

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/24/2009 by the following vote:

AYES: **John Gioia, District I Supervisor** **Gayle B. Uilkema, District II**
 Supervisor **Mary N. Piepho, District III Supervisor** **Susan A. Bonilla,**
 District IV Supervisor **Federal D. Glover, District V Supervisor**

NOES:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2009/85

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA AUTHORIZING THE EXECUTION AND DELIVERY OF A FIFTH AMENDMENT TO MASTER PLEDGE AND ASSIGNMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN OTHER DOCUMENTS AND CERTIFICATES AND APPROVING OTHER RELATED ACTIONS IN CONNECTION WITH GIANT ROAD FAMILY APARTMENTS

WHEREAS, the County of Contra Costa (the "County") has heretofore issued its Multifamily Housing Revenue Bonds (Giant Road Family Apartments), 2005 Series A-1 (the "Series A-1 Bonds") currently outstanding in the aggregate principal amount of \$4,028,000 and its Multifamily Housing Revenue Bonds (Giant Road Family Apartments), 2005 Series A-2 (the "Series A-2 Bonds" and, collectively with the Series A-1 Bonds, the "Bonds") currently outstanding in the aggregate principal amount of \$14,606,000 pursuant to a Master Pledge and Assignment dated as of August 1, 2005, as heretofore amended by the First Amendment to Master Pledge and Assignment dated as of December 1, 2005, a Second Amendment to Master Pledge and Assignment dated as of May 1, 2008, a Third Amendment to Master Pledge and Assignment dated as of October 1, 2008 and a Fourth Amendment to Master Pledge and Assignment dated as of January 1, 2009 (collectively, the "Original Pledge and Assignment"), each among the County, the Agent and the Holder (collectively, the "Original Pledge and Assignment"), both by and among the County, and U.S. Bank National Association, as agent (the "Agent"), and U.S. Bank National Association, as holder (the "Holder");

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 24, 2009

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Jim Kennedy 5-7225

By: , Deputy

cc:

WHEREAS, the County has lent the proceeds of the Bonds to Giant Development, L.P., a California limited partnership (the "Borrower") pursuant to a Loan Agreement, dated as of August 1, 2005 (as amended, the "Loan Agreement"), by and between the Agent, as agent for the County, and the Borrower;

WHEREAS, the Borrower has used the proceeds of the Bonds to acquire and construct the Project (as defined in the Original Pledge and Assignment);

WHEREAS, the Original Pledge and Assignment has heretofore been amended four times at the request of the Borrower, the Agent and the Holder;

WHEREAS, the Borrower has requested that the County, the Agent and the Holder further modify, amend and supplement the Original Pledge and Assignment, and the form of the Series A-2 Bonds, in accordance with the provisions of the Original Pledge and Assignment in order to provide for a new maturity date for the Series A-2 Bonds;

WHEREAS, there has been presented to this meeting a proposed form of Fifth Amendment to the Master Pledge and Assignment (the "Fifth Amendment"), by and among the County, the Agent and the Holder, containing the revisions requested by the Borrower, the Agent and the Holder;

WHEREAS, the Borrower the Agent and the Holder also desire to modify the method of determining the interest rate on the Bonds;

WHEREAS, the execution and delivery of the Fifth Amendment and the change in interest rate methodology will cause the Bonds to be reissued for federal income tax purposes, and as a result, the provisions of the Internal Revenue Code requiring a public hearing are applicable to the execution and delivery of the Fifth Amendment;

WHEREAS, on January 5, 2009, the Deputy Director – Redevelopment of the County held a public hearing on the proposed reissuance of the Bonds, as required under the Internal Revenue Code of 1986, following published notice of such hearing; and

WHEREAS, the County has determined that it is in the public interest that such modifications, amendments and supplements as are set forth in the Fifth Amendment be made to the Original Pledge and Assignment, and that certain other actions be taken in connection therewith.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Contra Costa, as follows:

1. The County hereby finds and declares that the above recitals are true and correct.
2. The Fifth Amendment, in the form on file with the Clerk of the Board of Supervisors, is hereby approved. The Chair of the Board of Supervisors, the Vice Chair of the Board of Supervisors, the County Administrator, the Director, Department of Conservation and Development and the Deputy Director-Redevelopment (each a "Designated Officer") are hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver the Fifth Amendment in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Fifth Amendment to Master Pledge and Assignment upon consultation with Bond Counsel to the County, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Fifth Amendment to Master Pledge and Assignment by the County, provided that no such addition or change shall extend the final maturity date of the Series A-2 Bonds to later than May 1, 2009 or such later date requested by the Agent and the Holder.
3. The Designated Officers, each acting alone, are hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver the revised Bonds, in the form attached to the Fifth Amendment to Master Pledge and Assignment, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Bonds upon consultation with Bond Counsel to the County, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Bonds by the County. The County shall deliver such Bonds to the Holder only upon the receipt from the Holder of the existing Bonds.
4. All actions heretofore taken by the officers and agents of the County with respect to the execution and delivery of the Fifth Amendment and the reissuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, upon consultation with Bond Counsel, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions contemplated thereby Bonds in accordance with this Resolution, including but not limited to those certificates, agreements and other documents described in the Fifth Amendment and that are necessary in connection with the reissuance of the Bonds.
5. This Resolution shall take effect immediately upon its adoption.