NYC HDC

NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

MEMORANDUM

To: The Chairperson and Members

From: Marc Jahr RJ for President Jahr
President

Date: November 18, 2013

Subject: Multi-Family Mortgage Revenue Bonds
(250 Ashland Development), 2013 Series A

I am pleased to recommend that the Members approve the issuance of the Corporation's Multi-Family Mortgage Revenue Bonds (250 Ashland Development), 2013 Series A (the "Bonds") in an amount not expected to exceed $36,000,000. Interest on the Bonds is anticipated to be exempt from Federal, state and local income tax and will be subject to an allocation of private activity bond volume cap.

The Bonds are expected to be issued on a draw down basis initially as unrated variable rate index bonds to be directly purchased by Wells Fargo Bank Municipal Capital Strategies, LLC ("Wells Fargo Direct Purchaser") pursuant to a bond purchase agreement, and secured by a mortgage purchase agreement (described below) with Wells Fargo Bank, National Association, as agent for Wells Fargo Direct Purchaser ("Wells Fargo Servicer").

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

The Loans

The proceeds of the Bonds will be used to make a construction loan (the "Bond Loan") to BAM GO Developers LLC and BAM GO Developers II LLC, each a New York limited liability company (together, the "Borrower") for the purpose of financing a portion of the costs of acquiring and constructing 117 low income units (the "Low Income Units") in a 586 unit multi-family rental housing development to be located at 250 Ashland Avenue in Brooklyn (the "Project") and to be developed under the Corporation's Bifurcated Mixed Income Program. The Bond Loan is expected to have a six-year term and an interest rate equal to the interest rate on the Bonds.

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The Project will also be financed with a construction loan (the "Bank Loan") originated by the Corporation and, pursuant to a participation agreement, funded by Wells Fargo Servicer, TD Bank, N.A. ("TD Bank") and Capital One Bank, N.A. ("Capital One," together with Wells Fargo Servicer and TD Bank, the "Bank Loan Syndicate") in an anticipated amount not to exceed $180,000,000 during construction, and after satisfaction of the Bond Loan in a total anticipated amount not to exceed $300,000,000. The proceeds of the Bank Loan will pay a portion of the costs of acquiring and constructing the middle and market rate residential units and the commercial and retail portion of the Project.

The transaction is structured to separately finance the low-income portion of the Project with tax-exempt bond proceeds. The bifurcated structure enables a project to satisfy Federal low-income housing tax credit requirements with a smaller allocation of new private activity bond volume cap from the Corporation.

The Project expects to receive an additional loan from the Corporation's unrestricted reserves in an anticipated amount not to exceed $3,000,000 (the "Subordinate Loan"). The Subordinate Loan will bear interest at a rate of 1%, with interest only payments during construction and after conversion to permanent financing. The Subordinate Loan is being provided to allow for certain financing fees to be deferred for 30 years. The Subordinate Loan will not be credit enhanced.

Project Description

The Project site was the subject of a Request for Proposals issued by the New York City Department of Housing Preservation and Development ("HPD") on February 9, 2007. On or about the date of the construction loan closing, HPD will transfer the premises to BAM GO Developers LLC; it is expected that legal ownership will be conveyed to an affiliate of the Actors Fund Housing Development Corporation (the "Nominee" and together with the Borrower, the "Mortgagor"). Beneficial ownership will be conveyed to both BAM GO Developers LLC and BAM GO Developers II LLC pursuant to a nominee agreement satisfactory to HDC.

The Project consists of the new construction of a residential tower located at 250 Ashland Place in the Fort Greene neighborhood of Brooklyn, New York. The Project will be a 52-story building with approximately 11,900 square feet of retail space, 8,200 square feet of cultural office space and 586 residential rental units. The Project will have 148 studios, 271 one-bedroom units, 121 two-bedroom units, and 46 three-bedroom units.

The Low Income Units will consist of 23 studio units, 47 one-bedroom units, 35 two-bedroom units and 12 three-bedroom units. All of the Low Income Units will be reserved for tenants earning no more than 60% of Area Median Income ("AMI") which is currently $51,540 for a family of four.

The Project will also contain two middle income tiers with 82 residential units reserved for households earning no more than 135% of AMI, which is currently $115,965 for a family of four, and 82 residential units reserved for households earning no more than 165% of AMI, which is currently $141,735 for a family of four, and 305 market rate units. All residents will share the common area amenities.

Following initial occupancy, rents in the Project will be rent restricted pursuant to programmatic guidelines and subject to Rent Stabilization. Pursuant to the terms of a regulatory agreement to be executed by the Corporation and the Mortgagor (the "Regulatory Agreement"), the occupancy restrictions will remain in effect in perpetuity (the "Occupancy Restriction Period"). All tenants 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").

Borrower, Mortgagor and Developer Description

The Borrower is controlled by the principals of Picket Realty Construction Consultants LLC, a New York limited liability company, whose individual members are David Picket and Allison Fehrenbaker. The Nominee, who together with the Borrower is mortgaging its interest in the premises, is an affiliate of the Actors Fund Housing Development Corporation, a New York not-for-profit organization and a 501(c)(3) organization whose individual members include Joseph Benincasa, Barbara Davis, and Connie Woo.

The Gotham Organization, Inc. ("Gotham"), a related entity to the Borrower, will be the developer of the Project. Gotham was founded in 1931 and has remained a family real estate business through four generations. Gotham's business includes residential and commercial development, construction, operations, and consulting real estate services. Gotham has previously closed on HDC financing for three developments.

The Actors Fund Housing Development Corporation is a subsidiary of the Actors' Fund of America, which was founded in 1882 and is a national nonprofit human services organization that provides for the welfare of all entertainment professionals. Its broad spectrum of programs includes comprehensive social services, health services, supportive and affordable housing, employment and training services, and skilled nursing and assisted living care.

Structure of the Bonds

The Bonds will be issued as unrated, variable rate index bonds to be directly purchased by Wells Fargo Direct Purchaser pursuant to a bond purchase agreement. The Bonds will be issued as "draw down" bonds, therefore, for volume cap purposes only, the entire amount will be considered issued at closing, but the Bonds will be drawn down and issued on two dates. The Bonds shall initially bear interest at a floating rate expected to be re-set periodically based on 100% of the most recent Securities Industry and Financial Markets Association ("SIFMA") Municipal Swap Index as re-set weekly, plus a spread expected to be 1.95%. Upon stabilization of the Project, as determined by Wells Fargo Servicer, the Bonds shall bear an interest rate expected to be SIFMA plus a spread of 1.85%. 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 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 Bonds are expected to have a final maturity of January 1, 2020.

Security for the Bonds

The Bonds will be secured by a mortgage purchase agreement with Wells Fargo Servicer, as agent for Wells Fargo Direct Purchaser ("MPA" or "Mortgage Purchase Agreement"). 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, Wells Fargo Servicer shall have (i) the option to pay such amount or (ii) the obligation to purchase the Bond Loan note and mortgage from the Corporation resulting in the redemption of the Bonds. Even if Wells Fargo Servicer fails to pay the purchase price, the Bond Loan note and mortgage will be assigned to Wells Fargo Servicer and the Bonds will be retired under the terms of the Resolution. In the event the Bond Loan note and mortgage are assigned to Wells Fargo Servicer as described above, the participation in the Bank Loan will be terminated and the Corporation will assign the Bank Loan to Wells Fargo Servicer.

Upon construction completion, it is anticipated that the Bond Loan will be paid off entirely with an increased Bank Loan, Borrower equity, or Low Income Housing Tax Credit equity and the Bonds will be redeemed.

The Bond Resolution permits the substitution of letters of credit and confirming letters of credit or the provision of alternate forms of credit enhancement, provided that the Corporation provides the Trustee certain items detailed in the Bond Resolution including, but not limited to, (i) an opinion of bond counsel stating that the substitute letter of credit or alternate form of credit enhancement meets the requirements of the Bond Resolution and will not adversely affect the tax exemption relating to such bonds, and, if applicable (ii) a letter from the nationally recognized rating agency or agencies then rating the Bonds stating that (a) in the case of a substitute letter of credit, the substitute letter of credit will not result in a reduction or withdrawal of the rating on the Bonds, if any or (b) in the case of an alternate security, to the effect that such alternate form of credit enhancement will provide the Bonds with an investment grade rating. The Mortgagor must pay all costs incurred by the Trustee and the Corporation in connection with the provision of a substitute letter of credit, confirming letter of credit or 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 the Bonds is the potential failure of Wells Fargo Servicer to honor its obligations under the MPA, which would be a default under the transaction documents. However, the Bond Resolution and the MPA will mitigate this potential risk because even if Wells Fargo Servicer fails to honor its obligation upon a default by the Mortgagor, the Bond Loan and Bank Loan note and mortgage will be automatically assigned to Wells Fargo and the Bonds will be retired. Additionally, under certain circumstances, the Bond Resolution allows the Corporation to require the replacement or substitution of the credit enhancement, at the Corporation's option. The likely circumstance under which the Corporation might require a replacement or substitution would be if the respective bank was downgraded to below investment grade. Wells Fargo is currently rated AA- by Standard & Poor's Ratings Services and Aa3 by Moody's Investors Service.

Wells Fargo will require the Mortgagor to purchase an interest rate hedge ("Rate Hedge"). The Rate Hedge will partially mitigate the risk of rising variable interest rates in the future.

The Corporation has no financial obligation to fund the Bank Loan.

Fees

The Mortgagor will be obligated to pay the Corporation its costs of issuance for the Bonds in an amount not to exceed 1.25% of the Bonds, plus an up-front commitment fee equal to 1.25% of the Bonds. The Corporation is expected to receive an annual servicing fee on the Project equal to 0.15% of the outstanding principal amount of Bonds. In addition, the Corporation will receive a refinancing fee equal to 0.05% of the aggregate principal amount of the Bond Loan and Bank Loan, plus 1.00% of the increased Bank Loan, as compensation for ongoing participation in the financing after construction completion.

Wells Fargo Servicer will receive an origination fee equal to approximately 0.67% of the aggregate amount of the Bond Loan and Bank Loan.

Rating

It is expected that the Bonds will be unrated.

Trustee and Tender Agent

TBD

Bond Counsel

Hawkins Delafield & Wood LLP

Pricing Advisor

Caine Mitter & Associates Inc.

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 execution of the Mortgage Purchase Agreement with respect to the Bonds, (iv) the issuance of the Bonds as draw down bonds, and (v) the execution of mortgage related documents and any other documents necessary to accomplish the issuance of the Bonds and the financing of the Bond Loan.

In addition, the Members are requested to approve the origination at construction loan closing of a construction loan in an amount not to exceed $180,000,000, and after satisfaction of the Bond Loan in a total amount not to exceed $300,000,000, to finance a portion of the construction of the Project and a participation agreement with the Bank Loan Syndicate pursuant to which the Bank Loan Syndicate will acquire a participation interest in such loan, and the execution by an authorized Officer of the Corporation of mortgage related documents and any other documents necessary to accomplish the participation.

In addition, the Members are requested to approve the making of a subordinate loan to be funded by the Corporation's unrestricted reserves in an amount not to exceed $3,000,000, 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

250 Ashland Development
Brooklyn, New York

Project Location:	250 Ashland Place, Brooklyn, NY Block 2107, Lots 15, 24
Project Description:	The new construction of a 52-story building with 586 mixed-income residential units.
Total Rental Units:	586
Apartment Distribution:	

Unit Size	No. of Units
Studio	148
1 bedroom	271
2 bedroom	121
3 bedroom	46
Total Units	586

Market Rate Units:	305
Middle-Income Units (rents set at 30% of 165% of AMI):	82
Middle-Income Units (rents set at 30% of 135% of AMI):	82
Low-Income Units (rents set at 30% of 57% of AMI):	117
Expected HDC Tax-Exempt Bond Financing Amount:	$36,000,000
Expected HDC Construction Financing Amount:	$180,000,000
Expected HDC Permanent Financing Amount:	$300,000,000
Expected HDC Second Mortgage Amount:	$3,000,000
Bond Structure:	Index Rate; may be converted to other modes
Credit Enhancement:	Mortgage Purchase Agreement from Wells Fargo Bank, NA
Owner:	BAM GO Developers LLC, BAM GO Developers II LLC (principals: David Picket and Allison Fehrenbaker), and an affiliate of the Actors Fund Housing Development Corporation (principals: Joseph Benincasa, Barbara Davis, and Connie Woo).
Underwriter/Remarketing Agent:	N/A