NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairman and Members

From: Eric Enderlin
President

Date: March 8, 2022

Re: HDC Second-Position Top-Loss Guaranty to 2022 HUD Co-op City Refinancing

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I am pleased to recommend that the Members approve an extension by the Corporation of a previously issued second-position top-loss payment guaranty to the U.S. Department of Housing and Urban Development ("HUD") in an amount not to exceed $15,000,000 (the "HDC Guaranty" and/or the "Guaranty"). The Guaranty will enable the refinancing of an existing HUD-insured loan with a new, 35-year HUD-insured loan that will provide approximately $117 million in capital for repairs and reserves at Co-op City -- the largest affordable cooperative housing community in the country. The HDC Guaranty would be triggered in the event that HUD is required to pay insurance benefits on the proposed $621,500,000 loan (the "Loan" and/or the "HUD-insured Loan") made by Wells Fargo Bank, N.A. to Riverbay Corporation (the "Mortgagor"), a co-op corporation (organized pursuant to Article II of the Private Housing Finance Law) which is the owner of Co-op City (the "Project") in the Bronx. The Loan will be secured by a first mortgage on the Co-op City property. The Guaranty is expected to be similar in all respects, except the term, to the second position top-loss payment guaranty approved by the Members on August 8, 2012 for the Project.

The structure of the refinancing will mirror the 2012 HUD refinancing of the property in which HDC provided the initial guaranty, and State of New York Mortgage Agency ("SONYMA") will continue to provide the first- and third-position top-loss insurance in the amounts of $20,000,000 and $35,000,000, respectively (the "SONYMA Guaranty"). The top-loss guaranties provided by the Corporation and SONYMA are essential to HUD's participation in this deal, not only because the $70,000,000 defrays some of the risk associated with insuring the Loan, but primarily because it assures HUD that the City and State of New York will be partners with the Federal government going forward in maintaining the physical and financial health of the Project.

This memorandum will provide a description of the HDC Guaranty, deal structure, the Project, the Mortgagor, and a discussion of the risks and mitigants of the Guaranty.

The Guaranty

The overall terms of the HDC Guaranty will remain as established in the 2012 refinancing, extended to be coterminous with the new 35-year HUD-insured Loan. In the event of a default on the mortgage, Wells Fargo would assign the Loan to HUD, and HUD would pay Wells Fargo's claim for the amount then due on the Loan. Simultaneous with any assignment of the Loan to HUD, SONYMA and HDC would pay their respective portions of the top-loss to HUD. Any proceeds realized by HUD in excess of the outstanding loan, plus HUD's expenses, less the amount of the top-loss, would be paid back to HDC and SONYMA in the following top loss order: $20,000,000 first loss by SONYMA, $15,000,000 second loss by HDC and $35,000,000 third loss by SONYMA, reflecting the respective positions of the guarantees. The HDC Guaranty will run directly to HUD and will be a general obligation of the Corporation. HDC will set aside financial reserves in the full amount of the Guaranty and invest such reserves pursuant to the Corporation's investment guidelines. HDC will maintain such reserves until the Guaranty has been called upon or terminated. Co-op City will pay a 50-basis point up-front fee ($75,000) for the extension and will continue to remit a 50-basis point annual fee on the amount of the outstanding Guaranty for the term of the HDC Guaranty.

Deal Structure

In addition to refinancing the existing HUD-insured loan, the Loan is expected to provide $103,000,000 in capital reserves for work to be performed over the next ten years, and will pay for nearly $15,000,000 in immediate capital work and $4,500,000 in related soft costs. Most of the budget for immediate repairs will go towards Local Law 11 façade work, with additional money to be used for residential water pumps, replacement of garage elevators, and the replacement of the offices at the power plant. The Loan made by Wells Fargo will be insured 100% by HUD under HUD's Section 223(a)(7) program, which is a streamlined refinancing program that is solely available for properties with a current HUD-insured mortgage; the refinancing requires the credit support that was provided on the existing loan be transferred to the new refinanced loan and be extended to match the new 35-year loan term. Apart from the loan program and the interest rate, the deal structure for the Loan, including the guarantees made by HDC and SONYMA, will be essentially identical to that utilized in the 2012 closing.

The New York State Division of Homes and Community Renewal ("HCR") is the supervising agency for Co-op City under Article II of the Private Housing Finance Law and will remain responsible for monitoring the Project under the Loan, including periodically setting rents and exercising other responsibilities stemming from the Mitchell-Lama program. HCR will review and approve budgets and maintenance charges on a two-year cycle. HCR will also review and approve all bids for major contracts and renovation work, approve each prospective tenant-shareholder, and provide regular inspections of the property pursuant to HCR's inspection protocol.

The Project and its History

Co-op City is a 15,372-unit Mitchell Lama Cooperative that is located on roughly 220 acres situated in the Baychester section of The Bronx. The complex was completed in 1973 after 7 years of work and includes:

- 35 high-rise buildings in the 'towers-in-the-park' style containing 14,900 cooperative apartments.
- Seven clusters of townhouses with a total of 472 one-bedroom garden apartments and three-bedroom townhouses.
- Eight multi-story parking garages with a total of 10,790 spaces.
- An on-site 40-megawatt cogeneration plant which provides all electricity, heat, hot water and air conditioning for Co-op City and also sells excess power to the grid. The sale of such excess power is a source of meaningful income to Co-op City.
- Three shopping centers containing approximately 300,000 s.f. of space.
- 40 commercial offices, primarily professional offices, located in both the apartment towers and retail centers.

The most recent maintenance fee increase occurred effective January 1, 2022, at which time a 2% increase was put in place. No additional increase is anticipated in connection with the refinancing. Annually, the Project pays approximately $11.6 million in property taxes based on a shelter rent formula and further mitigated by J-51 benefits and $18.75 million in water and sewer taxes.

The Project had defaulted on an earlier mortgage with the New York State Housing Finance Agency because of difficulties with expenses outpacing the growth in income and it continued to struggle for some time with physical deterioration and escalating repair bills. These systemic issues began to be addressed in 1999 when professional third-party management was brought into the Project. Over the next five years HCR helped Co-op City's Board of Directors focus efforts on the deteriorating physical condition of the property. Problems occurred again when emergency repairs began to outpace income, culminating in the forced closure of all 8 parking garages and the subsequent paving of Co-op City's greenways to replace the 10,700 units of parking.

In 2004, New York Community Bank agreed to refinance a relatively small loan from the 1990s and provide additional capital for repairs. The loan helped finance about $300 million in capital work throughout the property, as well as pay off a previous mortgage. All parking garages were re-opened by 2008, and the greenways restored soon after. In 2012, Wells Fargo made its first loan on the property, which refinanced an imminent balloon payment, lowered debt service payments for the property by up to $16,000,000 annually and provided just over $60,000,000 for further capital work at the property. These collective repairs have brought the Project into good to fair condition, and additional capital raised by this refinancing for capital repairs will enable the complex to pay for maintenance needs as they arise for the next ten years.

The Mortgagor

The Mortgagor is run by a tenant-elected 15-member Board of Directors (the "Board"), all of whom are undergoing disclosure required by HUD, 13 of whom have previously gone through the HUD disclosure process. The RiverBay Corporation, a Limited-Equity Cooperative, is organized under Article II of the Private Housing Finance Law (the Mitchell Lama program).

The current Board is well-regarded and as a result of checks and balances in Co-op City's procedures there have been no recent issues with financial oversight and the integrity of individual board members as had happened previously.

Co-op City is property managed by Douglas Elliman Property Management ("DEPM"), which was formed in 1911 and is one of the largest property managers in the New York City metropolitan area with nearly 56,000 units under management. The Executive Managing Directors of DEPM are John Janangelo, Jim Miller, and Elly Pateras.

Risks and Risk Mitigation

The primary risk associated with the Guaranty stems from the possibility that Co-op City might default on the Loan, either through a monetary or regulatory default. This risk and its mitigants are discussed below. The Corporation's staff believes that either scenario is unlikely, primarily due to the oversight of the Project by HCR.

The regulatory structure for Mitchell Lama projects makes it less likely that the mortgagee holding a mortgage on a housing company formed under Article II would seek to foreclose such mortgage. Under Article II, the supervising agency (in this case, HCR) reviews the annual budgets of the cooperative corporation and is charged with ensuring that the co-op meets all its financial and regulatory obligations. While HCR will work with the Board to ensure an acceptable budget, HCR has the ability to institute mandatory maintenance charge increases if the budget as proposed appears inadequate and to take control of the Board of Directors of the housing company and direct its operations when the Project's mortgage is in default.

It is expected that Wells Fargo, HUD, SONYMA and HDC will enter into a Guaranty Agreement or amend the existing Guaranty under which, among other things, the Mortgagor may be granted up to 60 days to cure monetary defaults if HUD determines that progress is being made to avoid assignment of the Loan to HUD. In addition, the Corporation and the State of New York will have the opportunity (but not an obligation) to cure any non-monetary default prior to the assignment of the Loan to HUD.

In any event, the fundamentals of the underwriting of the Project have been designed to ward off a cash-flow crisis that might cause a monetary default. A debt service reserve of approximately $15 million, equal to 6 months of debt service, will continue to be maintained to fund payments in case of cash flow problems and a capital reserve in the expected amount of $103,000,000 will be established at the closing to pay for capital needs that are expected over the next ten years.

Lastly, in a worst-case scenario, while a new appraisal is not required for the current transaction, the 2012 appraisal found that the value of the underlying property, if unencumbered by Article II restrictions or any financing restrictions, would be $3,317,000,000.

Action by Members

The Members are requested to approve the extension of the HDC Guaranty to HUD in an amount not to exceed $15,000,000 and the execution by the President or an Authorized Officer of the Corporation of any and all documents necessary to issue such Guaranty.

“Exhibit A”

Co-op City
Bronx, New York

Project Location: 2049 Bartow Avenue, Bronx NY

Project Description: A 15,372-unit, 330-acre campus that includes 35 high-rise apartment buildings (24-33 stories each), 472 townhouse units in seven clusters, approximately 330,000 s.f. of commercial and community space in three shopping centers, 44 professional offices, 8 parking garages and a 40-megawatt cogeneration power plant.

Apartment Distribution:

	# of Units
One Bedroom	5,536
Two Bedroom	5,720
Three Bedroom	4,116
Total	**15,372**

Expected Wells Fargo Loan: $621,500,000
Expected HUD Insurance: $621,500,000
SONYMA Top-Loss Insurance: $55,000,000
HDC Top-Loss Guaranty Amount: $15,000,000

Owner: Riverbay Corporation, a Limited-Equity Cooperative, is organized under Article II of the Private Housing Finance Law (the Mitchell Lama program) The Mitchell Lama program was designed to provide affordable housing to the State’s low and middle-income level residents by providing low interest loans and real estate tax exemption, resulting in affordable rent and maintenance charge levels for residents initially meeting specific statutory income requirements.

Developer: N/A

Underwriters: Wells Fargo Bank, N.A.