NYC HDC

NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairperson and Members

From: Gary Rodney
President

Date: May 25, 2016

Subject: Amendment and Restatement of Multi-Family Mortgage Revenue Bonds (101 Avenue D Apartments) Bond Resolution and Direct Purchase of Multi-Family Mortgage Revenue Bonds (101 Avenue D Apartments), 2010 Series A

I am pleased to recommend the Members approve the amendment and restatement of the Corporation's Multi-Family Mortgage Revenue Bonds (101 Avenue D Apartments Bond Resolution (the "Resolution"), originally adopted by the Members on April 8, 2010, as described herein. Interest on the Bonds is anticipated to be exempt from federal, state and local income tax.

On April 1, 2010, pursuant to the Resolution, the Members approved the issuance of the Corporation's Multi-Family Mortgage Revenue Bonds, 2010 Series A (the "2010 Series A Bonds" or the "Bonds") for the purpose of providing construction and permanent financing to 101 Avenue D Associates, LLC, a Delaware limited liability company (the "Borrower") in the amount of $25,000,000 for the 101 Avenue D Apartments project, which is a 78-unit multi-family rental housing development located at 101 Avenue D in Manhattan (the "Project") and developed under the Corporation's NewHop Mixed Income "50/30/20" program. The Project has also received one additional loan funded from the Corporation's unrestricted reserves in the amount of $2,535,000 (the "Subordinate Loan"). The managers of 101 Avenue D Associates, LLC are described below.

The Members are being asked to approve the amendment and restatement of the Resolution to allow for direct purchase of the Bonds by Capital One Bank ("Capital One").

The Corporation anticipates that the Bonds will be directly purchased by Capital One Municipal Funding, Inc. ("Capital One") pursuant to a Remarketing Purchase Agreement (the

"Remarketing Purchase Agreement"), and secured by a Mortgage Purchase Agreement ("MPA") to be entered into by Capital One and the Corporation.

This memorandum will provide a description of the Project and the Borrower, and a discussion of the structure, security and risks of the Bonds.

Project Description

The Project is a Mixed Income "50/30/20" rental housing facility constructed on a building site of approximately 15,152 square feet on Avenue D between 7th and 8th Streets in Manhattan. The Lower East Side Girls Club of New York, Inc. ("LESGC") developed a separately financed facility on the Project's first and second floors.

The Project consists of approximately 44,800 net rentable residential square feet divided into 78 apartments. Three of the units are available for occupancy by households whose incomes do not exceed 40% of Area Median Income ("AMI"), 13 units are available for occupancy by households whose incomes do not exceed 50% of AMI, 23 units are available to households whose incomes do not exceed 175% of AMI, and the remaining 38 units are rented at market rates. The Project also contains approximately 4,700 square feet of retail space, which is currently occupied by a Rite Aid Pharmacy. As part of the 2010 construction loan closing, the Borrower designated twelve low-income units as inclusionary "Affordable Housing Units" in order to generate 8,035 square feet in additional zoning bonus through the New York City Department of Housing Preservation and Development's "Inclusionary Housing" program.

Following initial occupancy, rents on the Project have been subject to Rent Stabilization. Pursuant to the terms of the regulatory agreement executed by the Corporation and the Borrower and the Affordable Owner (as defined below) at construction loan closing (the "HDC Regulatory Agreement"), the occupancy restrictions remain in effect for as long as the Bonds are outstanding and for a minimum of thirty (30) years from the date the Project is first occupied (the "Occupancy Restriction Period"). Both the low and middle-income tenants in occupancy at the expiration of the Occupancy Restriction Period will be protected by the terms of the HDC Regulatory Agreement, which mandates that the tenants be offered continuous lease renewals in accordance with Rent Stabilization. The Project's market rate units will also be subject to rent stabilization for as long as the Project receives real estate tax benefits pursuant to Section 421-a of the New York State Real Property Tax Law.

A fact sheet with a brief description of the Project is attached (see "Exhibit A").

Borrower Description

The developer is The Dermot Company, Inc. ("Dermot"), whose principals are Stephen Benjamin, Andrew Levinson and Drew Spitler. The Dermot Company is a New York City-based real estate investment firm that owns and manages multifamily units across the US. In 2003, Dermot completed construction on Hudson Crossing, an HDC-financed taxable 80/20 project with 259 units in Midtown West. In 2004, Dermot opened The Opal, a 388 unit 80/20 rental project in Kew Gardens, Queens. Dermot is also the developer of Queens Family

Courthouse Apartments.

The Borrower and 101 Affordable, LLC (the "Affordable Owner") are the fee owners of the Project. The manager of the Borrower is Dermot 101, LLC, whose sole member is DCC 3 Arabella, LLC. The non-managing member is LEI PA Partners LP (f/k/a GIM PA Partners, LP), whose partners are entities owned by Lowe Enterprises Investment Management and the Commonwealth of Pennsylvania State Employee Retirement System. The manager of the Affordable Owner is 101 Affordable Manager, LLC, the sole member of which is the Borrower. The non-manager of the Affordable Owner, which holds a 99.99% interest, is USA Institutional 80-20 Tax Credit Fund VIII L.P., which is owned 99.9% by a wholly-owned subsidiary of Signature Bank and .1% by an entity owned by Richard P. Richman and David A. Salzman.

Proposed 2016 Refinancing

The Bonds will be remarketed as unrated, tax-exempt, variable rate bonds to be directly purchased pursuant to the Remarketing Purchase Agreement. The Bonds will be secured by a Mortgage Purchase Agreement ("MPA") to be entered into by Capital One and the Corporation. The MPA will be for an initial term of 10 years and is described in further detail below. It is expected that at the end of the 10 year period the Borrower can request the bank to extend the term or alternatively, seek a long term credit enhancement satisfactory to the Corporation.

The Subordinate Loan requires payments based on 1% per annum with a 2.00% debt service constant and additional payments to be paid from surplus cash flow.

Structure of the Bonds

The Bonds will be remarketed and directly placed with Capital One as variable rate obligations bearing an interest rate equal to 100% of the most recent Securities Industry and Financial Markets Association ("SIFMA") Municipal Swap Index plus a spread of 1.45%, and with a maturity of July 1, 2043. The rate will be reset on a weekly basis and will be subject to a maximum interest rate of 12%, although the maximum rate may be increased to 15% in accordance with the provisions of the Bond Resolution. The Bonds will be unrated during the term of the MPA.

As part of this direct purchase, $2,300,000 of the currently outstanding 2010 Series A Bonds will be redeemed using borrower equity, leaving $22,700,000 to be secured by the MPA.

Security of the Bonds

During the initial period of 10 years, the Bonds will be secured by the MPA. If the Trustee has not received any amount due and owing under the Bonds or otherwise required by the Resolution, upon notice after an opportunity to cure any defaults, Capital One shall have (i) the option to pay such amount or (ii) the obligation to purchase the note and mortgage from the Corporation resulting in the redemption of the Bonds. Even if Capital One fails to pay the purchase price, the note and mortgage will be assigned to Capital One and the Bonds will be retired under the terms of the Resolution.

Upon the expiration of the initial 10 year term, it is anticipated that the MPA will be extended or replaced with a credit facility for a term ending on July 1, 2043, or such shorter term as approved by the Corporation. The Resolution will permit the provision of a credit facility or MPA, as long as the Corporation provides the Trustee certain items detailed in the Resolution including, but not limited to, (i) an opinion of bond counsel stating that the credit facility or MPA meets the requirements of the Resolutions and will not adversely affect the tax exemption relating to the Bonds, (ii) with respect to a credit facility replacing an MPA, a letter from at least one nationally recognized rating agency to the effect that such credit facility will provide Bonds with an investment grade rating, and (iii) with respect to the replacement of any MPA, the approval of the Members of the Corporation.

Under the terms of the Bond Resolution, a change in either (i) the security for the Bonds, or (ii) the method of establishing the interest rate on the Bonds will result in a mandatory tender of such series of Bonds for purchase at par plus accrued interest.

Risks and Risk Mitigation

The primary risk associated with this bond issue is the absence of a traditional, long term credit facility. In the event the Borrower fails to make payments on the loan and the Project defaults, the Corporation will not have the ability to draw on a bank letter of credit to satisfy the corresponding debt obligations. However, the Bond Resolution and the MPA will mitigate this potential risk because, if Capital One fails to honor its obligation upon a default by the Borrower, the note and mortgage will be automatically assigned to Capital One and the Bonds will be retired.

Capital One will require the Borrower to purchase a five-year interest rate cap ("Rate Cap") or swap ("Rate Swap"). The Rate Cap or Rate Swap will provide a hedge to mitigate the risk of rising variable rates in the future. Beginning in month 24 of the loan term and continuing for each semi-annual period until month 54 of the loan term the borrower will be required to escrow $1/6^{th}$ of the cost of a replacement hedge so that at month 60 there are sufficient funds to purchase a replacement five-year hedge.

In an effort to alleviate the exposure of the Corporation's subordinate debt to the availability of permanent credit enhancement on the Mortgage Loan, the Borrower will be required to make amortization payments on the Subordinate Loan. The Subordinate Note currently calls for additional payments to be made out of surplus cash.

Fees

The Borrower will be obligated to pay the Corporation an up-front fee equal to 0.75% of the Bonds. In addition, the Corporation will receive an annual servicing fee on the Project equal to .25% of the Bonds. The Borrower will also pay the fees of bond counsel and the trustee.

Capital One will receive an origination fee equal to 0.35% of the Bonds.

Rating

The Bonds will be unrated during the term of the MPA.

Trustee and Tender Agent

U.S. Bank National Association

Senior Manager and Remarketing Agent

No underwriter is needed during the 10 year period since the Bonds will be directly remarketed to Capital One.

Bond Counsel

Hawkins Delafield & Wood LLP

Action by the Members

The Members are requested to approve an authorizing resolution which provides for, (i) the adoption of the Amended and Restated Bond Resolution, (ii) the execution of the Remarketing Purchase Contract regarding the remarketing and direct placement of the Bonds, (iii) the execution of the Mortgage Purchase Agreement with respect to the Bonds, and (iv) the execution of mortgage related documents and any other documents necessary to accomplish the remarketing and direct placement of the Bonds, and the refinancing of the mortgage loan.

Exhibit A
101 Avenue D Apartments
New York, New York

Project Location: 101 Avenue D, New York, NY
Block 377, Lots 1202 & 1203

Project Description: A 12-story building with 78 mixed-income residential units and 4,700 square feet of commercial space.

Total Rental Units: 77 (plus one unit reserved for the superintendent)

Apartment Distribution:

Unit Size	No. of Units
Studio	27
1 bedroom	51
2 bedroom	0
Total Units*	78

*Total Units are inclusive of one superintendent unit

Market Rate Units: 38

Middle-Income Units 23

Low-Income Units 16

Superintendent Unit: 1

HDC Estimated Tax-Exempt Bond Amount: $22,700,000

HDC Estimated Subordinate Loan Amount: $2,535,000

Bond Structure: Direct purchase of variable rate bonds by Capital One.

Credit Enhancement: Mortgage Purchase Agreement from Capital One Bank

Owner: 101 Avenue D Associates LLC and 101 Affordable, LLC both Delaware Limited Liability Companies whose managing member is Dermot 101, LLC whose members are Stephen N. Benjamin, Andrew Levinson and Drew Spitler and Lowe Enterprises Investment Management and the commonwealth of Pennsylvania State Employee Retirement System, respectively.

Underwriter/Remarketing Agent: N/A