10.a	Community Center	2.00	2.00	2.00	2.00	
7P	III.	A.	10.a	Pharmacy	2.00	1.25	1.25	1.25	
8P	III.	A.	10.a	Public Library	2.00	0.75	0.75	0.75	
<b>FHFC Proximity List</b>									
9P	III.	A.	10.b	Proximity to Developments on FHFC Development Proximity List	10.00	10.00	10.00	10.00	

**Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:**

Item #	Reason(s)	Created As Result	Rescinded As Result
3P	Although the Surveyor Certification for Competitive HC Applications form contains latitude and longitude coordinates for a Senior Center, because the proposed Development qualifies for the Family Demographic, it is not eligible for proximity points for Senior Center.	Preliminary	

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	V.	B.		Developer Fee	The Applicant provided a Commitment to Defer Developer Fee form from both co-Developers, with each Developer committing to defer \$604,934.50 during construction financing. The total maximum combined amount of deferred Developer fee allowed is \$1,209,869 which is the amount utilized by Florida Housing as a source for construction financing to help minimize the shortfall.	Preliminary	Final
2C	V.	B.		Developer Fee	The Applicant provided the Commitment to Defer Developer Fee form from both co-Developers, with each committing to defer \$302,467.25 during permanent financing. The total amount of deferred Developer fee \$604,934.50 was used as a source of financing to minimize the permanent financing shortfall.	Preliminary	Final
3C	V.	B.		Pro Forma	The Applicant listed operating deficit reserves of \$332,553. However, No. 5 on the Development Cost Pro Forma Notes states "For purposes of the Development Cost calculation in this Application, the only reserves allowed are contingency reserves for rehabilitation and construction..." Therefore, the Total Development Cost was reduced by \$332,553.	Preliminary	
4C	III.	A.	10.b.	Proximity to Developments on FHFC Development Proximity List	The Application qualifies for 10 automatic proximity points at Part III.A.10.b.(7) of the Application.	Preliminary	
5C	V.	B.		Developer Fee	The co-Developer "AMCS Development, LLC" provided two Commitment to Defer Developer fee forms for the same entity. For purposes of the deferred Developer fee amounts only one form was utilized.	Preliminary	
6C	III.	C.	2.	Site Control	The Agreement of Purchase and Sale provided in the Application to demonstrate site control is dated December 2, 2011. The Addendum to the Agreement for Purchase and Sale, submitted in an attempt to cure item 7T, fails to satisfy the partners' consent requirement of Section 7.17 of the Agreement because the Agreement referenced in the Addendum is dated November 27, 2011, not December 2, 2011.	Final	

**New Tidewater Apartments, LLC  
2409-A Mall Drive  
North Charleston, SC 29406**

April 16, 2012

Kevin L. Tatreau  
Director of Multifamily Development Program  
Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32301

**VIA U.S. MAIL**

Re: Application No. 2011-056C

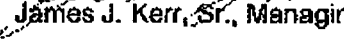
Dear Mr. Tatreau:

It has come to our attention that an issue has been raised concerning an Addendum executed to the Agreement for Purchase and Sale submitted with the above referenced Application. Apparently an issue has been raised concerning whether the parties have consented pursuant to Section 7.17 of the Purchase and Sale Agreement.

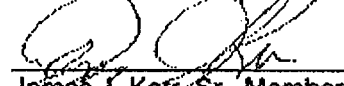
This letter will confirm initially that there is only one Purchase and Sale Agreement for the Development Site for the above-referenced project. Further all Partners have consented to the Sale pursuant to Paragraph 7.17 as represented in the Addendum.

Griffin Heights, LLC

  
\_\_\_\_\_  
James J. Kerr, Jr., Member

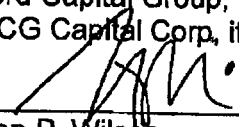
  
\_\_\_\_\_  
James J. Kerr, Sr., Managing Member

New Tidewater Apartments, LLC

  
\_\_\_\_\_  
James J. Kerr, Sr., Member

**New Tidewater Apartments, LLC**  
**2409-A Mall Drive**  
**North Charleston, SC 29406**

Stratford Capital Group, LLC  
By: SCG Capital Corp, its Manager

  
\_\_\_\_\_  
Stephen P. Wilson

**ELECTION OF RIGHTS**

Application Number: 2011- 0560 Development Name: New Tidewater

- 1.  I do not desire a proceeding.
- 2.  I elect an informal proceeding to be conducted in accordance with Sections 120.569 and 120.57(2), Florida Statutes. In this regard I desire to (Choose one):

submit a written statement and documentary evidence; or

attend an informal hearing to be held in Tallahassee.

Note: Rule 28-106.301, Florida Administrative Code, requires Applicant to submit a petition in a prescribed format. (attached)

- 3.  I elect a formal proceeding at the Division of Administrative Hearings. This option is available only if there are disputed issues of material fact.

Note: Applicant must submit an appropriate petition in accordance with Rule 28-106.201, Florida Administrative Code. (attached)

Following are my top four preferences, in order from 1-4 (with 1 being my first choice, etc.) for scheduling my informal hearing. All formal hearings will be scheduled by the Division of Administrative Hearings.

Hearing Dates:	A.M.	P.M.
May 7, 2012		1
May 8, 2012	2	3
May 9, 2012		4

Hearing Dates:	A.M.	P.M.
May 10, 2012		
May 11, 2012		

Matters heard after these dates will likely not be funded in the current Application Cycle.

Please provide a Hearing Schedule to me via e-mail or fax at:

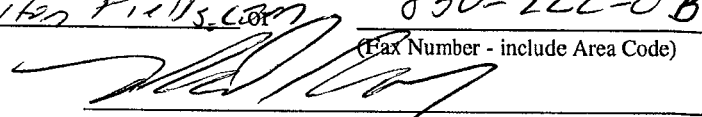
m.donaldson@carltonfields.com

(E-Mail Address)

850-222-0898

(Fax Number - include Area Code)

Date: 4/17/12



Signature of Petitioner

Name: Michael Donaldson

Address: 215 S. MINOR ST + EXT 500  
Tallahassee, FL.

Phone: 850-224-1585  
(include Area Code)

**TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN TWENTY-ONE (21) CALENDAR DAYS OF RECEIPT OF THIS NOTICE. THE FORM MUST BE RETURNED TO THE FLORIDA HOUSING FINANCE CORPORATION AT THE ADDRESS INDICATED IN THE NOTICE OF RIGHTS. TO FACILITATE THE SCHEDULING OF HEARINGS, THIS FORM MAY BE SUBMITTED PRIOR TO FILING A PETITION.**