



## MEMORANDUM

**To:** The Chairperson and Members

**From:** Eric Enderlin *[Signature]*  
President

**Date:** November 18, 2024

**Subject:** Amendment of the Multi-Family Rental Housing Revenue Bonds (Atlantic Court Apartments) Bond Resolution and Authorization of Refunding Bonds

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I am pleased to recommend that the Members approve (i) the amendment of the Corporation's Multi-Family Rental Housing Revenue Bonds (Atlantic Court Apartments) Bond Resolution, originally adopted by the Members on November 16, 2005 (the "Resolution"), in connection with a remarketing and interest-rate mode change of the Multi-Family Rental Housing Revenue Bonds (Atlantic Court Apartments), 2005 Series A (the "2005 Bonds") and (ii) the issuance of a series of bonds in a principal amount not to exceed \$83,700,000 (the outstanding principal amount of the 2005 Bonds) (the "Refunding Bonds"; together with the 2005 Bonds, the "Bonds") to refund the outstanding 2005 Bonds in the event that the Corporation determines that such a refunding is desirable instead of remarketing the 2005 Bonds in light of the desired Bond closing schedule.

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

The proceeds of the 2005 Bonds were lent by the Corporation to 125 Court Street LLC (the "Borrower"), a New York limited liability company, and used to refund certain prior bonds the proceeds of which were used by the Borrower to pay a portion of the acquisition and construction costs for a 321-unit "80/20" multi-family rental housing development located at 125 Court Street in Brooklyn (the "Project"). The outstanding variable-rate 2005 Bonds are expected to be remarketed, or if Refunding Bonds instead are issued to refund the 2005 Bonds such Refunding Bonds are expected to be issued, as fixed-rate obligations in a Fixed Rate mode and secured by a direct-pay Credit Enhancement Agreement provided by the Federal Home Loan Mortgage Corporation ("Freddie Mac").

The Members are also being asked to approve the origination of one or more participation mortgage loans in an amount not to exceed \$67,929,311 and one or more participation agreements with Wells Fargo Bank, National Association (“Wells Fargo”), to fund a 100% participation interest in the mortgage loan.

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

### **Project Description**

The Project was originally financed by the Corporation in 2003 with the proceeds of prior bonds which were secured by a letter of credit from HSBC Bank USA (the “Prior Bonds”).

The Project is an “80/20” rental housing facility containing a total of 321 dwelling units (including one superintendent’s unit) consisting of 79 studio units, 167 one-bedroom units and 75 two-bedroom units and related facilities on a site located at 233 Atlantic Avenue (a/k/a 125 Court Street) (northwest corner of Atlantic Avenue and Court Street), Brooklyn, New York. The Project is part of a mixed-use condominium development, which in addition to the Project contains an approximately 40,000 square foot community recreational facility owned and operated by the YMCA of Greater New York (“YMCA”), 20,000 square feet of retail space and approximately 188,000 square feet of below grade parking.

Of the total dwelling units, 64 apartments (16 studios, 34 one-bedrooms, 14 two-bedrooms), 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”). Ten of the 64 units are reserved for very low-income families earning less than 40% of the New York City AMI. The maximum incomes for tenants who occupy the 64 low-income units currently range from \$43,480 for a one-person household to \$77,650 for a four-person household. Pursuant to the terms of a regulatory agreement which was executed by the Corporation and the Borrower in connection with the issuance of the Prior Bonds, the low-income occupancy restrictions will remain in effect for the longer of twenty years from the date of issuance of the Prior Bonds or as long as the Bonds are outstanding.

### **Developer Description**

The Borrower, 125 Court Street LLC, is a single-purpose entity controlled by the principals of Two Trees Management Company (“Two Trees”), a New York-based real-estate development firm that has developed, owned, and managed more than \$1 billion in real estate since its founding in 1968. Over the past 56 years, Two Trees’ founder, David Walentas, and current CEO, Jed Walentas, have successfully rehabilitated and/or converted more than 6,000 apartments and 3 million square feet of office and retail space throughout the United States. Two Trees has been extremely active in the revitalization of the Brooklyn neighborhood of DUMBO. Two Trees or David Walentas, currently own more than 4 million square feet of commercial, industrial, and residential real estate.

## **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 to revise certain maturity and redemption provisions, as well as provisions related to the permitted timing of a conversion to the Fixed Rate, so that the Corporation can more effectively remarket the 2005 Bonds into the Fixed Rate. The Members are also being asked to approve the issuance of the Refunding Bonds to refund the outstanding 2005 Bonds in the event that the Corporation's staff, in consultation with the Borrower, determines that such a refunding is preferred instead of remarketing the 2005 Bonds in light of the desired Bond closing schedule.

If approved, the Corporation expects to remarket the outstanding 2005 Bonds from a weekly variable rate into, or to issue the Refunding Bonds in, a Fixed Rate to maturity. 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 4.32% during the term to the Bonds' final maturity of December 1, 2035.

## **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. The Trustee will draw upon the Credit Facility to make all payments due on the Bonds.

The Credit Facility is expected to remain in effect until maturity.

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 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 remarketing.

## **Approval of a Participation Loan**

The Members also being asked to approve the origination of one or more participation loans for the Project in an amount not to exceed \$67,929,311, and the execution of one or more participation agreements with Wells Fargo to fund a 100% participation interest in the mortgage loan.

Upon the remarketing or refunding as mentioned above, the Corporation will originate a conventional, subordinate taxable participation loan (the "Participation Loan"), in an amount not to exceed \$67,929,311. The proceeds of the Participation Loan are expected to repay borrower

equity that financed the Project and cover associated transaction fees and costs. Upon origination, the Corporation will sell 100% participation interest in the Participation Loan to Wells Fargo, pursuant to one or more participation agreements and then immediately assign the Participation Loan to Wells Fargo.

Wells Fargo will service the Bond-financed mortgage loan and the Participation 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/issuance for the Bonds plus an up-front fee equal to approximately 1.00% of the Bonds.

The Corporation's annual servicing fee will be 0.15% of the outstanding amount of the Bonds consistent with the existing servicing agreement.

Freddie Mac and Wells Fargo, the delegated underwriting and servicing lender for the loan, will receive an up-front one-time commitment fee equal to 0.50% of the loan amount.

HDC will collect an Assignment Fee equal of 1.4% on the principal on the Participation Loan amount for its role in the transaction.

### **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/Underwriters**

*Bookrunning Senior Remarketing Agent or Underwriter:*  
Wells Fargo Securities

*Co-Remarketing Agents or Underwriters:*  
J.P. Morgan Securities, LLC

Raymond James & Associates, Inc.

The Authorizing Resolution relating to the Bonds provides that a senior officer of the Corporation may select the underwriting or remarketing affiliates at a later time.

**Bond Counsel**

Hawkins Delafield & Wood LLP

**Remarketing Agents' 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 First and Second Supplemental Resolutions amending the Resolution and the Third Supplemental Resolution authorizing the Refunding Bonds.

Additionally, the Members are also asked to approve (a) the origination of one or more participation mortgage loans in an amount not to exceed \$67,929,311 for the 125 Court Street development, (b) the execution of one or more participation agreements with Freddie Mac and a to-be-determined lender syndicate to fund a 100% participation interest in the subordinate taxable mortgage loan; and (c) the execution by an Authorized Officer of the Corporation of mortgage-related documents and any other documents necessary to accomplish the participation loan financing.

**Attachment “1”**

**233 Atlantic Ave.  
Brooklyn, New York**

**Project Location:** 233 Atlantic Avenue (a/k/a 125 Court Street)

**HDC Program:** 80/20

**Project Description:** The project consists of an 11-story building containing 321 residential rental units located in downtown Brooklyn. 64 apartments, representing 20% of the total units are affordable to households earning at or below 50% AMI. The project also contains an approximately 40,000 square foot community recreational facility owned and operated by the YMCA of Greater New York (“YMCA”), 20,000 square feet of retail space and approximately 188,000 square feet of below grade parking.

**Total Rental Units:** 320 (plus one superintendent unit)

**Apartment Distribution:**

<u>Unit Size</u>	<u>No. of Units</u>
Studio	79
1 bedroom	167
<u>2 bedroom</u>	<u>75</u>
Total Units*	321

\*Total Units are inclusive of one superintendent unit

**Expected HDC Construction Financing Amount:** N/A

**Expected HDC Permanent Financing Amount:** \$83,700,000

**Expected HDC Second Mortgage:** \$61,753,919<sup>1</sup>

**Expected Total Development Cost:** \$159,153,919

**Owner:** 125 Court Street LLC, the current owner, whose sole member is 125 Court Street Holdings LLC, whose manager is David Walentas and principals are Amish Patel and Jed Walentas.

**Developer:** Two Trees Management Co, LLC

**Expected Syndicator and/or Investor:** N/A

**Credit Enhancer:** Freddie Mac Direct-Pay Credit Enhancement

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<sup>1</sup> *HDC is also seeking authorization to originate one or more subordinate taxable participation loans. Upon origination, the Corporation will sell 100% participation interest in the Participation Loan to Wells Fargo, pursuant to one or more participation agreements and then immediately assign the Participation Loan to Wells Fargo*