

April 27, 2018

Housing Authority of the City of Fort Lauderdale  
437 SW 4<sup>th</sup> Avenue  
Fort Lauderdale, FL 33315

Attention: Kristen Packard and Tam English

**RE: Suncrest Court**

Dear Kristen:

You have provided us with certain information, including your Operating Budget and Application, and have discussed with us the current and future needs for the financing of Suncrest Court. In connection therewith, we are pleased to submit our proposal to provide the credit accommodations that are described on the attached commitment.

This transaction will be subject to certain conditions, including, without limitation, the following;

- The Borrower must receive an allocation of 4% low-income housing tax credits by January 31, 2019.
- Review and approval of the Borrower, Guarantor and General Contractor.
- Review and acceptance of the environmental condition of the property.
- Formal review and approval of loan underwriting, consistent with current Bank policies and conditions including guarantees, equity, and potential rental revenue, to be reviewed upon allocation of federal low-income housing tax credits.
- Receipt and satisfactory review of an appraisal prepared by an independent MAI appraiser approved by the Bank, to cost of which will be borne by the Borrower.
- Receipt and satisfactory review of a plan and cost review prepared by an independent engineer, which confirms the cost to develop the project is consistent with the preliminary budget.

We shall not be responsible or liable to the Company or any other person for consequential damages which may be alleged as a result of this letter, ("the commitment") or any transaction contemplated hereby.

This letter is delivered to the Company on the condition that its existence and its contents will not be disclosed by the Company without our prior written approval except (i) as may be required to be disclosed in any legal proceeding or as may otherwise be required by law and (ii) on a confidential and "need to know" basis, to your directors, officers, employees, advisors and agents.

The Bank's commitment hereunder will expire in the event that either the following occurred; the Borrower is not provided an allocation of low-income housing tax credits by February 28, 2019 or the Bank has not been approached to review and approve a formal loan application on or before March 31, 2019. In accordance with the prior sentence, the Bank will be under no obligation to offer any further Credit Accommodations.

We appreciate the opportunity to provide this proposal and look forward to working with you on successfully completing this transaction.

Very truly yours,

TD BANK, N.A.

By: 

Nathan Perlmutter, VP  
Commercial Lender

## **TERMS AND CONDITIONS**

### **BORROWER**

A to be determined single-purpose, bankruptcy remote entity whose sole asset is the Property satisfactory to Lender, and which is owned and controlled by a Sponsor affiliate as the managing general partner/managing member.

### **GUARANTOR**

HEF-Guarantor, LLC.

### **GUARANTEE**

During the construction phase a full, unconditional, and unlimited guarantee of payment, performance and completion.

During the permanent loan the Guarantor shall be liable for customary non-recourse carveouts.

### **ENVIRONMENTAL INDEMNITY**

Full, unlimited, unconditional, environmental indemnity to be provided by the Borrower, and the Guarantor for the term of the Loan.

### **PURPOSE**

TD Bank will purchase bonds from the Florida Housing Finance Corporation utilized to construct 116 residential units, consisting of 10 one bedroom, 58 two bedroom, 40 three bedroom and 8 four bedroom apartment units.

### **LOAN AMOUNTS**

Construction Loan: \$15,250,000 subject to a maximum 60% loan to cost (excluding developer fee).

Permanent Loan: \$2,850,000.

### **PERMANENT LOAN REQUIREMENTS**

Conditions for permanent loan to include: (i) final completion, (ii) 93% occupancy for 3 consecutive months, (iii) 1.15x DSCR on all "must pay" debt for 3 consecutive months based on stabilized NOI and minimum 7% vacancy factor, (iii) all project-based rental subsidies in place and permanent subordinate financing sources funded to the project, (iv) all required LIHTC equity funded to the Borrower, with the exception that a portion of equity not required to repay the loan may be held back until the project has received IRS Forms 8609 and (v) all required reserves funded.

### **COLLATERAL**

- First Mortgage, Security Agreement and Fixture Filing on land located on NW 16 Street Fort Lauderdale, FL and all improvements to be constructed.
- First priority assignment and subordination of any and all leases to the Bank's Mortgage and/or interests.
- First priority assignments of all rents, leases, plans, approvals and permits.
- First priority assignment of all proceeds from the sale of tax credits assigned to the project.
- First priority assignment of the Developer Fee.
- First collateral assignment of any unpaid developer fees and management fees.
- First priority assignment of a cash collateral account in the estimated amount of \$7,561,208 but not less than the minimum amount necessary to retire the bonds upon stabilization after taking into consideration the permanent loan amount and equity paid at stabilization designated for development costs.

### **PAYMENT TERMS**

Construction Loan: 24 months plus one 6-month extension option (interest only).

Permanent Loan: Principal and interest payments to be based on a 30 year amortization.

### **CONSTRUCTION LOAN EXTENSION CONDITIONS**

Conditions for construction loan extension to include (i) no events of default, (ii) lien-free completion, (iii) 15 bps fee, (iv) sufficient interest reserve, (v) all financing commitments in place and extending conterminously.

**INTEREST RATE**

Construction loan: 30 day Libor + 180 bps floating.

Permanent Loan: 30-Day Libor +275 bps. The permanent loan will require an interest rate swap.

**COMMITMENT FEES**

0.60% paid at closing on the full Construction Loan amount and an additional 1% paid at conversion on the final Permanent Loan amount.

**APPRAISAL CONTINGENCY**

A complete and self-contained appraisal will be performed on the subject property by a Bank-approved appraiser, estimating a maximum 85% loan to value for the construction loan based on the "as-stabilized and as restricted" real estate value plus the value of the tax credits.

**GENERAL CONTRACTOR**

Atlantic Pacific Communities will provide a guaranteed maximum price contract. In lieu of a full payment and performance bond Bank will allow either a 15% letter of credit or all major subs to be bonded totaling at least 75% of the total contract.

**FINANCIAL COVENANTS – GUARANTOR**

1. Housing Authority of the City of Fort Lauderdale shall maintain unencumbered liquid assets in the minimum amount of \$2,000,000 stepping down to \$1,000,000 at Stabilization, to be tested annually and verified through review of current Bank or Brokerage account statements.
2. Housing Authority of the City of Fort Lauderdale shall maintain a net worth in the minimum amount of \$5,000,000 to be tested annually through review of a financial statement.

**FINANCIAL REPORTING REQUIREMENTS:**

The Borrower, Sponsor and any Guarantor shall submit financial statements annually, along with other necessary financial information as determined by the Bank.

**GENERAL CONDITIONS**

THIS COMMITMENT IS CONTINGENT UPON COMPLETION OF THE BANK'S UNDERWRITING AND FINAL APPROVAL. THE COMMITMENT IS ALSO SUBJECT TO:

1. Satisfactory review and approval by Bank and Bank Counsel that all "equity" sources have been committed.
2. A minimum of 10% cash equity must be injected prior to initial funding of construction loan, which can be satisfied through LIHTC equity or governmental soft debt funded to the Borrower prior to any loan advances.
3. Satisfactory review and approval by Bank and Bank Counsel that the "take-out" monies and LIHTC equity are fully committed.
4. Satisfactory review of the financial condition of the Borrower, Guarantor, and LIHTC equity buyer, including implementation of liquidity covenants to ensure that said entity has sufficient capital to execute the purchase.
5. Receipt and satisfactory review by Bank and Bank Counsel of all agreements and other documentation related to the establishment of ownership and management entities for the subject project, including the LLC operating agreement.
6. Receipt and assignment of all applicable permits, approvals, plans and contracts.
7. Borrower shall furnish a certification by the Architect of Record that the final plans and specifications comply with all applicable zoning, environmental protection, land use and building laws, permits, approvals, ordinances and regulations.
8. Receipt and satisfactory review by Bank and Bank Counsel of any/all easement agreements affecting the subject property.
9. Satisfactory review by Bank's Construction Consultant of a full plan and cost budget, contracts, approvals, permits and construction schedule. Budget shall include adequate hard and soft cost contingencies in an amount acceptable to the Bank, and an interest reserve sufficient to cover interest costs for the term of the loan.

10. The Bank will hire an independent engineer/inspector to represent the Bank, and the Borrower will be responsible for the cost of the Bank engineer/inspector for the review of the plans, budgets and monthly site inspections.
11. Bank review and approval of any real estate tax PILOT program or abatements.
12. Subject to the development and execution of an "inter-creditor" agreement between all lenders acceptable to the Bank in form and substance.
13. Minimum 1.15x DSCR on all debt service and evidence at closing that the project will be able to maintain a minimum 1.15X DSCR throughout the entire loan term based on the Bank's projections (currently reflected at 1.19x DSCR at closing based on Borrower projections).
14. Developer fee holdback sufficient to the Bank.
15. SNDA signed by ground lease lessor.
16. No additional debt without prior Bank approval, other than subordinate project financing approved by the Bank.
17. Any payments to affiliated entities are subordinate to loan payments to the Bank.
18. Borrower shall establish and maintain its depository relationship with TD Bank, N.A.
19. Any and all other reasonable conditions as required by the Bank and Bank Counsel.

*Patriot Act Notice:*

*Lender is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (signed into law October 26, 2001) (the "Act") and hereby notifies the Borrower and Guarantor that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower and Guarantor, which information includes the name and address of the Borrower and Guarantor and other information that will allow Lender to identify the Borrower and Guarantor in accordance with the Act.*