

STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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STATE OF FLORIDA
HOUSING FINANCE CORPORATION

CHARLOTTE CROSSING, LTD.

Petitioner,

vs.

**Application No. 2003-095S
2003 Universal Cycle**

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

**PETITION FOR REVIEW OF 2003 UNIVERSAL SCORING SUMMARY FOR
CHARLOTTE CROSSING, LTD.**

Petitioner Charlotte Crossing, Ltd. ("Charlotte Crossing"), pursuant to sections 120.569 and 120.57(2), Florida Statutes, and rules 28-106.301 and 67-48.005, Florida Administrative Code, files this petition for informal administrative hearing concerning the 2003 Universal Scoring Summary for Charlotte Crossing and states:

1. The first issue raised by this petition is the determination by Florida Housing Finance Corporation ("Florida Housing") that Charlotte Crossing did not meet threshold requirements because the firm commitment letter from the Housing Credit Syndicator did not expressly state the amount of equity being paid "prior to or simultaneously with the closing of construction financing." See 2003 MMRB, SAIL & HC Scoring Summary for Charlotte Crossing, July 18, 2003 ("Universal Scoring Summary") (attached as Exhibit 1). As explained below, the commitment letter from Guilford Capital Corporation makes clear that 35% of capital will be paid upon admission of the investor to the project partnership (the "closing"). This event

always occurs “prior to or simultaneously with the closing of construction financing.” Moreover, identical relevant language in equity commitment letters was accepted during the 2002 Universal Cycle by Florida Housing, resulting in such commitments being scored as firm. Because the Universal Application Instructions relating to firm equity commitment letters have not changed since the 2002 cycle, Florida Housing cannot change its interpretation of those instructions in 2003 by rejecting language that was acceptable last year. Thus, Charlotte Crossing should have been scored as meeting threshold requirements.

2. The second issue raised by this petition is Florida Housing’s determination that Charlotte Crossing’s cure relating to the local government’s modification of fees for affordable housing is deficient and, therefore, that Charlotte Crossing is not entitled to an incentive point for such fee modifications. As is explained below, Charlotte Crossing obtained the signature from the county administrator on the appropriate form (Exhibit 48), and Charlotte Crossing should receive the incentive point for local government fee modification.

3. The agency affected in this proceeding is Florida Housing, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The agency’s file number is 2003-095S.

4. The petitioner is Charlotte Crossing, 2950 SW 27th Avenue, Suite 200, Miami, Florida 33133. The petitioner’s telephone numbers are 305-476-8118 (phone) and 305-476-9674 (facsimile).

5. The petitioner’s attorney is Donna E. Blanton, Radey Thomas Yon & Clark, P.A., 313 N. Monroe Street, Suite 200, Tallahassee, Florida, 32301. The attorney’s telephone numbers are 850-425-6654 (phone) and 850-425-6694 (facsimile).

6. Charlotte Crossing received notice of the Universal Scoring Summary on July 21, 2003, when Florida Housing Deputy Development Officer Kerey Carpenter sent a memorandum to all applicants including final scores and a notice of rights.

7. Charlotte Crossing's substantial interests are affected by the Universal Scoring Summary because Charlotte Crossing timely filed an application with Florida Housing for a SAIL loan in the 2003 Universal Cycle in connection with the development of an apartment complex in Charlotte County, Florida.

8. Ultimate facts alleged, including those that warrant reversal of the proposed agency action, are as follows:

Equity Commitment

a. Charlotte Crossing's application was preliminarily scored by Florida Housing on May 12, 2003, in accordance with the provisions of rule 67-48.004, Florida Administrative Code. *See* Exhibit 2 (Preliminary Scoring). Charlotte Crossing was scored as not meeting threshold requirements concerning financing as described in the Universal Application Instructions.¹ In its explanation for this scoring deficiency, Florida Housing stated:

The equity commitment does not clearly state the amount to be paid prior to or simultaneous with the closing of construction financing. As such, the equity commitment is not firm and is not a source of financing.

b. In response to Florida Housing's preliminary scoring, Charlotte Crossing submitted a cure, which states in relevant part:

¹ The Universal Application Instructions have been adopted and incorporated by reference in rule 67-48.002(111), Florida Administrative Code.

Florida Housing did not score the Equity Commitment as firm because it could not determine the amount available during the construction period.

The syndicator has revised and clarified its commitment letter to show that \$1,431,880 (35%) will be paid simultaneously with closing, and \$797,696 (at 50% completion) and \$1,247,781 (at 98% completion). A total of \$3,477,357 in equity proceeds will be paid prior to construction completion.

This will allow the syndication equity commitment to be scored as firm and the Application will meet threshold for this item.

Charlotte Crossing's cure is attached as Exhibit 3.

- c. The revised equity commitment letter from Guilford Capital Corporation attached to the cure discusses the syndicator's capital contribution on pages 1-2. It states in relevant part:

1. Capital Contribution. The Capital Contribution is based on a price of 81¢ per dollar of aggregate Credits available to Investor, and is payable as follows:

(a) \$1,431,880 (35%) upon admission of Investor to the Project Partnership (the "Closing").

(Emphasis supplied).

- d. Pursuant to rule 67-48.004(7), another applicant filed a Notice of Alleged Deficiencies (NOAD) concerning Charlotte Crossing's cure. A copy of the NOAD is attached as Exhibit 4. The NOAD alleged that Charlotte Crossing has "simply failed to revise Section 1(a) of the equity letter" to address the issue raised by Florida Housing in preliminary scores. Therefore, the NOAD argued, the cure was deficient and Charlotte Crossing still failed to meet threshold requirements relating to financing.
- e. When final scores were released in the Universal Scoring Summary, Charlotte Crossing was scored as not meeting threshold requirements relating to financing

because of the equity commitment letter. Florida Housing's explanation for the deficiency was the same as stated when preliminary scores were released. *Compare Exhibit 1 at Item # 6T.V.E. with Exhibit 2 at Item # 6T.V.E.* Florida Housing also made additional comments concerning Charlotte Crossing's cure, stating:

In an effort to cure the deficiency in the equity commitment, the Applicant submitted a revised equity commitment. However, the revised equity commitment still does not expressly state the amount to be paid prior to or simultaneously with the closing of the construction financing. Therefore, threshold failure item 6T has not been rescinded. The absence of equity results in a financing shortfall in both the construction and permanent stages, as noted in 9T and 10T.

*See Exhibit 1 at Item # 2C.V.E. (Emphasis supplied).*²

- f. Thus, even though Charlotte Crossing's equity commitment letter clearly states on its first page that 35% of the capital contribution is payable "upon admission of Investor to the Project Partnership," which is explicitly identified in parentheses as "the closing," Florida Housing asserts that this commitment is deficient. The deficiency appears to be caused by Charlotte Crossing's failure to use certain "magic" words found on page 60 of the Universal Application Instructions.³ Florida Housing appears to be insisting that the equity

² Two other deficiencies relating to financing shortfalls were shown on the Universal Scoring Summary. *See Exhibit 1 at Item # 9T.V.B. and 10T.V.B.* Both directly relate to the scoring of the equity commitment letter in Item 6T.V.B., and the shortfalls would cease to exist if Charlotte Crossing's equity commitment is scored as firm. These two deficiencies also were addressed by Charlotte Crossing during the cure process.

³ Relevant language is as follows:

Syndication/HC Equity

A firm commitment from a Housing Credit Syndicator is an agreement which is executed and accepted by all parties including the Applicant, is dated,

commitment letter state the precise words “prior to or simultaneously with the closing of construction financing,” even though the actual words written in the letter mean precisely the same thing. Such hypertechnical application of Florida Housing’s rules is neither required nor appropriate.

- g. Even more significantly, Florida Housing’s current interpretation of the language on page 60 is directly contrary to the agency’s interpretation of the same language in the 2002 Universal Cycle. *See* Exhibit 6 (page 49 of the 2002 Universal Application Instructions relating to Syndication/HC Equity).⁴
- h. During the 2002 cycle, Guilford Capital Corporation submitted an equity commitment letter on behalf of the Heron Pond development. *See* Exhibit 7.

Page 1 of the letter states:

1. Capital Contribution. The Capital Contribution is based on a price of 82¢ per dollar of aggregate Credits available to Investor, and is payable as follows:

and includes all terms and conditions of the agreement. In order for a syndication/equity commitment to be scored firm, it must expressly state the syndication rate (amount of equity being provided divided by the anticipated amount of credits the syndicator expects to receive), capital contribution pay-in schedule (stating the amounts to be paid prior to or simultaneously with the closing of construction financing and the amounts to be paid prior to completion of construction), the percentage of the anticipated amount of credit allocation being purchased, the total amount of equity being provided, and the anticipated Housing Credit Allocation. Additionally, in order for the commitment to be scored firm, 35% of the total equity being provided must be paid prior to or simultaneously with the closing of the construction financing. Proceeds from a bridge loan from the syndicator will count toward meeting this requirement; however, bridge loans from other sources will not count toward meeting this requirement.

(Emphasis supplied). A copy of page 60 of the Universal Application Instructions is attached as Exhibit 5.

⁴ The instructions relating to Syndication/HC equity in 2002 are identical to those in 2003.

(a) \$1,133,300 (35%) upon admission of Investor to the Project Partnership (the “Closing).

(Emphasis supplied).

- i. No question was raised in the 2002 cycle concerning Heron Pond’s ability to meet financing threshold requirements even though the language of the letter is identical in all material respects to the language in Charlotte Crossing’s equity commitment letter in the 2003 cycle. *Compare Exhibit 3 with Exhibit 7.* Heron Pond was scored as meeting all threshold requirements. *See Exhibit 8 (2002 Universal Scoring Summary for Heron Pond, July 22, 2002).*
- j. Florida Housing cannot simply “change its mind” about interpretation of its Universal Application Instructions, which are adopted and incorporated as agency rules pursuant to rule 67-48.002(111), Florida Administrative Code. *See Cleveland Clinic v. Agency for Health Care Administration, 679 So. 2d 1237, 1241 (Fla. 1st DCA 1996).* As the court explained in *Cleveland Clinic*:

Without question, an agency must follow its own rules, . . . but if the rule, as it plainly reads, should prove impractical in operation, the rule can be amended pursuant to established rulemaking procedures. However, ‘absent such amendment, experience cannot be permitted to dictate its terms.’ That is, while an administrative agency ‘is not necessarily bound by its initial construction of a statute evidenced by the adoption of a rule,’ the agency may implement its changed interpretation only by ‘validly adopting subsequent rule changes.’ The statutory framework under which administrative agencies must operate in this state provides adequate mechanisms for the adoption or amendment of rules.

679 So. 2d at 1242 (emphasis supplied), *quoting Boca Raton Artificial Kidney Center v. Department of Health and Rehabilitative Services, 493 So. 2d 1055, 1057 (Fla. 1st DCA 1986), and Department of Administration, Division of*

Retirement v. Albanese, 445 So. 2d 639, 642 (Fla. 1st DCA 1984); *see also Brookwood-Walton County Convalescent Center v. Agency for Health Care Administration*, 845 So. 2d 223, 229 (Fla. 1st DCA 2003) (“The agency failed to explain why its policy had changed abruptly when applied to Appellants, despite the lack of any intervening change in the applicable provisions. AHCA’s unexplained, inconsistent policies are contrary to established administrative principles and sound public policy.”).

- k. Florida Housing cannot apply a “magic words” interpretation to its instruction on page 60 without amendment of that instruction through an appropriate rulemaking proceeding. Because language identical to Charlotte Crossing’s equity commitment letter was deemed acceptable in the 2002 Cycle based on interpretation of the same instructions, such language must be deemed acceptable in 2003.

Modification of Fee Requirements

- l. Florida Housing denied Charlotte Crossing the one-point incentive for local government modification of fee requirements, stating:

The Local Government Verification of Affordable Housing Incentives – Modification of Fee Requirements for Affordable Housing Properties or Developments form is not acceptable. Florida Housing has been advised by Jim Sweeney, Housing Coordinator, Charlotte County, that the county does not modify fees for affordable housing developments and that this form was executed by the County Administrator in error.

See Exhibit 1 at Item # 10S; see also Exhibit 2 at Item # 10S (Preliminary Scoring).

- m. When this issue was raised by Florida Housing in preliminary scoring, Charlotte Crossing submitted a cure, stating:

The Applicant submitted a correctly executed “Local Government Verification of Affordable Housing Incentives-Modification of Fee Requirements for Affordable Housing Properties or Development Form” (Exhibit 48) behind the appropriate tab. However, based on an apparent misunderstanding of the communication from Jim Sweeney, Florida Housing denied the Applicant the one-point for this incentive.

Attached is a letter from Mr. Sweeney that confirms that Charlotte County does have the incentive that is verified by Exhibit 48 and that this form was properly signed.

Therefore, the Applicant respectfully requests that Florida Housing award the one point for Local Government Verification of Affordable Housing Incentives-Modification of Fee Requirements for Affordable Housing Properties or Development Form, Exhibit 48.

The cure included a letter from Mr. Sweeney stating that “Charlotte County does indeed have the incentive that is verified by Exhibit 48 and this form was properly signed by our County Administrator, Bruce Loucks.” Charlotte Crossing’s cure is attached as Exhibit 9.

- n. Another applicant submitted a NOAD stating that Mr. Sweeney was still confused and that Charlotte County does not modify fees for affordable housing developments. *See* Exhibit 10. Florida Housing’s Universal Scoring Summary reflects the same determination.
- o. Charlotte Crossing obtained the proper signature on Exhibit 48⁵ from the county administrator, and Charlotte Crossing’s cure verifies that the Exhibit was properly signed. Thus, Charlotte Crossing should receive the one-point incentive for modification of fee requirement.

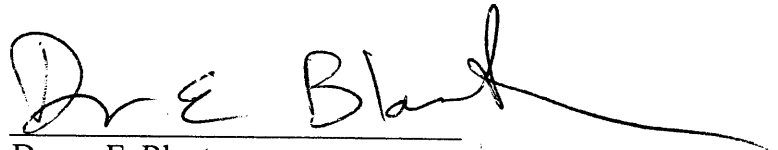
⁵ Exhibit 48 is attached to this petition as Exhibit 11.

9. Rules and statutes that require reversal of the proposed agency action are the Florida Housing Finance Corporation Act (sections 420.501 - .530, Florida Statutes); sections 120.569 and 120.57(2), Florida Statutes; and rules 67-48.002, 67-48.004, and 67-48.005, Florida Administrative Code.

Based on the foregoing, Florida Housing erred in determining that Charlotte Crossing did not meet threshold requirements relating to financing and that it should not receive the one-point incentive for modification of local government fee requirements. Charlotte Crossing respectfully requests that an informal administrative hearing be held and that the Hearing Officer enter a Recommended Order finding that Charlotte Crossing's application meets all threshold requirements and that Charlotte Crossing is entitled to the disputed incentive point.

Dated: 8-11-03

Respectfully submitted,



Donna E. Blanton
Florida Bar No. 948500
Radey Thomas Yon & Clark, P.A.
313 N. Monroe Street, Suite 200
Tallahassee, Florida 32301
850-425-6654 (phone)
850-425-6694 (facsimile)

Attorney for Charlotte Crossing, Ltd.

As of: 07/18/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-0955

Development Name: Charlotte Crossing

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
07 - 18 - 2003	65	N	6.75	\$46,875	14.19%	Y
Preliminary	60	N	6.75	\$46,875	14.19%	Y
NOPSE	60	N	5.75	\$46,875	14.19%	Y
Final	65	N	6.75	\$46,875	14.19%	Y
Post-Appeal	0	N	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	9	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	0
Set-Aside Commitments									
4S	III	E	1.b.	Commitment to Serve Lower AMI	5	5	5	5	0
5S	III	E	1.c.	Total Set-Aside Commitment	3	3	3	3	0
6S	III	E	3.	Affordability Period	5	5	5	5	0
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	6	6	6	0
8S	III	F	4.	Programs for All Applicants	8	8	8	8	0
Local Government Support									
9S	IV		a.	Contributions	5	0	0	5	0
10S	IV		b.	Incentives	4	3	3	3	0

As of: 07/18/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-095S

Development Name: Charlotte Crossing

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result of	Rescinded as Result of
9S	The Applicant provided no evidence that the development will receive a local bond allocation and provides no evidence of a local contribution. A local government contribution of \$75,000 is required for Charlotte County to receive maximum points.	Preliminary	Final
10S	The Local Government Verification of Affordable Housing Incentives - Modification of Fee Requirements for Affordable Housing Properties or Developments form is not acceptable. Florida Housing has been advised by Jim Sweeney, Housing Coordinator, Charlotte County, that the county does not modify fees for affordable housing developments and that this form was executed by the County Administrator in error.	Preliminary	

Threshold(s) Failed:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V	B	Syndicator's Reference Letter	The syndicator reference letter provided is for a different equity provider than the one which provided the equity commitment for this transaction. Therefore, the equity commitment is not firm and is not a source of financing.	Preliminary	Final
2T	V	E	Construction Financing	Applicant used \$1,247,781 in equity for a source during construction period, but the equity commitment states that this amount will be paid at completion of construction; therefore, it is not considered available prior to construction completion.	Preliminary	Final
3T	V	B	Developer Note	A "Developer Note" in the amount of \$184,026 has been provided as a source for construction financing. The Developer Note is not in the name of the Developer listed in the Application and is actually signed by a general partner of the Applicant. Evidence of ability to fund is not provided. Therefore, the commitment is not firm and is not a source of financing.	Preliminary	Final
4T	V	E	First Mortgage	No commitment was provided at Exhibit 57 as indicated for the first mortgage financing.	Preliminary	Final
5T	V	B	Equity Commitment	Applicant has not evidenced that it will be entitled to a HC allocation because of local bond financing or that the development has received a HC allocation. Therefore, the equity commitment is not firm and is not a source of financing.	Preliminary	Final
6T	V	E	Equity Commitment	The equity commitment does not clearly state the amount to be paid prior to or simultaneous with the closing of construction financing. As such, the equity commitment is not firm and is not a source of financing.	Preliminary	
7T	V	B	Sources vs. Uses	Sources must equal or exceed uses. There is a construction financing shortfall of \$9,476,868.	Preliminary	Final
8T	V	B	Sources vs. Uses	Sources must equal or exceed uses. There is a permanent financing shortfall of \$10,090,604.	Preliminary	Final
9T	V	B	Sources vs. Uses	Sources do not equal or exceed uses. There is a construction financing shortfall of \$3,476,868.	Final	

As of: 07/18/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-095S

Development Name: Charlotte Crossing

Threshold(s) Failed:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
10T	V	B	Sources vs. uses	Sources do not equal or exceed uses. There is a permanent financing shortfall of \$4,090,604.	Final	

Proximity Tie-Breaker Points:

Item #	Part Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1) Grocery Store	1.25	1	1	1	0
2P	III	A	11.b.(2) Public School	1.25	0	0	0	0
3P	III	A	11.b.(3) Medical Facility	1.25	1	0	1	0
4P	III	A	11.b.(4) Pharmacy	1.25	1	1	1	0
5P	III	A	11.b.(5) Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	11.c. Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
3P	Clinic does not meet the definition of Medical Facility as it does not provide general medical treatment or general surgical services, it is not a walk-in clinic and it requires a prior appointment.	NOPSE	Final

Additional Application Comments:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	IV	B	ext48 Modification of Fees	Applicant attempted to cure Item 10S relative to the Local Government Verification of Affordable Housing Incentives - Modification of Fee Requirements for Affordable Housing Properties or Developments form (Exhibit 48). The cure is deficient because Florida Housing has subsequently received confirmation from Charlotte County that the County does not modify fees for affordable housing.	Final	
2C	V	E	Equity commitment	In an effort to cure the deficiency in the equity commitment, the Applicant submitted a revised equity commitment. However, the revised equity commitment still does not expressly state the amount to be paid prior to or simultaneously with the closing of the construction financing. Therefore, threshold failure item 6T has not been rescinded. The absence of equity results in a financing shortfall in both the construction and permanent stages, as noted in 9T and 10T.	Final	

As of: 05/12/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-0955

Development Name: Charlotte Crossing

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
05 - 12 - 2003	60	N	6.75	\$46,875	14.19%	Y
Preliminary	60	N	6.75	\$46,875	14.19%	Y
NOPSE	0	N	0		0	
Final	0	N	0		0	
Post-Appeal	0	N	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	0	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	0	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	0	0	0
Set-Aside Commitments									
4S	III	E	1.b.	Commitment to Serve Lower AMI	5	5	0	0	0
5S	III	E	1.c.	Total Set-Aside Commitment	3	3	0	0	0
6S	III	E	3.	Affordability Period	5	5	0	0	0
Resident Programs									
7S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
7S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3.	Programs for Elderly	6	6	0	0	0
8S	III	F	4.	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	0	0	0	0
10S	IV		b.	Incentives	4	3	0	0	0

As of: 05/12/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-0955

Development Name: Charlotte Crossing

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result of	Rescinded as Result of
9S	The Applicant provided no evidence that the development will receive a local bond allocation and provides no evidence of a local contribution. A local government contribution of \$75,000 is required for Charlotte County to receive maximum points.	Preliminary	
10S	The Local Government Verification of Affordable Housing Incentives - Modification of Fee Requirements for Affordable Housing Properties or Developments form is not acceptable. Florida Housing has been advised by Jim Sweeney, Housing Coordinator, Charlotte County, that the county does not modify fees for affordable housing developments and that this form was executed by the County Administrator in error.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	V	B		Syndicator's Reference Letter	The syndicator reference letter provided is for a different equity provider than the one which provided the equity commitment for this transaction. Therefore, the equity commitment is not firm and is not a source of financing.	Preliminary	
2T	V	E		Construction Financing	Applicant used \$1,247,781 in equity for a source during construction period, but the equity commitment states that this amount will be paid at completion of construction; therefore, it is not considered available prior to construction completion.	Preliminary	
3T	V	B		Developer Note	A "Developer Note" in the amount of \$184,026 has been provided as a source for construction financing. The Developer Note is not in the name of the Developer listed in the Application and is actually signed by a general partner of the Applicant. Evidence of ability to fund is not provided. Therefore, the commitment is not firm and is not a source of financing.	Preliminary	
4T	V	E		First Mortgage	No commitment was provided at Exhibit 57 as indicated for the first mortgage financing.	Preliminary	
5T	V	B		Equity Commitment	Applicant has not evidenced that it will be entitled to a HC allocation because of local bond financing or that the development has received a HC allocation. Therefore, the equity commitment is not firm and is not a source of financing.	Preliminary	
6T	V	E		Equity Commitment	The equity commitment does not clearly state the amount to be paid prior to or simultaneous with the closing of construction financing. As such, the equity commitment is not firm and is not a source of financing.	Preliminary	
7T	V	B		Sources vs. uses	Sources must equal or exceed uses. There is a construction financing shortfall of \$9,476,868.	Preliminary	
8T	V	B		Sources vs. uses	Sources must equal or exceed uses. There is a permanent financing shortfall of \$10,090,604.	Preliminary	

As of: 05/12/2003

2003 MMRB, SAIL & HC Scoring Summary

File # 2003-0955

Development Name: Charlotte Crossing

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1)	Grocery Store	1.25	1	0	0	0
2P	III	A	11.b.(2)	Public School	1.25	0	0	0	0
3P	III	A	11.b.(3)	Medical Facility	1.25	1	0	0	0
4P	III	A	11.b.(4)	Pharmacy	1.25	1	0	0	0
5P	III	A	11.b.(5)	Public Bus Stop or Metro-Rail Stop	1.25	0	0	0	0
6P	III	A	11.c.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	0	0	0

2003 CURE FORM

(Submit a SEPARATE form for EACH reason
relative to EACH Application Part, Section, Subsection and Exhibit)

This Cure Form is being submitted with regard to Application No. 2003-095S and pertains to:

Part V Section E Subsection Exhibit No 56 (if applicable)

The attached information is submitted in response to the 2003 Universal Scoring Summary because:

- I. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve proximity tie-breaker points selected, and/or failure to achieve threshold relative to this form. Check applicable item(s) below:

	2003 Universal Scoring Summary	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. _____ S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Threshold Failed	Item No. <u>6</u> T	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason for Failure to Achieve Proximity Tie-Breaker Points Selected (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input type="checkbox"/>

OR

- II. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a Cure to Part _____ Section _____ Subsection _____ Exhibit _____ (if applicable).



REVISED

Guilford Capital Corporation
2600 East South Boulevard, Suite 230
Montgomery, Alabama 36116-2542
(334) 288-3992 | Fax (334) 281-9488
www.guilfordcapital.com

Mr. Luis Gonzalez
The Carlisle Group, LLC
2937 S.W. 27th Avenue, Suite 303
Coconut Grove, FL 33133

Re: Charlotte Crossing, Punta Gorda Isles, Florida (the "Project")
Charlotte Crossing, Ltd. (the "Project Partnership")

Dear Luis:

Guilford Capital Corporation is pleased to extend the following firm commitment to purchase a limited partnership interest in the Project Partnership. This commitment is valid through December 31, 2003. We are always seeking to acquire equity interests in quality tax credit projects and have funds immediately available to close. We are a consistent long-term equity source with flexible, competitive transaction terms.

This letter will set forth the basic business terms to be included in an Agreement of Limited Partnership (the "Partnership Agreement") between Guilford Capital Corporation ("Guilford") or its designee ("Investor"), the Project Partnership and TCG Charlotte Crossing, LLC (the "General Partner"). The General Partner, Carlisle Development Group, LLC, Lloyd Boggio, and Bruce W. Greer (collectively, the "Guarantors") will guarantee the obligations of the General Partner. An entity affiliated with Investor will be admitted to the Project Partnership as a "Special Limited Partner" with certain limited supervisory rights.

Pursuant to the Partnership Agreement, Investor will make a capital contribution to the Project Partnership (the "Capital Contribution") in the amount of \$4,091,086, as set forth in Paragraph 1 below and will acquire a 99.99% limited partnership interest (the "Limited Partnership Interest") in the Project Partnership. The amount of the Capital Contribution was determined based on the assumption that the Project will receive an allocation of Low Income Housing Tax Credits ("Credits") from the appropriate agency in the amount of \$505,125. The Project will consist of 160 apartment units and 100% of the units are expected to qualify for Credits under Section 42 of the Internal Revenue Code.

1. Capital Contribution. The Capital Contribution is based on a price of 81¢ per dollar of aggregate Credits available to Investor, and is payable as follows:

- (a) \$1,431,880 (35%) upon admission of Investor to the Project Partnership (the "Closing).
- (b) \$797,696 (19.5%) upon 50% completion of construction ("50% Completion").

Payments (a) and (b), together with the construction loan, will provide sufficient funds to complete the Project paying up to 20% of the developer's fee and overhead and without funding any reserves. Guilford shall have the right to approve all construction draws and, at its option, to appoint an inspecting architect at the Project's expense.

- (c) \$1,247,781 (30.5%) upon 98% construction completion ("98% Construction Completion") as determined by the Project architect.

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The total amounts [payments (a), (b), and (c)] to be paid prior to construction completion is \$3,477,357.

- (d) \$204,627 (5%) upon achieving break even ("Break Even").
- (e) \$409,109 (10%) upon stabilization ("Stabilization"). Stabilization is defined as permanent loan closing, receipt of \$609's, total rental income on a cash basis, less total operating expenses (including reserves) on an accrual basis, is 115% of the principal and interest due and payable on all mortgage indebtedness for three consecutive months. (115% debt service coverage is calculated at the underwritten 6.25%, 30-year amortization.)

Basis Adjuster: Installments (c) and (d) will be reduced or increased at the rate of 81¢ per dollar of credits if the actual credits, as certified by the Project Partnership's independent accountants, differ from the contracted amount. The increase shall be capped at \$250,000.

Timing Adjuster: Investor has calculated the capital contribution based on the assumption the Project Partnership will claim \$328,330 of credits during 2004; the full amount of the Project Partnership's credit allocation, each year, from 2005 through 2013; and \$176,793 of credits during 2014. In the event that the amount of credits allocable to the Investor for 2003 is less than \$600,000, the next equity installment due from the Investor will be reduced by 78¢ for the first \$600,000 of lost credits. In the event that the amount of credits allocable to the Investor for 2004 is less than \$813,185, the next equity installment due from the Investor will be reduced by 70¢ for each dollar of credits below such amounts.

- 2. Debt. Guilford will have the right to approve any and all Partnership debt. A fixed rate permanent loan or forward commitment, with a term not less than the compliance period, which shall be in form acceptable to Guilford, shall be in place at closing.
- 3. Reserves. Each reserve account must be in an interest-bearing account at a mutually acceptable bank requiring the joint signatures of the General Partner and Guilford.
 - a. Operating Reserve. There shall be deposited concurrently with the Stabilization installment of Guilford's pay-in \$222,000 into the Operating Reserve Account. To the extent that there is not equity sufficient to fully fund this reserve, the remaining amount shall be funded from first available cash flow. The General Partner also has the right to meet this reserve obligation by posting a letter of credit in the amount of six months' debt service coverage.

Should the General Partner fund the reserve from cash as opposed to a letter of credit, the General Partner shall have the right to utilize both principal and interest earned on this reserve to pay down principal on the bonds. Should the General Partner choose to do this, the reserve shall be built back up to the equivalent of six months' debt service on the Bonds within one year from first available cash flow. To the extent there is not available cash flow to build this reserve back up by the end of the one-year period, the General Partner will have to fund this deficit. At no time shall this reserve fall below \$222,000 without the written consent of Guilford Capital.

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Any further operating deficits will be met by partner loans, made equally by the General Partner and Investor up to an aggregate of \$70,000 each, and all Cash From Operations shall be deposited into this reserve monthly until the balance of six months' debt service on the Bonds is restored. Should the General Partner receive any type of additional financing such as a SAIL or SHIP loan, the proceeds from these loans can be used to (a) restore the Operating Reserve, (b) pay down principal and interest on the Bonds, (c) pay other costs of the Project (including any unpaid deferred developer fee) provided that the Operating Reserve must be fully funded in an amount equal to six months' debt service on the Bonds.

b. Repair & Replacement Reserve. There shall be deposited from operations beginning in the fifth month, after the Payment Upon Completion, an amount equal to \$200 X the number of units (160) divided by 12 months. The amount deposited will increase by 3% annually beginning on January 10 of the first calendar year that begins at least twelve months after the Payment Upon Completion.

4. Investor Service Fee. Compliance and operations are the responsibility of the Property Manager and the General Partner. Guilford Capital Corporation will provide investor services, will be reimbursed for its expenses in connection with investor services, and will be compensated \$5,000 annually ("Investor Service Fee"), commencing with the fifth month after the Payment Upon Completion.

5. Syndication Cost Reimbursement. The General Partner shall be responsible for reimbursing Guilford for a portion of the costs associated with syndication. Those costs are as follows:

- (a) Guilford's legal fees
- (b) Accountant's report
- (c) Tax Opinion
- (d) Initial Construction Inspection and Report
- (e) Guilford's Due Diligence costs

This reimbursement shall be in the amount of \$30,000.

6. Project Partnership Allocations. Income, loss and tax credits will be allocated 99.98% to the Investor, .01% to the General Partner, and .01% to the Special Limited Partner.

(a) Cash From Operations is defined as, with respect to a given month, the gross receipts of the Project Partnership for such month less the following items for such month, including any accrued, but unpaid, items from a previous month, which shall be provided for in the following order and priority:

- (i) Amounts disbursed in payment of operating expenses including, up to 60% of any other fees payable to the General Partner or an affiliate of the General Partner;

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- (ii) Debt service payments (but excluding any payments with respect to the developer's fee provided for in the Development Agreement or any loans to the Project Partnership by the Partners);
- (iii) The balance of the subordinated management fee and the Investor Service Fee;
- (iv) Reserves required by this firm commitment and/or any regulatory agency;
- (v) Other reasonable reserves as determined by the General Partner for anticipated obligations, contingencies, and working capital (only as approved by the Investor);
- (vi) Payments for capital improvements and replacements to the extent not paid out of reserves;
- (vii) Payments to any required escrow accounts but not the payments from such accounts;
- (viii) Payments equally to repay any special partner loans;
- (ix) Payments equally to repay any loans from Partners (including, but not limited to, any outstanding loans under the Guaranty Agreements); and
- (x) Payment of a deferred developer's fee plus accrued interest thereon.

During the period prior to Stabilization, the General Partner/Guarantors will pay all operating deficits, and the General Partner shall be entitled to all distributable cash from operations from the period prior to Stabilization; provided, however, that 50% of any such distributable cash from operations shall be held in reserve by the General Partner until Stabilization at which point the General Partner may elect to use such funds to fund the initial operating reserve deposit or any other obligations of the Project Partnership. To the extent such funds are not so required, the General Partner may distribute any remaining portion of such reserve to the General Partner as an incentive leasing fee.

After Stabilization, distributable cash from operations shall be distributed on a quarterly basis as outlined below:

- (xi) 80% to the General Partner (as an incentive management fee);
 - (xii) 20% to Investor.
- (b) Distributable cash from sale or refinancing shall be distributed as follows:
- (i) Necessary and customary expense of sale paid to non-affiliates.

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- (ii) Pro rata to the partners to repay any outstanding loans.
 - (iii) Of the remaining proceeds, 80% to the General Partner and 20% to Investor.
7. Property Management. Guilford must approve any and all property managers. No property management agreement may be for a period longer than one year. The property management company must have a fidelity bond in an amount acceptable to Guilford. Subject to due diligence, Guilford hereby approves Carlisle Property Management as the initial property management company, at a fee equal to 5% of collected revenue, but Guilford reserves the right to approve the renewal of such agreement, which approval shall not be unreasonably withheld. Guilford must approve the amount of the property management company's fidelity bond.
8. Guaranties. The following guaranties must be provided by the Guarantors:
- (a) Completion Guaranty: Completion of the Project within fifteen months of close of the construction loan and Guilford equity; however, no later than November 1 of the year which is the second calendar year of the tax credit reservation. Guaranty that the schedule of total sources and uses of funds, as provided by the General Partner, which shall be in form acceptable to Guilford, are sufficient to pay all development costs of the Project, and, during the period prior to Stabilization, the General Partner/Guarantors guarantee to pay all operating deficits. The General Partner/Guarantors guarantee to fund any cost overruns associated with the Project. The Guarantors agree that if any of the developer's fee shall remain unpaid at the end of thirteen years from the placed-in-service date of the Project, Guarantors will fund (in the form of a non interest-bearing loan repaid as below) that amount to the Project Partnership to pay such fee.
 - (b) Operating Deficit Guaranty: Guaranty to pay all operating deficits, including reserve deposits, costs of audits, tax returns, Investor Service Fee, etc. This Guaranty shall exist for the later of a period of three years, beginning with Stabilization, or until the Operating Deficit Reserve reaches six months' debt service on the Bonds.
 - (c) Tax Credit Guaranty: Guaranty that the tax credits will not be lost for any reason, including, but not limited to, failure of the Project to have nonrecourse financing. Guarantors shall not have any obligation under the Tax Credit Guaranty if the Project Partnership is not eligible for Credits, or is eligible for a reduced amount of Credits, at any time during the Credit Period solely because of the repeal or amendment of Section 42 of the Code.

All payments under the Completion Guaranty Agreement and the Operating Deficit Guaranty Agreement shall be in the form of a non interest-bearing loan to the Project Partnership to be repaid out of "Cash From Operations" or "Distributable Cash From Sale or Refinancing Proceeds" as outlined above.

The Partnership Agreement and Guaranty Agreements shall provide for adjusters to the Investor's equity contribution, and the right for the Investor's interest to be repurchased in the event: (i) the Project is not completed by a specified date; and/or (ii) the Project Partnership does not receive at least 80% of projected credits.

- (d) Interest Rate Risk Guaranty: The Investor and the General Partner agree that, during the Operating Deficit Guaranty Period, the Guarantors shall be responsible for any Operating Deficits occasioned by any increase in debt service costs attributable to the variable rate of interest Bond financing obtained by the Project Partnership. Upon the termination of the Operating Deficit Guaranty, the Interest Rate Risk Guaranty shall become effective in accordance with the basic terms outlined herein as more fully developed in the Interest Rate Risk Guaranty Agreement to be executed and delivered by the Guarantors at the Closing. The Interest Rate Risk Guaranty is designed and intended to protect the Project Partnership from operating deficits suffered by it as a result of certain increases (above the Ceiling Rate as hereafter defined) to the variable rate of interest financing which the General Partner has elected to utilize for the Project. Prior to the Closing of the Investor's equity investment in the Project Partnership, the General Partner and the Investor will agree, acting reasonably based upon their collective review of the projected financial projections prepared by the accountants, upon a mutually acceptable ceiling for the "all in" (first mortgage debt service) interest rate on the Bonds (the "Ceiling Rate"). In the event that the actual rate of interest on the variable rate financing exceeds the Ceiling Rate at any time, the Investor shall be entitled to call upon the Guarantors to pay to the Investor an amount equal to the difference (the "Difference") between (a) the total calculated debt service costs projected at the Ceiling Rate for the relevant time period (the "Projected Ceiling Rate Debt Service") and (b) the debt service costs actually incurred by the Project Partnership on the variable rate financing for the relevant time period (the "Actual Excess Debt Service"); provided, however, that the obligations of the Guarantors pursuant to the Interest Rate Risk Guaranty shall be limited to the lesser of (i) the Difference and (ii) the amount of any operating deficit incurred by the Project Partnership due to the Difference. The Investor agrees that the Operating Reserve may, upon the written request of the General Partner, be used to fund any such amounts; provided, however, that the Operating Reserve shall not be depleted below \$222,000 at any time without the prior written consent of the Investor. In the event that any of the Operating Reserve is, at any time, used to fund any such obligations of the Guarantors, then the Operating Reserve shall be restored to the equivalent of six months' debt service within one year from the date of any such withdrawal from said reserve from first available cash flow. To the extent there is not available cash flow to restore this reserve to an amount equal to six months debt service at the end of the one-year period, the Guarantors shall be required to restore the Operating Reserve to an amount equal to six months debt service. At no time shall this reserve fall below \$222,000 without the written consent of Guilford Capital.

In the event that the Project Partnership secures a fixed rate permanent loan to replace the contemplated variable rate financing, the Interest Rate Risk Guaranty shall be

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terminated. In no event shall any Interest Rate Risk Guaranty (personal or corporate) be required if a permanent fixed rate of interest on the first mortgage loan is ultimately obtained by the Project Partnership.

In addition, personal guaranties (but not corporate) will be released when: (a) the six months' Operating Reserve has been fully funded, and (b) the Project has reached Stabilization as defined herein. It is understood that the personal guaranties will be re-instituted only if certain clearly defined events occur:

- (i) Failure to have adequate interest rate protection. Such protection will be deemed to have been obtained if any of the following have occurred:
 - (a) The Project Partnership has secured an agreed interest rate cap reasonably acceptable to the Investor; or
 - (b) The Project Partnership has secured an agreed swap reasonably acceptable to the Investor; or
 - (c) The Operating Reserve has been increased and is at all times maintained at an amount equal to six months' "all-in" debt service based on the debt service for the current month (but never less than \$222,000).

In the event the General Partner provides additional guarantors acceptable to Guilford, the General Partner's guaranties may be restructured accordingly.

9. Reports. The General Partner shall promptly provide Guilford with:

- (a) A monthly cash flow statement and rent roll (as of the last day of the month).
- (b) Quarterly: unaudited taxable income and loss statement, statement of cash distributions for such quarter, and balance sheet for the Project Partnership.
- (c) Annually: unqualified audited financial statements on the Project Partnership, in a form acceptable to the Investor, signed and certified financial statements on the Guarantors, a report detailing the activities and operations of the Project Partnership and each reserve account, a copy of the annual compliance report from FHFA, a twelve-month operating budget for the upcoming year, and a report detailing maintenance of the Project accompanied by photographs of the Project.
- (d) Upon Stabilization, the General Partner shall send copies of all executed leases, tenant certifications and any lease addenda to the Investor. After delivery of the initial lease package described in the foregoing sentence, the General Partner shall provide tenant certifications and executed leases, along with any lease addenda, on a quarterly basis. In the event of a compliance violation by the General Partner, the General Partner shall provide tenant certifications upon execution of any additional leases. Furthermore, the General Partner shall notify

Mr. Luis Gonzalez

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the Investor, via one of the above-mentioned methods, each time a tenant moves out, including unit identification, tenant name, and move-out date. Also, the General Partner shall send all annual recertifications of the tenant certifications to the Investor, through one of the above-mentioned methods.

- (e) Such additional reports as Guilford may reasonably request.
 - (f) Prior to February 15 of each year, the General Partner will provide Guilford with its K-1's prepared by the Accounting Firm, the Project Partnership's tax return prepared by the Accounting Firm, and any other tax related items reasonably requested by the Accounting Firm.
 - (g) Prior to April 1 of each year, the General Partner will cause the Project Partnership to provide an executed original of an unqualified opinion audit for the preceding year prepared in accordance with GAAP.
10. Project Partnership Accountants: The Project Partnership shall employ, at the Project Partnership's expense, the firm of Reznick Fedder & Silverman, CPA's, or an accounting firm approved by Guilford (the "Accounting Firm"). The Accounting Firm shall prepare the Accountant's Report prior to closing of Guilford's investment in the Project Partnership. The Accounting Firm shall represent the Project Partnership in all matters concerning tax credits and shall file all tax returns and all other reports of an accounting nature required under the Code and any and all other related programs.
 11. Tax Opinion: The Project Partnership shall provide Guilford a tax opinion, in form acceptable to Guilford, prior to closing of Guilford's investment in the Project Partnership. The tax attorney to prepare the tax opinion must be of the law firm of Powell, Goldstein, Frazer & Murphy, of Washington, D.C., or an attorney approved by Guilford.
 12. Non-Disclosure: During the term of this firm commitment and the term of the Project Partnership, the parties to this agreement shall be bound not to disclose any of the terms or conditions herein or any and all documents related to the Project Partnership, the General Partner, and Guilford except to the Project Partnership's construction lender and such investors or prospective investors as Guilford shall see fit.
 13. Diligence Period: This entire offer is made based upon the General Partner's and Developer's representations as to all facts regarding the Project, including, but not limited to, the credit worthiness and financial viability of the General Partner, Project Partnership, and Guarantors. This entire offer is subject to the satisfactory completion of Guilford Capital's due diligence, and Guilford Capital's confirmation of all facts represented to it by the General Partner and Developer. The diligence period will commence on the date Guilford acknowledges receipt of all information and end sixty days later.
 14. Exclusive Rights. For a period beginning the date this firm commitment is signed by all parties and ending with the end of the diligence period, unless both parties agree to extend, Guilford shall have the exclusive right to cause one or more of its funds to

Mr. Luis Gonzalez

May 30, 2003

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- provide the equity capital for the Project Partnership. Neither the General Partner nor any of its affiliates shall negotiate with any other party in this regard.
15. Removal of General Partner. The General Partner may be removed for cause. Guilford shall allocate 0.01% of its interest (as set forth above) to Guilford Realty Corporation, which shall serve as a Special Limited Partner in the Project Partnership. The Special Limited Partner shall not have any control of the Project Partnership unless the General Partner withdraws or is removed pursuant to the Partnership Agreement.
16. Plans and Specifications. Plans and Specifications must be provided for the Project. The Project Partnership will employ an independent inspecting architect or construction consultant to be selected by Guilford and the construction lender jointly.
17. Conditions to Closing. Investor's obligation to execute the Partnership Agreement and consummate the transaction contemplated hereunder shall be contingent upon receipt and approval of the following items:
- (a) Evidence of the required approval of the transaction by any governmental entity;
 - (b) Evidence of the Credit reservation;
 - (c) Evidence of payment by the General Partner of any taxes imposed on the transfer of the Limited Partnership interest; and
 - (d) Such other materials as reasonably required by Investor as part of its customary legal due diligence review.
18. Special Provisions:
- a. The General Partner and the Investor will be entitled to make background and credit checks on each other; the General Partner and the Investor will be entitled to make background and credit checks on the Guarantors.
 - b. Guilford shall employ an independent inspecting architect or construction consultant, the expense of which, including, but not limited to, all costs incurred prior to closing as a result of construction documentation review during the due diligence process, shall be borne by the Project Partnership (or General Partner, if the Project Partnership is unable). The Project Partnership or General Partner shall reimburse Guilford Capital to the extent it has paid any amounts to such inspecting architect or construction consultant.
 - c. It is Guilford's understanding that the rent structure agreed to in the application is 3% of the units at 30% of the area median income and 97% of the units at 60% of the area median income.
 - d. If the General Partner fails to close this transaction as contemplated herein, the General Partner shall reimburse Guilford Capital Corporation and its affiliates for all its out-of-pocket expenses. At such time as Guilford Capital Corporation has been reimbursed in full, Guilford Capital Corporation will relinquish its rights herein.

REVISED

Mr. Luis Gonzalez

May 30, 2003

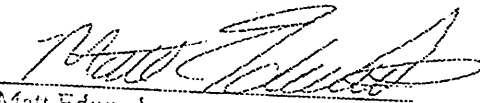
Page 10

Any change to the information provided to us, or any change to our assumptions after the due diligence review, could affect our financial projections and, thus, the amount and terms of the Capital Contribution. Investor has predicated this commitment on the financial projections it has prepared which are based upon the financial and other information furnished by the General Partner or its agents, as well as certain assumptions of the federal income tax consequences of this transaction. Many regulations remain to be issued under various tax acts and many tax provisions contain ambiguities. The issuance of regulations or other resolution of such ambiguities, or any other changes in these tax assumptions, could affect the financial projections and, thus, the amount and terms of the Capital Contribution.

Please indicate your agreement and acceptance of the foregoing by signing the enclosed copy of this letter and returning it to the undersigned by April 3, 2003. We look forward to working with you on this transaction.

GUILFORD CAPITAL CORPORATION

By:


Matt Edwards

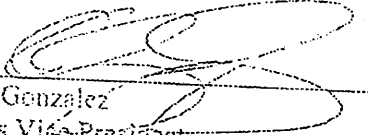
As Its Vice President, Acquisitions

Accepted and agreed to:

TCG Charlotte Crossing, Ltd.

By: TCG Charlotte Crossing, LLC
As Its General Partner

By:


Luis Gonzalez
As Its Vice President

Date: May 30, 2003.

Charlotte Crossing / 2003-095S

Item 6T, Part V, Section E, Exhibit 56

In its 2003 MMRB, SAIL and HC Scoring Summary for Charlotte Crossing, application number 2003-095S, Florida Housing raised the following issue with regard to the Applicant's equity commitment letter:

Item 6T, Part V, Section E

The equity commitment does not clearly state the amount to be paid prior to or simultaneous with the closing of construction financing. As such, the equity commitment is not firm and is not a source of financing.

This issue was raised by FHFC in its preliminary scoring. In response to this issue, the Applicant submitted a letter dated May 30, 2003 (copy attached as Exhibit A) from Guilford Capital Corporation. This "revised" letter, with respect to the equity "pay in" schedule at Section 1, is identical to the originally submitted equity letter dated March 27, 2003 from Guilford Capital Corporation (copy attached as Exhibit B) with the exception of the amount to be paid "upon 50% completion of construction" (changed from \$613,663 to \$797,696).

As such, the Applicant did not address the issue raised in item 6T relating to setting forth the amount of equity to be paid in prior to or simultaneous with construction loan closing. The revised equity letter, just like the originally submitted letter (Section 1.a. of the "revised" letter is identical to the originally submitted equity letter) is deficient with regard to the amount of equity paid in prior to or simultaneous with construction loan closing. The Applicant has simply failed to revise Section 1(a) of the equity letter. - The "revised" letter, just like the original letter, only sets forth the amount to be paid "upon admission of Investor to the Project Partnership", which as Florida Housing correctly noted in its preliminary scoring, is not necessarily prior to or simultaneous with the closing of construction financing.

Therefore, the Application should remain as rejected by Florida Housing.

2. Letter signed by the Chairperson of the local County Housing Finance Authority which is Development-specific and includes the following:

- (a) affirmation that all approvals precedent to the funding of the bonds have been obtained;
- (b) affirmation that a commitment has been executed; and,
- (c) affirmation that appropriate fees have been paid.

Note: Any commitment for financing containing a contingent FNMA or similar takeout provision will not be considered a firm commitment unless the agreement to purchase the loan executed by all parties is attached.

Syndication/HC Equity

- A firm commitment from a Housing Credit Syndicator is an agreement which is executed and accepted by all parties including the Applicant, is dated, and includes all terms and conditions of the agreement. In order for a syndication/equity commitment to be scored firm, it must expressly state the syndication rate (amount of equity being provided divided by the anticipated amount of credits the syndicator expects to receive), capital contribution pay-in schedule (stating the amounts to be paid prior to or simultaneously with the closing of construction financing and the amounts to be paid prior to completion of construction), the percentage of the anticipated amount of credit allocation being purchased, the total amount of equity being provided, and the anticipated Housing Credit Allocation. Additionally, in order for the commitment to be scored firm, 35% of the total equity being provided must be paid prior to or simultaneously with the closing of the construction financing. Proceeds from a bridge loan from the syndicator will count toward meeting this requirement; however, bridge loans from other sources will not count toward meeting this requirement.
- Applicants may submit a closed limited partnership agreement and it will be counted as firm. If the agreement fails to provide the items required for a commitment stated above, the Applicant must provide signed documentation from the purchaser of credits, i.e. limited partner, that provides the data requested in the previous paragraph.
- If not syndicating/selling the housing credits, the owner's commitment to provide equity must be included. The commitment must include the following:
 - the total amount of equity; and
 - the pay-in schedule stating the amounts to be paid prior to or simultaneously with the closing of construction financing and the amounts to be paid prior to the completion of construction; and
 - the anticipated Housing Credit Allocation.

- (a) borrower is a tax-exempt entity pursuant to a determination letter from the IRS;
- (b) the proposed Development is in compliance with the organization's chartered purpose; and,
- (c) proceeds from the requested bond issue may be used for the proposed Development.

2. Documentation of the following:

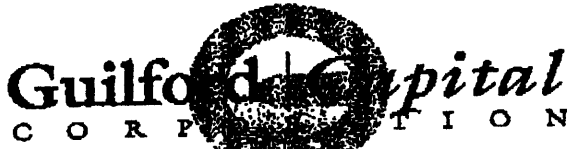
- (a) proof of TEFRA Hearing;
- (b) executed loan commitment between the borrower and the issuing Agency/Authority; and,
- (c) appropriate fees have been paid.

Note: Any commitment for financing containing a contingent FNMA or similar takeout provision will not be considered a firm commitment unless the agreement to purchase the loan executed by all parties is attached.

Any commitment subject to committee approval will not be considered a firm commitment.

❖ Syndication/HC Equity

- A firm commitment from a Housing Credit Syndicator is an agreement which is executed and accepted by all parties including the Applicant, is dated, and includes all terms and conditions of the agreement. In order for a syndication/equity commitment to be scored firm, it must expressly state the syndication rate (amount of equity being provided divided by the anticipated amount of credits the syndicator expects to receive), capital contribution pay-in schedule (stating the amounts to be paid prior to or simultaneously with the closing of construction financing and the amounts to be paid prior to completion of construction), the percentage of the anticipated amount of credit allocation being purchased, the total amount of equity being provided, and the anticipated Housing Credit Allocation. Additionally, in order for the commitment to be scored firm, 35% of the total equity being provided must be paid prior to or simultaneously with the closing of the construction financing. Proceeds from a bridge loan from the syndicator will count toward meeting this requirement; however, bridge loans from other sources will not count toward meeting this requirement.
- Applicants may submit a closed limited partnership agreement and it will be counted as firm. If the agreement fails to provide the items required for a commitment stated above, the Applicant must provide signed documentation from the purchaser of credits, i.e. limited partner, that provides the data requested in the previous paragraph.



February 25, 2002

Guilford Capital Corporation
 2600 East South Boulevard, Suite 230
 Montgomery, Alabama 36116-2542
 (334) 268-3992 | Fax (334) 281-9488
 www.guilfordcapital.com

Mr. Luis Gonzalez
 The Carlisle Group, LLC
 2937 S.W. 27th Avenue, Suite 303
 Coconut Grove, FL 33133

Re: **Heron Pond, Lehigh Acres, Florida (the "Project")**
Heron Pond Apartments, Ltd. (the "Project Partnership")

Dear Luis:

Guilford Capital Corporation is pleased to extend the following firm commitment to purchase a limited partnership interest in the Project Partnership. This commitment is valid through December 31, 2002. We are always seeking to acquire equity interests in quality tax credit projects and have funds immediately available to close. We are a consistent long-term equity source with flexible, competitive transaction terms.

This letter will set forth the basic business terms to be included in an Agreement of Limited Partnership (the "Partnership Agreement") between Guilford Capital Corporation ("Guilford") or its designee ("Investor"), the Project Partnership and Heron Pond Apartments, Inc. (the "General Partner"). The General Partner, The Carlisle Group, LLC, Luis Gonzalez, Lloyd Boggio, and Bruce W. Greer (collectively, the "Guarantors") will guarantee the obligations of the General Partner. An entity affiliated with Investor will be admitted to the Project Partnership as a "Special Limited Partner" with certain limited supervisory rights.

Pursuant to the Partnership Agreement, Investor will make a capital contribution to the Project Partnership (the "Capital Contribution") in the amount of \$3,238,000, as set forth in Paragraph 1 below and will acquire a 99.99% limited partnership interest (the "Limited Partnership Interest") in the Project Partnership. The amount of the Capital Contribution was determined based on the assumption that the Project will receive an allocation of Low Income Housing Tax Credits ("Credits") from the appropriate agency in the amount of \$394,961. The Project will consist of 156 apartment units and 100% of the units are expected to qualify for Credits under Section 42 of the Internal Revenue Code.

1. Capital Contribution. The Capital Contribution is based on a price of 82¢ per dollar of aggregate Credits available to Investor, and is payable as follows:
 - (a) \$1,133,300 (35%) upon admission of Investor to the Project Partnership (the "Closing).
 - (b) \$485,700 (15%) upon 50% completion of construction ("50% Completion").

Guilford.

Payments (a) and (b), together with the construction loan, will provide sufficient funds to complete the Project paying up to 20% of the developer's fee and overhead and without funding any reserves. Guilford shall have the right to approve all construction draws and, at its option, to appoint an inspecting architect at the Project's expense.

- (c) \$987,590 (30.5%) upon completion of construction ("98% Construction Completion") as determined by the Project architect.
- (d) \$307,610 (9.5%) upon achieving break even ("Break Even").
- (e) \$323,800 (10%) upon stabilization ("Stabilization"). Stabilization is defined as permanent loan closing, receipt of 8609's, total rental income on a cash basis, less total operating expenses (including reserves) on an accrual basis, is 115% of the principal and interest due and payable on all mortgage indebtedness for three consecutive months. (115% debt service coverage is calculated at the underwritten 6.25%, 30-year amortization.)

Basis Adjuster: Installments (c) and (d) will be reduced or increased at the rate of 82¢ per dollar of credits if the actual credits, as certified by the Project Partnership's independent accountants, differ from the contracted amount. The increase shall be capped at \$250,000.

Timing Adjuster: Investor has calculated the capital contribution based on the assumption the Project Partnership will claim \$285,844 of credits during 2003; \$349,736 of credits during 2004; the full amount of the Project Partnership's credit allocation, each year, from 2005 through 2011; \$343,010 of credits during 2012; and \$63,892 of credits during 2013. In the event that the amount of credits allocable to the Investor for 2003 is less than \$285,844, the next equity installment due from the Investor will be reduced by 82¢ for the first \$285,844 of lost credits. In the event that the amount of credits allocable to the Investor for 2004 is less than \$349,736, the next equity installment due from the Investor will be reduced by 70¢ for each dollar of credits below such amounts.

2. **Debt.** Guilford will have the right to approve any and all Partnership debt. A variable rate bond issue with a term of not less than 15 years, with a Letter of Credit enhancement for a term of not less than 7 years, is the anticipated debt structure (herein referred to as the "Bonds"). The Letter of Credit must be in a form acceptable to Guilford and be in place at closing. It is anticipated that the General Partner will apply for a SAIL loan. If the loan is awarded, Guilford will approve such loan.
3. **Reserves.** Each reserve account must be in an interest-bearing account at a mutually acceptable bank requiring the joint signatures of the General Partner and Guilford.

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- a. **Operating Reserve.** There shall be deposited concurrently with the Stabilization installment of Guilford's pay-in \$257,000 into the Operating Reserve Account. To the extent that there is not equity sufficient to fully fund this reserve, the remaining amount shall be funded from first available cash flow. The General Partner also has the right to meet this reserve obligation by posting a letter of credit in the amount of six months' debt service coverage.

Should the General Partner fund the reserve from cash as opposed to a letter of credit, the General Partner shall have the right to utilize both principal and interest earned on this reserve to pay down principal on the bonds. Should the General Partner choose to do this, the reserve shall be built back up to the equivalent of six months' debt service on the Bonds within one year from first available cash flow. To the extent there is not available cash flow to build this reserve back up by the end of the one-year period, the General Partner will have to fund this deficit. At no time shall this reserve fall below \$125,000 without the written consent of Guilford Capital.

Any further operating deficits will be met by partner loans, made equally by the General Partner and Investor up to an aggregate of \$70,000 each, and all Cash From Operations shall be deposited into this reserve monthly until the balance of six months' debt service on the Bonds is restored. Should the General Partner receive any type of additional financing such as a SAIL or SHIP loan, the proceeds from these loans can be used to (a) restore the Operating Reserve, (b) pay down principal and interest on the Bonds, (c) pay other costs of the Project (including any unpaid deferred developer fee) provided that the Operating Reserve must be fully funded in an amount equal to six months' debt service on the Bonds.

- b. **Repair & Replacement Reserve.** There shall be deposited from operations beginning in the fifth month, after the Payment Upon Completion, an amount equal to \$200 X the number of units (156) divided by 12 months. The amount deposited will increase by 3% annually beginning on January 10 of the first calendar year that begins at least twelve months after the Payment Upon Completion.
4. **Investor Service Fee.** Compliance and operations are the responsibility of the Property Manager and the General Partner. Guilford Capital Corporation will provide investor services, will be reimbursed for its expenses in connection with investor services, and will be compensated \$5,000 annually ("Investor Service Fee"), commencing with the fifth month after the Payment Upon Completion.

5. **Syndication Cost Reimbursement.** The General Partner shall be responsible for reimbursing Guilford for a portion of the costs associated with syndication. Those costs are as follows:
- (a) Guilford's legal fees
 - (b) Accountant's report
 - (c) Tax Opinion
 - (d) Initial Construction Inspection and Report
 - (e) Guilford's Due Diligence costs

This reimbursement shall be in the amount of \$15,000.

6. **Project Partnership Allocations.** Income, loss and tax credits will be allocated 99.98% to the Investor, .01% to the General Partner, and .01% to the Special Limited Partner.
- (a) **Cash From Operations** is defined as, with respect to a given month, the gross receipts of the Project Partnership for such month less the following items for such month, including any accrued, but unpaid, items from a previous month, which shall be provided for in the following order and priority:
 - (i) Amounts disbursed in payment of operating expenses including, up to 60% of any other fees payable to the General Partner or an affiliate of the General Partner;
 - (ii) Debt service payments (but excluding any payments with respect to the developer's fee provided for in the Development Agreement or any loans to the Project Partnership by the Partners);
 - (iii) The balance of the subordinated management fee and the Investor Service Fee;
 - (iv) Reserves required by this firm commitment and/or any regulatory agency;
 - (v) Other reasonable reserves as determined by the General Partner for anticipated obligations, contingencies, and working capital (only as approved by the Investor);
 - (vi) Payments for capital improvements and replacements to the extent not paid out of reserves;

- (vii) Payments to any required escrow accounts but not the payments from such accounts;
- (viii) Payments equally to repay any special partner loans;
- (ix) Payments equally to repay any loans from Partners (including, but not limited to, any outstanding loans under the Guaranty Agreements); and
- (x) Payment of a deferred developer's fee plus accrued interest thereon.

During the period prior to Stabilization, the General Partner/Guarantors will pay all operating deficits, and the General Partner shall be entitled to all distributable cash from operations from the period prior to Stabilization; provided, however, that 50% of any such distributable cash from operations shall be held in reserve by the General Partner until Stabilization at which point the General Partner may elect to use such funds to fund the initial operating reserve deposit or any other obligations of the Project Partnership. To the extent such funds are not so required, the General Partner may distribute any remaining portion of such reserve to the General Partner as an incentive leasing fee.

After Stabilization, distributable cash from operations shall be distributed on a quarterly basis as outlined below:

- (xi) 80% to the General Partner (as an incentive management fee);
 - (xii) 20% to Investor.
- (b) Distributable cash from sale or refinancing shall be distributed as follows:
- (i) Necessary and customary expense of sale paid to non-affiliates.
 - (ii) Pro rata to the partners to repay any outstanding loans.
 - (iii) Of the remaining proceeds, 80% to the General Partner and 20% to Investor.

7. Property Management. Guilford must approve any and all property managers. No property management agreement may be for a period longer than one year. The property management company must have a fidelity bond in an amount acceptable to Guilford. Subject to due diligence, Guilford hereby approves Carlisle Property

Mr. Luis Gonzalez
 February 25, 2002
 Page 6

Management as the initial property management company, at a fee equal to 5% of collected revenue, but Guilford reserves the right to approve the renewal of such agreement, which approval shall not be unreasonably withheld. Guilford must approve the amount of the property management company's fidelity bond.

8. Guaranties. The following guaranties must be provided by the Guarantors:

- (a) Completion Guaranty: Completion of the Project within fifteen months of close of the construction loan and Guilford equity; however, no later than November 1 of the year which is the second calendar year of the tax credit reservation. Guaranty that the schedule of total sources and uses of funds, as provided by the General Partner, which shall be in form acceptable to Guilford, are sufficient to pay all development costs of the Project, and, during the period prior to Stabilization, the General Partner/Guarantors guarantee to pay all operating deficits. The General Partner/Guarantors guarantee to fund any cost overruns associated with the Project. The Guarantors agree that if any of the developer's fee shall remain unpaid at the end of thirteen years from the placed-in-service date of the Project, Guarantors will fund (in the form of a non interest-bearing loan repaid as below) that amount to the Project Partnership to pay such fee.
- (b) Operating Deficit Guaranty: Guaranty to pay all operating deficits, including reserve deposits, costs of audits, tax returns, Investor Service Fee, etc. This Guaranty shall exist for the later of a period of three years, beginning with Stabilization, or until the Operating Deficit Reserve reaches six months' debt service on the Bonds.
- (c) Tax Credit Guaranty: Guaranty that the tax credits will not be lost for any reason, including, but not limited to, failure of the Project to have nonrecourse financing. Guarantors shall not have any obligation under the Tax Credit Guaranty if the Project Partnership is not eligible for Credits, or is eligible for a reduced amount of Credits, at any time during the Credit Period solely because of the repeal or amendment of Section 42 of the Code.

All payments under the Completion Guaranty Agreement and the Operating Deficit Guaranty Agreement shall be in the form of a non interest-bearing loan to the Project Partnership to be repaid out of "Cash From Operations" or "Distributable Cash From Sale or Refinancing Proceeds" as outlined above.

The Partnership Agreement and Guaranty Agreements shall provide for adjusters to the Investor's equity contribution, and the right for the Investor's interest to be repurchased in the event: (i) the Project is not completed by a specified date;

and/or (ii) the Project Partnership does not receive at least 80% of projected credits.

- (d) **Interest Rate Risk Guaranty:** The Investor and the General Partner agree that, during the Operating Deficit Guaranty Period, the Guarantors shall be responsible for any Operating Deficits occasioned by any increase in debt service costs attributable to the variable rate of interest Bond financing obtained by the Project Partnership. Upon the termination of the Operating Deficit Guaranty, the Interest Rate Risk Guaranty shall become effective in accordance with the basic terms outlined herein as more fully developed in the Interest Rate Risk Guaranty Agreement to be executed and delivered by the Guarantors at the Closing. The Interest Rate Risk Guaranty is designed and intended to protect the Project Partnership from operating deficits suffered by it as a result of certain increases (above the Ceiling Rate as hereafter defined) to the variable rate of interest financing which the General Partner has elected to utilize for the Project. Prior to the Closing of the Investor's equity investment in the Project Partnership, the General Partner and the Investor will agree, acting reasonably based upon their collective review of the projected financial projections prepared by the accountants, upon a mutually acceptable ceiling for the "all in" (first mortgage debt service) interest rate on the Bonds (the "Ceiling Rate"). In the event that the actual rate of interest on the variable rate financing exceeds the Ceiling Rate at any time, the Investor shall be entitled to call upon the Guarantors to pay to the Investor an amount equal to the difference (the "Difference") between (a) the total calculated debt service costs projected at the Ceiling Rate for the relevant time period (the "Projected Ceiling Rate Debt Service") and (b) the debt service costs actually incurred by the Project Partnership on the variable rate financing for the relevant time period (the "Actual Excess Debt Service"); provided, however, that the obligations of the Guarantors pursuant to the Interest Rate Risk Guaranty shall be limited to the lesser of (i) the Difference and (ii) the amount of any operating deficit incurred by the Project Partnership due to the Difference. The Investor agrees that the Operating Reserve may, upon the written request of the General Partner, be used to fund any such amounts; provided, however, that the Operating Reserve shall not be depleted below \$125,000 at any time without the prior written consent of the Investor. In the event that any of the Operating Reserve is, at any time, used to fund any such obligations of the Guarantors, then the Operating Reserve shall be restored to the equivalent of six months' debt service within one year from the date of any such withdrawal from said reserve from first available cash flow. To the extent there is not available cash flow to restore this reserve to an amount equal to six months debt service at the end of the one-year period, the Guarantors shall be required to

restore the Operating Reserve to an amount equal to six months debt service. At no time shall this reserve fall below \$125,000 without the written consent of Guilford Capital.

In the event that the Project Partnership secures a fixed rate permanent loan to replace the contemplated variable rate financing, the Interest Rate Risk Guaranty shall be terminated. In no event shall any Interest Rate Risk Guaranty (personal or corporate) be required if a permanent fixed rate of interest on the first mortgage loan is ultimately obtained by the Project Partnership.

In addition, personal guaranties (but not corporate) will be released when: (a) the six months' Operating Reserve has been fully funded, and (b) the Project has reached Stabilization as defined herein. It is understood that the personal guaranties will be re-instituted only if certain clearly defined events occur:

- (i) Failure to have adequate interest rate protection. Such protection will be deemed to have been obtained if any of the following have occurred:
 - (a) The Project Partnership has secured an agreed interest rate cap reasonably acceptable to the Investor; or
 - (b) The Project Partnership has secured an agreed swap reasonably acceptable to the Investor; or
 - (c) The Operating Reserve has been increased and is at all times maintained at an amount equal to six months' "all-in" debt service based on the debt service for the current month (but never less than \$257,000).

In the event the General Partner provides additional guarantors acceptable to Guilford, the General Partner's guaranties may be restructured accordingly.

9. Reports. The General Partner shall promptly provide Guilford with:

- (a) A monthly cash flow statement and rent roll (as of the last day of the month).
- (b) Quarterly: unaudited taxable income and loss statement, statement of cash distributions for such quarter, and balance sheet for the Project Partnership.

- (c) **Annually: unqualified audited financial statements on the Project Partnership, in a form acceptable to the Investor, signed and certified financial statements on the Guarantors, a report detailing the activities and operations of the Project Partnership and each reserve account, a copy of the annual compliance report from FHFA, a twelve-month operating budget for the upcoming year, and a report detailing maintenance of the Project accompanied by photographs of the Project.**
 - (d) **Upon Stabilization, the General Partner shall send copies of all executed leases, tenant certifications and any lease addenda to the Investor. After delivery of the initial lease package described in the foregoing sentence, the General Partner shall provide tenant certifications and executed leases, along with any lease addenda, on a quarterly basis. In the event of a compliance violation by the General Partner, the General Partner shall provide tenant certifications upon execution of any additional leases. Furthermore, the General Partner shall notify the Investor, via one of the above-mentioned methods, each time a tenant moves out, including unit identification, tenant name, and move-out date. Also, the General Partner shall send all annual recertifications of the tenant certifications to the Investor, through one of the above-mentioned methods.**
 - (e) **Such additional reports as Guilford may reasonably request.**
 - (f) **Prior to February 15 of each year, the General Partner will provide Guilford with its K-1's prepared by the Accounting Firm, the Project Partnership's tax return prepared by the Accounting Firm, and any other tax related items reasonably requested by the Accounting Firm.**
 - (g) **Prior to April 1 of each year, the General Partner will cause the Project Partnership to provide an executed original of an unqualified opinion audit for the preceding year prepared in accordance with GAAP.**
10. **Project Partnership Accountants: The Project Partnership shall employ, at the Project Partnership's expense, the firm of Reznick Fedder & Silverman, CPA's, or an accounting firm approved by Guilford (the "Accounting Firm"). The Accounting Firm shall prepare the Accountant's Report prior to closing of Guilford's investment in the Project Partnership. The Accounting Firm shall represent the Project Partnership in all matters concerning tax credits and shall file all tax returns and all other reports of an accounting nature required under the Code and any and all other related programs.**
11. **Tax Opinion: The Project Partnership shall provide Guilford a tax opinion, in form acceptable to Guilford, prior to closing of Guilford's investment in the**

Project Partnership. The tax attorney to prepare the tax opinion must be of the law firm of Powell, Goldstein, Frazer & Murphy, of Washington, D.C., or an attorney approved by Guilford.

12. **Non-Disclosure:** During the term of this firm commitment and the term of the Project Partnership, the parties to this agreement shall be bound not to disclose any of the terms or conditions herein or any and all documents related to the Project Partnership, the General Partner, and Guilford except to the Project Partnership's construction lender and such investors or prospective investors as Guilford shall see fit.
13. **Diligence Period:** This entire offer is made based upon the General Partner's and Developer's representations as to all facts regarding the Project, including, but not limited to, the credit worthiness and financial viability of the General Partner, Project Partnership, and Guarantors. This entire offer is subject to the satisfactory completion of Guilford Capital's due diligence, and Guilford Capital's confirmation of all facts represented to it by the General Partner and Developer. The diligence period will commence on the date Guilford acknowledges receipt of all information and end sixty days later.
14. **Exclusive Rights.** For a period beginning the date this firm commitment is signed by all parties and ending with the end of the diligence period, unless both parties agree to extend, Guilford shall have the exclusive right to cause one or more of its funds to provide the equity capital for the Project Partnership. Neither the General Partner nor any of its affiliates shall negotiate with any other party in this regard.
15. **Removal of General Partner.** The General Partner may be removed for cause. Guilford shall allocate 0.01% of its interest (as set forth above) to Guilford Realty Corporation, which shall serve as a Special Limited Partner in the Project Partnership. The Special Limited Partner shall not have any control of the Project Partnership unless the General Partner withdraws or is removed pursuant to the Partnership Agreement.
16. **Plans and Specifications.** Plans and Specifications must be provided for the Project. The Project Partnership will employ an independent inspecting architect or construction consultant to be selected by Guilford and the construction lender jointly.
17. **Conditions to Closing.** Investor's obligation to execute the Partnership Agreement and consummate the transaction contemplated hereunder shall be contingent upon receipt and approval of the following items:

- (a) Evidence of the required approval of the transaction by any governmental entity;
- (b) Evidence of the Credit reservation;
- (c) Evidence of payment by the General Partner of any taxes imposed on the transfer of the Limited Partnership interest; and
- (d) Such other materials as reasonably required by Investor as part of its customary legal due diligence review.

18. Special Provisions:


- a. The General Partner and the Investor will be entitled to make background and credit checks on each other; the General Partner and the Investor will be entitled to make background and credit checks on the Guarantors.
- b. Guilford shall employ an independent inspecting architect or construction consultant, the expense of which, including, but not limited to, all costs incurred prior to closing as a result of construction documentation review during the due diligence process, shall be borne by the Project Partnership (or General Partner, if the Project Partnership is unable). The Project Partnership or General Partner shall reimburse Guilford Capital to the extent it has paid any amounts to such inspecting architect or construction consultant.
- c. It is Guilford's understanding that the rent structure agreed to in the application is 4.49% of the units at 35% of the area median income and 95.51% of the units at 60% of the area median income.
- d. If the General Partner fails to close this transaction as contemplated herein, the General Partner shall reimburse Guilford Capital Corporation and its affiliates for all its out-of-pocket expenses. At such time as Guilford Capital Corporation has been reimbursed in full, Guilford Capital Corporation will relinquish its rights herein.

Any change to the information provided to us, or any change to our assumptions after the due diligence review, could affect our financial projections and, thus, the amount and terms of the Capital Contribution. Investor has predicated this commitment on the financial projections it has prepared which are based upon the financial and other information furnished by the General Partner or its agents, as well as certain assumptions of the federal income tax consequences of this transaction. Many regulations remain to be issued under various tax acts and many tax provisions contain ambiguities. The issuance of regulations or other resolution of such ambiguities, or any other changes in these tax assumptions, could affect the financial projections and, thus, the amount and terms of the Capital Contribution.

Mr. Luis Gonzalez
February 25, 2002
Page 12

Please indicate your agreement and acceptance of the foregoing by signing the enclosed copy of this letter and returning it to the undersigned by March 4, 2002. We look forward to working with you on this transaction.

GUILFORD CAPITAL CORPORATION

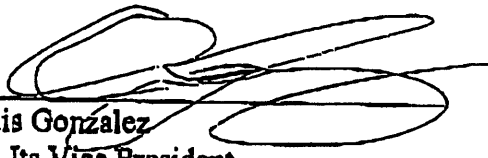
By: 
W. Brett Cowden
As Its Assistant Vice President

Accepted and agreed to:

Heron Pond Apartments, Ltd.

By: **Heron Pond Apartments, Inc.**
As Its General Partner

By:


Luis Gonzalez
As Its Vice President

2002 Universal Scoring Summary

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit *	SAIL as Percentage of Total Development Cost
07 - 22 - 2002	71	Y	6.25	\$51,282.05	12.2%
Preliminary	71	Y	0	\$51,282.05	12.2%
NOPSE	71	Y	0	\$51,282.05	12.2%
Final	71	Y	6.25	\$51,282.05	12.2%
Post-Appeal	0	Y	0		0

*Corporation funding includes Local Government-issued tax-exempt bond financing

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
1S	III	A	2.b	If SAIL Application for Development in one of these counties where no SAIL Application has ever been funded: Bay, Citrus, Leon, Nassau, Okaloosa, Okeechobee, St. Lucie or Santa Rosa	2	0	0	0	0
Optional Features & Amenities:									
2S	III	B	2.a	New Construction	9	9	9	9	0
2S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
3S	III	B	2.c	All Developments Except SRO	12	12	12	12	0
3S	III	B	2.d	SRO Developments	12	0	0	0	0
4S	III	B	2.e	Energy Conservation Features	9	9	9	9	0
Demographic or Area Commitment:									
5S	III	D	1.	Florida Keys Area					
5S	III	D	2.	RD 515 or RD 514/516	7	0	0	0	0
5S	III	D	3.	Elderly	5	0	0	0	0
5S	III	D	4.	Farmworker/Commercial Fishing Worker	5	5	5	5	0
5S	III	D	5.	Homeless	5	0	0	0	0
5S	III	D	6.	Urban In-Fill	5	0	0	0	0
5S	III	D	7.	Large Family	5	0	0	0	0
5S	III	D	8.	HOPE VI	5	0	0	0	0
5S	III	D	9.	Front Porch Florida	5	0	0	0	0

2002 Universal Scoring Summary

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Post-Appeal
Set-Aside Commitment:									
6S	III	E	2.	Commitment to Serve Lower AMI	5	5	5	5	0
7S	III	E	3.	Total Set-Aside Commitment	3	3	3	3	0
8S	III	E	4.	Affordability Period	5	5	5	5	0
Resident Programs:									
9S	III	F	1.	Programs for Non-Elderly & Non-Homeless	6	0	0	0	0
9S	III	F	2.	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
9S	III	F	3.	Programs for Elderly	6	6	6	6	0
10S	III	F	4.	Programs for All Developments	8	8	8	8	0
Local Government Support									
11S	IV		a.	Contributions	5	5	5	5	0
12S	IV		b.	Incentives	4	4	4	4	0

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
1S	The proposed Development is not located in one of the stated counties.	Preliminary	
5S	The proposed Development is not located in the Florida Keys Area.	Preliminary	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Post-Appeal
1P	III	A	11.b.(1).	Grocery Store	1.25	0	0	1.25	0
2P	III	A	11.b.(2).	Public School	1.25	0	0	0	0
2P	III	A	11.b.(3).	Medical Facility	1.25	0	0	0	0
3P	III	A	11.b.(4).	Bus Stop or Metro-Rail Stop	1.25	0	0	1.25	0
4P	III	A	11.c.	Address/Location on FHFC Development Proximity List	3.75	0	0	3.75	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of

As of: 07/22/2002

2002 Universal Scoring Summary

File # 2002-054S

Development Name: Heron Pond

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
1P	Applicant did not include the completed and executed Surveyor Certification and land survey map.	Preliminary	Final
2P	Applicant did not include the completed and executed Surveyor Certification and land survey map.	Preliminary	Final
3P	Applicant did not include the completed and executed Surveyor Certification and land survey map. Additionally, applicant did not indicate the distance to the selected service.	Preliminary	Final
4P	Applicant did not include the completed and executed Surveyor Certification and land survey map.	Preliminary	Final

2003 CURE FORM

**(Submit a SEPARATE form for EACH reason
relative to EACH Application Part, Section, Subsection and Exhibit)**

This Cure Form is being submitted with regard to Application No. 2003-095S and pertains to:

Part IV Section _____ Subsection b Exhibit No 48 (if applicable)

The attached information is submitted in response to the 2003 Universal Scoring Summary because:

- I.** Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve proximity tie-breaker points selected, and/or failure to achieve threshold relative to this form. Check applicable item(s) below:

	2003 Universal Scoring Summary	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input checked="" type="checkbox"/> Reason Score Not Maxed	Item No. <u>10</u> S	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Threshold Failed	Item No. _____ T	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason for Failure to Achieve Proximity Tie-Breaker Points Selected (MMRB/SAIL/HC Applications Only)	Item No. _____ P	<input type="checkbox"/>	<input type="checkbox"/>

OR

- II.** Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a Cure to Part _____ Section _____ Subsection _____ Exhibit _____ (if applicable).

**Brief Statement of Explanation regarding
Application 2003-095S**

Provide a separate brief statement for each Cure or NOAD

The Applicant submitted a correctly executed "Local Government Verification of Affordable Housing Incentives-Modification of Fee Requirements for Affordable Housing Properties or Development Form" (Exhibit 48) behind the appropriate tab. However, based on an apparent misunderstanding of the communication from Jim Sweeney, Florida Housing denied the Applicant the one-point for this incentive.

Attached is a letter from Mr. Sweeney that confirms that Charlotte County does have the incentive that is verified by Exhibit 48 and that this form was properly signed.

Therefore, the Applicant respectfully requests that Florida Housing award the one point for Local Government Verification of Affordable Housing Incentives-Modification of Fee Requirements for Affordable Housing Properties or Development Form, Exhibit 48.

REVISED**CHARLOTTE COUNTY
HOUSING FINANCE AUTHORITY**18500 Murdock Circle
Port Charlotte, FL 33948

(941) 639-1561

(941) 639-4987 fax

May 16, 2003

Ms. Kerey Carpenter
Deputy Development Officer
Florida Housing Finance Corporation
State Apartment Incentive Loan (SAIL) Program
227 North Bronough St.
Tallahassee, FL 32301-1329

Re: Charlotte Crossings 2003-0958
Punta Gorda Isles, Florida

Ladies and Gentlemen:

I am writing to clear up a misunderstanding regarding the forms that were signed for the Charlotte Crossings development.

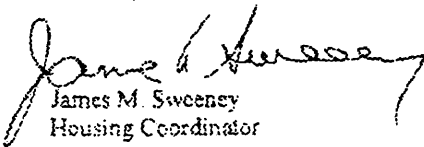
I have been advised that the Florida Housing has completed the preliminary scoring and has deducted one point from the Charlotte Crossing Application for Exhibit 48. The excerpt from the FHFC Scoring Summary state: Florida Housing has been advised by Jim Sweeney, Housing Coordinator, Charlotte County, the that county does not modify fees for affordable housing developments and that this form was executed by the County Administrator in error."

Please be advised that I was referring to the "Local Government Verification of Contribution-Fee Waiver" form and NOT to the Local Government Verification of Affordable Housing Incentives Modification of Fee Requirements for Affordable Housing Properties or Developments" which was included in the Charlotte Crossings Application as Exhibit 48.

Charlotte County does indeed have the incentive that is verified by Exhibit 48 and this form was properly signed by our County Administrator, Bruce Loucks.

Thank you for your kind attention to this matter.

Sincerely,



James M. Sweeney
Housing Coordinator

Cc: Gwen Lightfoot, Corlisle Group

o G Brunner,
irman
glas Wood,
etary/Treasurer
es Crumbaugh
y A. Kahle
es R. McClary

Brief Statement of Explanation regarding
Application 2003 --
095S

Provide a separate brief statement for each Cure or NOAD

The Applicant submitted a letter to the Corporation, dated May 16, from Mr. Jim Sweeney, Housing Coordinator of the Charlotte County Housing Finance Authority, as evidence that Charlotte County provides the incentive that is verified by Exhibit 48 (Local Government Verification of Affordable Housing Incentives - Modification of Fee Requirements for Affordable Housing Properties or Developments). The Corporation, in its preliminary review, had found the Applicant's form unacceptable.

In email correspondence, dated June 25, Mr. Sweeney again affirmed that Charlotte County does not modify fees for affordable housing. A copy of his email is attached. Apparently, Mr. Sweeney was confused as to the exact nature of Exhibit 48 when he wrote his May 16 letter. The more recent email verifies that the Corporation's preliminary review was correct, and the Applicant's Exhibit 48 is not acceptable. Charlotte County does not modify fees for affordable housing developments, and both the Applicant's Exhibit 48 and Mr. Sweeney's May 16 letter to the Corporation were in error. The Applicant should receive zero points for this incentive.

Keith Isley

From: Sweeney, Jim [Jim.Sweeney@charlottefl.com]
Sent: Wednesday, June 25, 2003 11:08 AM
To: Keith Isley
Subject: RE: FHFC Exhibit 48 Question

Charlotte County does not modify fees for affordable housing. It does have an expedited permitting process for affordable housing, a process for reviewing changes that affect housing cost, and it does make contributions in support of affordable housing.

-----Original Message-----

From: Keith Isley [mailto:Keith.Isley@CornerstoneGrp.com]
Sent: Wednesday, June 25, 2003 10:47 AM
To: Sweeney, Jim
Subject: FHFC Exhibit 48 Question

Mr. Sweeney,

We are trying to understand a May 16 letter that you submitted to FHFC concerning Exhibit 48 on the 2003 SAIL application for Charlotte Crossings, as that same Exhibit was denied to Cornerstone's competing application for Deer Run Apartments. Your letter reaffirmed that "Charlotte County does indeed have the incentive that is verified by Exhibit 48."

The four local government exhibits in the application are as follows:

- Exhibit 46 - Expedited Permitting Process for Affordable Housing
- Exhibit 47 - Contributions to Affordable Housing Properties or Developments
- Exhibit 48 - Modification of Fee Requirements for Affordable Housing Properties or Developments
- Exhibit 49 - Impact of Policies, Ordinances, Regulations, or Plan Provisions on Cost of Affordable Housing Properties or Developments

In your May 16 letter, you say that you were "referring to the 'Local Government Verification of Contribution-Fee Waiver' form and NOT to the Local Government Verification of Affordable Housing Incentives Modification of Fee Requirements for Affordable Housing Properties or Developments" form. But there is no Contribution-Fee Waiver form. Rather, this seems to be subsumed within Exhibit 48, which is described in the form as "modification of fee requirements, including a waiver of fees and alternative methods of fee payment."

It would appear, then, to be some confusion. Clearly, if Exhibit 48 was denied to Deer Run, it likewise should be denied to Charlotte Crossings. If there is some reason why this is not so, then perhaps you could cite the section of the code that describes why.

As responses to the FHFC are due by this Friday, I will appreciate your prompt reply to these questions.

Sincerely,

Keith Isley
Finance/Acquisitions Staff

6/25/2003

Exhibit

48

**LOCAL GOVERNMENT VERIFICATION OF AFFORDABLE HOUSING INCENTIVES
MODIFICATION OF FEE REQUIREMENTS FOR AFFORDABLE HOUSING
PROPERTIES OR DEVELOPMENTS**

Name of Development: Charlotte Crossing
North of the Intersection of Sandhill Blvd.
Address of Development Site: and Rio De Janeiro Ave., Punta Gorda Isles, FL 33983
Name of City or County Government: Charlotte County

The referenced local government currently makes available to affordable housing properties or developments the modification of fee requirements, including a reduction or waiver of fees and alternative methods of fee payment.

CERTIFICATION

I certify that the above information is true and correct.

Bruce D. Loucks 3-13-03 Bruce D. Loucks
Signature Date Print or Type Name

County Administrator
Print or Type Title

This certification must be signed by the Mayor, City Manager, County Manager/Administrator/Coordinator, or Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. Other signatories are not acceptable. Zero points will be awarded. Signatory must be a representative of the local government that has enacted the incentive. For purposes of this form only, if a Development is located within a municipality but the incentive is not available in the city, Applicant may use county incentive. For example, if a Development is located in a town which does not have impact fee requirements but the county has such requirements and they have a reduction or waiver of these fees for affordable housing, the Applicant may submit a properly executed Local Government Verification of Affordable Housing Incentives Form from the county.

The Applicant will not receive credit for this incentive if the certification contains corrections or 'white-out'. If the certification is scanned, imaged, altered, or retyped, the Application will fail threshold and will be rejected automatically. The certification may be photocopied.