




NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairperson and Members

From: Eric Enderlin 
President

Date: November 20, 2018

Subject: Amendment and Restatement of Multi-Family Rental Housing Revenue Bonds (The Nicole) Bond Resolution, Approval of First Supplemental Resolution Relating to Multi-Family Rental Housing Revenue Bonds (The Nicole), 2018 Series A and Direct Purchase of 2005 Series A and 2018 Series A Bonds

I am pleased to recommend the Members approve the amendment and restatement of the Corporation's Multi-Family Rental Housing Revenue Bonds (The Nicole) Bond Resolution originally adopted by the Members on November 16, 2005, (the "2005 Resolution," and, as amended and restated, the "Amended and Restated Resolution") to remarket and permit the direct purchase of the Multi-Family Rental Housing Revenue Bonds (The Nicole), 2005 Series A (the "2005 Bonds").

The Members are further requested to approve the issuance of the Multi-Family Rental Housing Revenue Bonds (The Nicole), 2018 Series A in an amount not to exceed \$5,000,000 (the "2018 Bonds," and together with the 2005 Bonds, the "Bonds") and permit the direct purchase of the 2018 Bonds pursuant to the Amended and Restated Resolution and the First Supplemental Resolution Relating to Multi-Family Rental Housing Revenue Bonds (The Nicole), 2018 Series A (the "Supplemental Resolution," and together with the Amended and Restated Resolution, the "Resolutions"). Interest on the remarketed 2005 Bonds is anticipated to be exempt from Federal, state and local income tax. Interest on the 2018 Bonds will not be exempt from Federal income tax, but will be exempt from state and local income tax.

The Members are being asked to approve the amendment and restatement of the 2005 Resolution to allow for the direct purchase of the 2005 Bonds by Wells Fargo Bank Municipal Capital Strategies, LLC ("Wells Fargo Tax Exempt Direct Purchaser") pursuant to a Remarketing Purchase Contract (the "Remarketing Purchase Contract") and the direct purchase of the 2018 Bonds by Wells Fargo Bank, N.A. ("Wells Fargo") pursuant to a Bond Purchase Agreement (the

“Bond Purchase Agreement”). The Bonds will be secured by a Mortgage Purchase Agreement to be entered into between Wells Fargo and the Corporation (“Mortgage Purchase Agreement” or “MPA”).

The original proceeds from the issuance of the 2005 Bonds were lent by the Corporation and used by 55th & 9th LLC (the “Borrower”), a New York limited liability company, for the purpose of refunding the Corporation’s Multi-Family Mortgage Revenue Bonds (400 West 55th Street Development), 2002 Series A (the “2002 Series A Prior Bonds”) and 2002 Series B (the “2002 Series B Prior Bonds,” and together with the 2002 Series A Prior Bonds, the “Prior Bonds”). The Corporation issued the Prior Bonds to finance the acquisition, construction and equipping of a 149-unit “80/20” multi-family rental housing development located on the southwest corner of West 55th Street and 9th Avenue in Manhattan (the “Project”).

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 an “80/20” rental housing facility containing a total of approximately 149 dwelling units (including one superintendent’s unit) consisting of 30 studio units, 73 one-bedroom units and 46 two-bedroom units and related facilities at 400 West 55th Street (southwest corner of West 55th Street and 9th Avenue), Manhattan, New York. In addition to the 149 residential units, there are related facilities, including a health club and 34,500 square feet of retail space.

Of the total dwelling units, 30 apartments, representing 20% of the total units, are reserved for low-income families earning less than 50% of the New York City area median income adjusted for household size (“AMI”). Five of the 30 units are reserved for very low-income families earning less than 40% of the New York City AMI.

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 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”). The low-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 (“421-a”) and thereafter, units with market rate tenants in place at expiration of the 421-a will continue to be subject to Rent Stabilization as required by 421-a.

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

Borrower Description

The Borrower, 55th & 9th LLC, is a single-purpose entity controlled by the principals of Picket

Realty Holdings LLC, a New York limited liability company, whose individual members are David Picket and Allison Fehrenbaker. The Gotham Organization, Inc. ("Gotham"), a related entity to the Borrower, will be HDC's guarantor of the Project. Gotham has been an active builder and developer of residential and mixed-use real estate for over 38 years and during that time has developed or built over 20,000 apartment units. HDC has financed four projects developed by Gotham.

Proposed 2018 Refinancing

The Members are being asked to approve the amendment and restatement of the 2005 Resolution to allow for the direct purchase of the 2005 Bonds by Wells Fargo Tax Exempt Direct Purchaser pursuant to a Remarketing Purchase Contract and the direct purchase of the 2018 Bonds by Wells Fargo pursuant to a Bond Purchase Agreement. The Bonds will be secured by a Mortgage Purchase Agreement to be entered into by Wells Fargo and the Corporation which will be for an initial term of 15 years, which is described in further detail below.

Structure of the Bonds

The 2005 Bonds currently bear interest at a weekly variable rate and are secured by a direct pay letter of credit issued by Fannie Mae. The 2005 Bonds will be remarketed as unrated, tax-exempt bonds in a fixed rate term directly purchased by Wells Fargo Tax Exempt Direct Purchaser and will bear interest at a rate not-to-exceed 15% for the fixed term rate bonds; however, it is expected that the 2005 Bonds will have an interest rate that does not exceed 4.5%. The 2005 Bonds will have a final maturity of November 15, 2035.

The 2018 Bonds will be issued as unrated, Federally taxable bonds in a fixed rate term directly purchased by Wells Fargo. The Members are asked to authorize a not-to-exceed interest rate of 15% for fixed term rate bonds; however, it is expected that the 2018 Bonds will have an interest rate that does not exceed 5%.

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

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 Resolutions. The Bonds are expected to have a final dated maturity of November 15, 2035.

The Borrower will pay interest only on the loan for the first 10 years of the 15-year term of the MPA.

Security of the Bonds

During the initial period of 15 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 Resolutions, upon notice after an opportunity to cure any defaults, Wells Fargo 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 Wells Fargo fails to pay the purchase price, the note and mortgage will be assigned to Wells Fargo and the Bonds will be retired under the terms of the Resolutions.

Under the terms of the Resolutions, 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.

The Resolutions will allow the Bondholder to transfer the Bonds without Corporation approval to specified entities under certain circumstances, provided the transferee assumes the obligations under the MPA.

Risks and Risk Mitigation

The primary risk associated with the Bonds is the potential failure of Wells Fargo to honor its obligations under the MPA, which would be a default under the transaction documents. However, the Resolutions and the MPA will mitigate this potential risk because even if Wells Fargo fails to honor its obligation upon a default by the Borrower, the note and mortgage will be automatically assigned to Wells Fargo and the Bonds will be retired.

Fees

The Borrower will be obligated to pay the Corporation an up-front fee equal to 0.25% of the 2005 Bonds outstanding and 1.00% on the amount of 2018 Bonds. In addition, the Corporation will receive an annual servicing fee on the Project equal to 0.25% of the Bonds. The Borrower will also pay the fees of bond counsel and the trustee.

Wells Fargo will receive an origination fee equal to 0.25% of the Bonds.

Rating

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

Trustee and Tender Agent

U.S. Bank National Association

Pricing Advisor

Caine Mitter & Associates Inc.

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 Resolution, (ii) the adoption of the Supplemental Resolution, (iii) the execution of the Remarketing Purchase Contract regarding the remarketing and direct placement of the 2005 Bonds, (iv) the execution of the Bond Purchase Agreement regarding the direct placement of the 2018 Bonds, (v) the execution of the Mortgage Purchase Agreement with respect to the Bonds and (vi) the execution of mortgage related documents and any other documents necessary to accomplish the remarketing and direct placement of the 2005 Bonds, the issuance and direct placement of the 2018 Bonds and the refinancing of the mortgage loan.

Exhibit A
The Nicole Apartments
New York, New York

Project Location: 400 West 55th Street, New York, NY
Block 1064, Lot 36

Project Description: An 18-story building with 149 mixed-income residential units and 34,500 square feet of commercial space.

Total Rental Units: 148 (plus one unit reserved for the superintendent)

Apartment Distribution:

<u>Unit Size</u>	<u>No. of Units</u>
Studio	30
1 bedroom	73
2 bedroom	46
Total Units*	149

*Total Units are inclusive of one superintendent unit

Market Rate Units: 118

Low-Income Units: 25

Very Low-Income Units: 5

Superintendent Unit: 1

HDC Estimated Tax-Exempt Bond Amount: \$54,600,000

HDC Estimated Taxable Amount: \$4,400,000

Bond Structure: Direct purchase of fixed rate bonds by Wells Fargo.

Credit Enhancement: Mortgage Purchase Agreement from Wells Fargo.

Owner: HK Developer LLC and 55th & 9th Investor, LLC both Delaware Limited Liability Companies. HK 55 Developer LLC has two 50% members: (i) HK 55 Realty LLC, a New York limited liability company, whose managing member is Picket Holdings Company LLC, a New York limited liability company (98% membership interest) and whose other member is Ken Miller, an individual (2% membership interest) and (ii) 55 & 9th Associates

LLC, a Delaware limited liability company, whose managing member is Kayfam Company, a Florida general partnership (75% membership interest). 55th & 9th Investor LLC has one 100% member, Albermarle Investment Corp., a Delaware corporation