

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Council District: 14

To: The Mayor
The Council

From: Miguel A. Santana, City Administrative Officer *MAS*

Reference: Housing and Community Investment Department transmittal dated June 11, 2015; received by the City Administrative Officer on June 17, 2015

Subject: **REQUEST FOR AUTHORITY TO ISSUE MULTIFAMILY CONDUIT TAXABLE BONDS IN THE FORM OF A REFUNDING NOTE FOR THE LA COLORADO TERRACE APARTMENTS**

SUMMARY

The Housing and Community Investment Department (HCID) requests authority to issue multi-family housing conduit taxable bonds in the form of a Refunding Note and utilize the proceeds to redeem tax-exempt bonds previously issued for the LA Colorado Terrace Apartments Project (Project). This redemption is necessary to allow the project to refinance at a lower interest rate. The Project is located at 2455 Colorado Boulevard, Los Angeles, CA 90041 in Council District 14 and consists of 77 residential units comprised of 42 affordable housing units and 35 market-rate units.

BACKGROUND

The City has issued a total of \$11,892,500 in tax-exempt bonds (Bonds) in relation to this project, consisting of \$10,300,000 in bonds issued in December 2002 (C.F. 02-0658) and \$1,592,500 in supplemental bonds issued in December 2007 (C.F. 07-3463). The Bonds were issued pursuant to an Indenture of Trust (Indenture) between the City and the Bank of New York Trust Company (Trustee), and the proceeds of the Bonds were provided to L.A. Colorado Terrace, L.P. (Borrower) in the form of a loan (Mortgage Loan) from Capmark Bank, as the Mortgage Lender, to help finance the development of the Project. The Mortgage Loan is insured by the Federal Housing Administration (FHA) and the Trustee holds a fully modified mortgage-backed security issued by the Government National Mortgage Association (GNMA Security) as security for the Bonds. The GNMA Security is used to pay the principal and interest on the Bonds when due. The loan of the proceeds of the Bonds is evidenced by a Deed of Trust Note (Mortgage Note) secured by a Construction and Permanent Deed of Trust with Assignment of Rents (Deed of Trust). Capmark Bank has since been renamed Berkadia Commercial Mortgage, LLC.

Each issuance of bonds for the Project was accompanied by a separate City bond regulatory agreement. The 2002 regulatory agreement has a 50-year term from December 2002 through December 2052, and the 2007 bond regulatory agreement has a 55-year term from December 2007 through December 2062. Despite the proposed redemption of the previously issued tax-exempt bonds, both City bond regulatory agreements will remain in place until December 2052 and December 2062, and will be amended to insure that any past due and future issuer fee amounts remain payable to the City.

The Borrower seeks to lower the interest rate on the Mortgage Note (from 5.50 percent to an estimated 3.25 percent) to increase cash flow, of which a portion is pledged to the payment of subordinate loans. The GNMA Security passes through payments on the Mortgage Note to the Trustee as debt service for the Bonds and therefore a change in the interest rate on the Mortgage Note requires either consent of all Bond owners or redemption of the Bonds in full. Consent of all the Bond owners is not feasible as the Bonds are widely held resulting from a public sale, so the Borrower elected to pursue a redemption of the Bonds under the terms of the Indenture.

Structure of the Refunding Note

Berkadia Commercial Mortgage, LLC (Purchaser) will purchase the Taxable Multi-family Housing Revenue Refunding Note (Refunding Note) from the City according to the terms of the Note Purchase Agreement (NPA) between the Purchaser and the City, for a price not to exceed \$9.5 million, when combined with available funds under the Indenture. The Refunding Note will be secured by the City's pledge of the GNMA Security, as modified or re-issued in connection with the Mortgage Loan modification and which will mature on a date and bear an interest rate identical to the maturity and interest rate of the Mortgage Loan, as modified. The Refunding Note will be solely payable from payments received under the GNMA Security. The goal of the Purchaser is to acquire the GNMA Security through the following steps:

1. City directs the Trustee to issue a conditional notice of redemption to current holders of the Bonds; conditioned on the receipt of sufficient funds to redeem the Bonds by the Trustee within 30 days following delivery of the notice;
2. City and Purchaser enter an NPA whereby the Purchaser agrees to purchase the Refunding Note, issued as a single instrument;
3. On the date of redemption, the City will issue and deliver to the Purchaser the Refunding Note in exchange for payment to the Trustee in an amount not to exceed \$9.5 million, taking into account funds then held by the Trustee, to redeem all bonds outstanding in full. The Purchaser will deliver an investor letter stating that it is a sophisticated institutional investor able to bear the risk of investing in the Refunding Note;

4. Borrower or Purchaser will pay the City an issuance fee of 0.25 percent of the principal amount of the Refunding Note along with accrued fees in connection with the Bonds;
5. Trustee uses the \$9.5 million from the sale of the Refunding Note, in conjunction with funds held under the Indenture, to retire the Bonds and deliver the GNMA Security to the Purchaser or third party fiduciary, acting as custodian (Custodian) under a Pledge and Custody Agreement between the City and the Custodian;
6. Upon receipt of the Refunding Note from the City, the Purchaser will return the Refunding Note to the Custodian for cancellation, in exchange for the Custodian's delivery of the GNMA Security to the Purchaser. The GNMA Security will be modified or re-issued consistent with the modification of the Mortgage Loan and the letter of approval from the Government National Mortgage Association (GNMA) received by the Purchaser;
7. All excess moneys held under the Indenture will be returned to the Borrower.

The completion of the steps listed above would replace the Bonds with the Refunding Note. The Mortgage Loan, as evidenced by the Mortgage Note and secured by the Deed of Trust, will be modified simultaneously with the redemption of the Bonds. Following the modifications, the Borrower will continue to make monthly payments on the Mortgage Note and payments under the GNMA Security will now flow to the Purchaser. The closing date for the issuance of the bonds is scheduled to occur by July 31, 2015.

The bond structure adheres to both HCID's Bond Policies and the City's Financial Policies and has been reviewed by the City Attorney, Bond Counsel, and the Bond Issuer Financial Advisor. The legal and financing documents will also include the required items as per the HCID's Bond Policies and the City's Financial Policies, including but not limited to language that the bond structure is a limited obligation and strictly payable from the project revenues, requiring the borrower to provide annual statements, and providing additional information as may be reasonably requested. The HCID normally conducts public hearings for tax-exempt bond issuances to adhere to the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), however the Refunding Note is taxable, therefore a TEFRA hearing is not required.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Adopt the attached Resolution (Attachment 1) including the related Refunding Note (Attachment 2), authorizing the issuance of up to \$9,500,000 in multi-family conduit taxable Bonds;

2. Authorize the General Manager, Housing and Community Investment Department (HCID), or designee, to:
 - a. Negotiate and execute a Note Purchase Agreement (Attachment 3), Pledge and Custody Agreement (Attachment 4) and related documents for the Bonds for the L.A. Colorado Terrace Apartments, subject to the approval of the City Attorney as to form;
 - b. Negotiate the sale of the refunding note, the proceeds of which would affect the redemption of the Bonds for the L.A. Colorado Terrace Apartments;
 - c. Negotiate and execute relevant refunding note documents, subject to the approval of the City Attorney as to form.

FISCAL IMPACT STATEMENT

There will be no impact to the General Fund as a result of the issuance of these bonds. The City is a conduit issuer and does not incur liability for the repayment of the Refunding Note, which is a limited obligation payable solely from the revenues of the Government National Mortgage Association Security. The City will in no way be obligated to make payments on the Refunding Note.

Attachments: 1) Resolution
 2) Refunding Note
 3) Note Purchasing Agreement
 4) Pledge and Custody Agreement

MAS:NSC:02150126C