




NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairperson and Members

From: Eric Enderlin 
President

Date: May 23, 2019

Subject: Amendment and Restatement of the Multi-Family Mortgage Revenue Bonds (245 East 124th Street) Bond Resolution

I am pleased to recommend that the Members approve the amendment and restatement of the Corporation's Multi-Family Mortgage Revenue Bonds (245 East 124th Street) Bond Resolution, originally adopted by the Members on June 11, 2008 (the "Resolution"), to align certain provisions with current market standards for a remarketing and interest-rate mode change of the Multi-Family Mortgage Revenue Bonds (245 East 124th Street), 2008 Series A (the "Bonds").

The interest on the remarketed Bonds is anticipated to be exempt from Federal, state and local income tax.

The proceeds of the Bonds were lent by the Corporation to East 124th Street LLC (the "Borrower"), a New York limited liability company, and used by the Borrower to pay a portion of the acquisition and construction costs for a 185-unit multi-family rental housing development located at 245 East 124th Street in Manhattan (the "Project") under the Corporation's Mixed Income Program. The outstanding Bonds are expected to be remarketed as fixed-rate obligations in a Term Rate mode and secured by a direct-pay Credit Enhancement Agreement provided by the Federal Home Loan Mortgage Corporation ("Freddie Mac").

This memorandum will provide a description of the proposed amendment and the structure, security and risks of the Bonds. For more information on the Project and the Borrower, please see the attached Memo to Members dated June 4, 2008 (the "2008 Memo to Members").

Amendment and Structure of the Bonds

Similar to other multi-modal transactions undertaken by the Corporation, the Resolution and other agreements entered into in connection with the financing provide that the Bonds may be converted to (i) a Weekly Rate, (ii) a Term Rate (with a semi-annual term or any multiples

thereof), or (iii) a Fixed Rate, all at the option of the Borrower with the approval of the credit enhancer and the Corporation pursuant to the terms of the Resolution.

Due to changes in market conventions, the Members are now being asked to approve an amendment to the Resolution to make certain technical revisions, including to change the interest payment dates in the Term Rate and to revise certain redemption provisions so that the Corporation can more effectively remarket the Bonds into the Term Rate.

If approved, the Corporation expects to remarket the outstanding Bonds from a weekly variable rate into a fixed rate Term Rate Term. The Resolution currently provides for a not-to-exceed interest cost of 15% for fixed-rate bonds; however, it is expected that the Bonds will have a true interest cost that does not exceed 4.5% during the Term Rate Term, which is expected to be approximately 10 years. The Bonds have a final maturity of November 1, 2046.

In connection with the interest rate mode change, the Mortgagor is also expected to terminate an existing interest rate hedge. The costs associated with that termination are expected to be paid for with the proceeds of a supplemental loan from Freddie Mac.

The Borrower is expected to make principal payments to a principal reserve fund ("PRF") but there is no expectation that there will be any associated amortization during the initial Term Rate Term.

Discretionary Tender Date

The Members are also being asked to approve the addition of a "Discretionary Tender Date," which provides the option for the Corporation to cause a mandatory tender of the Bonds. The Discretionary Tender allows greater flexibility to facilitate future amendments to the Resolution in the event additional amendments are necessary in connection with the remarketing of the Bonds near the end of their ten-year Term Rate Term. Any such future amendments would have to be adopted by the Members.

Security for the Bonds and Security for Freddie Mac

The Bonds are expected to be secured by a direct-pay Credit Enhancement Agreement (the "Credit Facility") executed and delivered by Freddie Mac to the Trustee concurrently with the remarketing of the Bonds, subject to final approval by Freddie Mac. The Trustee will draw upon the Credit Facility to make all regularly scheduled payments due on the Bonds.

The approximate term of the Credit Facility is 10 years and it will remain in effect for the Term Rate Term.

Freddie Mac expects to be reimbursed for draws on the Credit Facility from payments made by the Borrower pursuant to a reimbursement agreement between Freddie Mac and the Borrower (the "Reimbursement Agreement"). The obligations of the Borrower will be evidenced by one or more mortgages and notes, which, with respect to any bond-financed mortgage loan, will remain assigned to Freddie Mac and the Trustee, as their interests may appear, upon the refinancing.

Upon remarketing, Freddie Mac is also expected to make a supplemental loan in an approximate amount of \$3,900,000 to cover associated fees and costs. The Corporation expects the supplemental loan to be senior in priority to the existing subordinate loans described in the 2008 Memo to Members.

Merchants Capital LLC will service the Loan on behalf of Freddie Mac.

Risks and Risk Mitigation

The primary risk associated with this bond issue is the potential failure of Freddie Mac to honor its obligations under the Credit Facility, which would be a default under the transaction documents. The Corporation's staff believes that a default by a highly rated financial institution is an unlikely scenario. Freddie Mac is currently rated AA+ by S&P Global Ratings ("S&P"). As a result, the Corporation believes that the financing is structured to effectively insulate the Corporation from credit, market and real estate risks.

Fees

The Borrower will be obligated to pay the Corporation its costs of remarketing for the Bonds plus an up-front fee equal to approximately .75% of the Bonds.

The Corporation's annual servicing fee will be .20% of the outstanding amount of the Bonds.

Freddie Mac and Merchant Capital LLC, the delegated underwriting and servicing lender for the loan, will receive an up-front one-time commitment fee equal to 1.00% of the loan amount and an annual fee equal to approximately 0.50% of the outstanding principal balance to Freddie Mac and 0.25% of the outstanding principal balance to Merchant Capital.

Rating

It is expected that the Bonds will be rated AA+ by S&P.

Trustee and Tender Agent

The Bank of New York Mellon

Remarketing Agents

BofA Securities, Inc.
Samuel A. Ramirez & Co., Inc.

Bond Counsel

Hawkins Delafield & Wood LLP

Remarketing Agent's Counsel

Orrick, Herrington & Sutcliffe LLP

Action by the Members

The Members are requested to approve an authorizing resolution which provides for the adoption of the Amended and Restated Resolution.


Attachment "A"



NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairman and Members

From: Marc Jahr 
President

Date: June 4, 2008

Subject: Multi-Family Mortgage Revenue Bonds (245 East 124th Street)
2008 Series A

I am pleased to recommend that the Members approve the issuance of the Corporation's Multi-Family Mortgage Revenue Bonds (245 East 124th Street), 2008 Series A (the "Bonds") in an amount not to exceed \$45,000,000. Interest on the Bonds is anticipated to be exempt from Federal, state and local income tax, and the Bonds will be subject to the Private Activity Bond Volume Cap.

The proceeds of the Bonds will be used by East 124th Street, LLC ("Mortgagor"), a New York limited liability company and New York limited partnership, respectively, for the purpose of paying a portion of the costs of acquiring and constructing a 185-unit multi-family rental housing development to be located at 245 East 124th Street in Manhattan (the "Project") to be developed under the Corporation's Mixed Income Program. The managing members of East 124th Street, LLC are Jonathan Rose, Nicholas Lettire and Gerard Lettire. Affiliates of PNC Bank, National Associates, a low-income housing tax credit investor, will act as the investor member for the Borrower and will have approximately 99.99% ownership interest in the Borrower.

The Bonds will be secured by a direct-pay credit facility to be provided by the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Freddie Mac will provide credit enhancement for the term Bonds, but in turn, during construction will be secured by a stand-by letter of credit ("LOC"), to be issued by JPMorgan Chase Bank ("JPMC"). Freddie Mac is currently rated AAA/Aaa and JPMC is currently rated AA/Aaa by Standard & Poor's Rating Services. As a result, the Corporation believes that the financing is structured to effectively insulate the Corporation from credit, market and real estate risks. During the construction and rent-up periods, Freddie Mac may draw on the JPMC LOC to reimburse itself for payments it makes on the Bonds if the Mortgagor fails to reimburse Freddie Mac. However, if the Project is successfully built and rented as contemplated, and reaches certain financial targets, Freddie Mac will release the JPMC LOC.

In addition to providing the bond financing to fund the first mortgage, the Corporation anticipates making a second mortgage loan from the Corporation's unrestricted reserves in an estimated amount of \$6,045,000 (the "Subordinate Loan"). The second mortgage is being made in accordance with the Mixed Income Program guidelines, for an amount of \$65,000 per unit for the 93 low- and middle-income units in the Project. The Subordinate Loan will not be credit enhanced and will bear interest at a rate of 1%, with scheduled amortization beginning at construction completion.

The Project will also receive an additional loan from Department of Housing Preservation and Development in amount of \$3,700,000. This loan will be subordinate to both loans of the Corporation. Finally, The Project will also benefit from tax credit equity generated by the sale of Low Income Housing Tax Credits.

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

Project Description

The Project consists of the new construction of a 12-story building to be located at 245 East 124th Street between Park Avenue and Second Avenue in the East Harlem section of Manhattan. The Project will contain 185 rental units (21 studio units, 101 one-bedroom units, 56 two-bedroom units and 7 three-bedroom units) financed under the Corporation's Mixed Income Program. Thirty-seven (37) of the units (20% of the project) will be reserved for tenants earning no more than 50% of Area Median Income which is currently \$38,400 for a family of four. Fifty-five (55) units (30% of the project), will be reserved for middle-income households in accordance with the Corporation's Middle Income Program area median income ("AMI") limits and marketing guidelines. The remaining ninety (90) units will not have income restrictions and will be rented at market rents. The project is also expected to contain 8,338 square feet of commercial space and 120 parking spaces.

Following initial occupancy, rents on the Project will be subject to Rent Stabilization. Pursuant to the terms of the Regulatory Agreement to be executed by the Corporation and the Mortgagor, the occupancy restrictions will 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.

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

Mortgagor Description

East 124th Street, LLC is a joint venture between Jonathan Rose Companies LLC ("Rose") (whose principal is Jonathan Rose) and Lettire Construction (whose principals are Nicholas and Gerard Lettire). The managing member is made up of the principals of Rose 124th Street, LLC (Jonathan Rose is the sole member) and Lettire Construction. Since 1986, Rose has developed affordable

housing projects throughout the United States, several of which have received national awards from various housing associations. Rose is a repeat borrower with HDC and most recently closed on 265 West 153rd Street, an 83-unit LAMP project in July 2006.

Nicholas and Gerard Lettire are co-founders of Lettire Construction, which is a construction management and general contracting firm established in 1979. Their headquarters is based in East Harlem where they run business operations for current developments, construction projects and asset management of the Lettire multi-family portfolio. Lettire Construction will also be acting as the contractor.

Structure of the Bonds

The Bonds will initially be issued as seven-day variable-rate obligations. The interest rate on the Bonds will be reset weekly (the "Weekly Rate") by Merrill Lynch & Co. ("Merrill Lynch") in its capacity as Remarketing Agent. On the basis of the prevailing financial market conditions, Merrill Lynch will establish the Weekly Rate at the minimum interest rate that it determines will be necessary to market the Bonds at par. Similar to other multi-modal transactions undertaken by the Corporation, the Bond Resolution and other agreements to be entered into in connection with the financing provide that the Bonds may be converted to (i) a Weekly Rate, (ii) a Term Rate (with a semi-annual term or any multiples thereof), or (iii) a Fixed Rate, all at the option of the Mortgagor with the approval of the credit enhancer and the Corporation pursuant to the terms of the resolution for the Bonds (the "Bond Resolution"). The Bonds will be subject to a maximum interest rate of 12% per annum in any of the above interest rate modes, although the maximum rate may be increased to 15% in accordance with the provisions of the Bond Resolution.

The Mortgagor will enter into a forward swap transaction at construction loan closing which will fix a permanent rate for 15 years commencing after construction completion. The use of a swap as a hedge on the variable rate mitigates the risk of rising variable rates in the future. Following the expiration of the swap agreement, Freddie Mac may either require the Mortgagor to enter into a new swap for a minimum of an additional 10 years or purchase an interest rate cap for a minimum of an additional 5 years.

The Borrower will be making principal payments to a principal reserve fund ("PRF") that will be used to amortize the loan if (i) the amount in the PRF exceeds 20 percent of the tax exempt bonds outstanding after completion of construction or (ii) Freddie Mac or the Borrower request the redemption of bonds. The PRF shall be held by the Trustee pursuant to the terms of the Resolution while the Bonds are outstanding.

Security for the Bonds

The Bonds will be secured by a credit enhancement facility in the form of a Direct-Pay Credit Enhancement Instrument (the "Credit Facility") executed and delivered by Freddie Mac to the Trustee concurrently with the issuance of the Bonds. The Trustee will draw upon the Freddie Mac Credit Facility to make all regularly scheduled payments due on the Bonds. The Credit Facility may also be drawn upon in the event the Bonds are not successfully remarketed by the Remarketing

Agent. The approximate term of the Credit Facility is thirty-seven years and it will remain in effect for as long as the Bonds are outstanding. Under the terms of the credit facility, the Mortgagor will be required to hedge interest rate risk by entering into an interest rate swap.

Freddie Mac expects to be reimbursed for draws on the Credit Facility from payments made by the Mortgagor pursuant to a Reimbursement Agreement. The obligations of the Mortgagor will be evidenced by a mortgage and note, which will be assigned to Freddie Mac and the Trustee, as their interests may appear, at the closing. The obligations of the Mortgagor will be guaranteed during the construction and rent-up period by the JPMC LOC. JPMC will also service the loan during the construction term and will pass through all payments due during construction to Freddie Mac. The obligations of the Mortgagor to reimburse JPMC in the event of a draw will be secured by a pledge of the interests of certain members of the Mortgagor.

In the event the Mortgagor fails to fulfill its obligations pursuant to the Reimbursement Agreement, Freddie Mac may draw upon the JPMC LOC, require the Bonds to be tendered, use such proceeds to pay the Bondholders, and thereafter no longer credit enhance the Bonds. Under such circumstance, JPMC may request that it be permitted to credit enhance the tendered Bonds with a direct pay letter of credit. In the event such a scenario were to occur, the Members would be asked to approve any proposed restructuring of the Bonds at that time. The Bond Resolution permits the provision of alternate forms of credit enhancement provided that the Corporation receives among other things 1) a bond counsel opinion stating that the alternate form of credit enhancement meets the requirements of the Bond Resolution, and 2) a letter from a nationally recognized rating agency stating that following the provision of an alternate form of credit enhancement, the Bonds will receive a rating in the "A" category. The Mortgagor would be required to pay all costs incurred by the Trustee and the Corporation in connection with the provision of an alternate form of credit enhancement.

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 the Bonds for purchase at par plus accrued interest.

Risks and Risk Mitigation

The primary risk associated with this bond issue is the potential failure of Freddie Mac to honor its obligations under the Credit Facility, which would be a default under the transaction documents. The Corporation's staff believes that a default by a highly rated financial institution is an unlikely scenario. Additionally, the Bond Resolution allows the Corporation to require the replacement or substitution of the Credit Facility, at the Corporation's option. The likely circumstance under which the Corporation might require a replacement or substitution would be if Freddie Mac were downgraded to below investment grade. However, as a practical matter, the Borrower would have an incentive to replace the Credit Facility from Freddie Mac if Freddie Mac were downgraded because the Borrower's financing costs could increase substantially as the capital markets recognized the increase in risk with respect to the Bonds due to such downgrade. HDC has never required the replacement of a credit facility due to a credit downgrade. Currently all banks providing letters of credit and credit facilities to the Corporation are rated above investment grade. An additional risk is that HDC's Subordinate Loan is not enhanced. Corporation staff believes that the project is

underwritten with adequate coverage and that the required interest rate hedge will help to mitigate against repayment risk on the Subordinate Loan.

Fees

The Mortgagor will be obligated to pay the Corporation a fee equal to all of the Corporation's costs of issuance in connection with the Bonds plus an up front fee equal to .75% of the Bonds. In addition, HDC will receive an annual servicing fee equal to .20% of the outstanding principal balance of the Bonds.

Wachovia Multifamily Capital, Inc. (the Freddie Mac Seller/Servicer for the Project) will receive an origination fee equal to \$225,000, and an annual fee equal to .25% of the Credit Facility following the release of the JPMC LOC. Freddie Mac will receive an annual fee during construction and rent up equal to 0.56% of the actual face amount of the Credit Facility, and an annual fee equal to 1.23% of the Credit Facility following the release of the JPMC LOC.

JPMC will receive an up-front origination fee equal to .75% of the LOC amount and an annual letter of credit fees totaling .75% of the LOC amount.

~~Merrill Lynch will earn an underwriter's fee not to exceed .35% of the Bonds plus its expenses. While the Bonds are in the Weekly Rate, Merrill Lynch will also receive an annual fee equal to .09% of the outstanding amount of the Bonds for acting as Remarketing Agent.~~

Rating

It is expected that the Bonds will be rated AAA/A+ by S & P.

Trustee and Tender Agent

The Bank of New York

Senior Manager and Remarketing Agent

Merrill Lynch & Co.

Bond Counsel

Hawkins Delafield & Wood LLP

Underwriter's Counsel

Orrick, Herrington & Sutcliffe LLP

Action by the Members

The Members are requested to approve an authorizing resolution which provides for (i) the adoption of the Bond Resolution, (ii) the execution of the Bond Purchase Agreement regarding the sale of the Bonds, (iii) the distribution of the Official Statement in connection with the financing, and (iv) execution of mortgage related documents and any other documents necessary to accomplish the issuance of the Bonds and the financing of the loan.

In addition, the Members are requested to approve the making of the Subordinate Loan to be funded by using the Corporation's unrestricted reserves, in an amount not expected to exceed \$6,045,000, and the execution by an authorized Officer of the Corporation of mortgage related documents and any other documents necessary to accomplish the subordinate financing.

“Exhibit A”

245 East 124th Street

Project Location: East 124th Street at 2nd Avenue,
Manhattan

Project Description: The new construction of a single 12-story
elevator building with 185 mixed-income
residential units, 8,338 of commercial space and
120 parking spaces.

Rental Apartment Distribution:

Studios	21
1 Bedrooms	101
2 Bedrooms	56 (includes 1 Super unit)
3 Bedrooms	<u>7</u>
Total	185

Market Rate Units: 92

**Middle-Income Units
(130% of median income):** 55

**Low-Income Units
(50% of median income):** 32

**Very Low-Income Units
(40% of median income):** 5

HDC Estimated Tax-Exempt Bond Amount: \$45,000,000

Bond Structure: 7-day variable rate; may be converted to other
term lengths

Credit Enhancement: Direct Pay Freddie Mac Credit Facility. During
the construction and rent-up periods, Freddie
Mac may draw on the JP Morgan Chase Bank,
NA Standby LOC

Owner: 245 East 124th Street LLC, a New York limited
liability company whose members are Jonathan
Rose, Nicholas Lettire and Gerard Lettire.

Underwriter/Remarketing Agent: Merrill Lynch & Co.