

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 12/04/2012 by the following vote:

AYES: ☐
NOES: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2012/498

RESOLUTION 2012/498 AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE NOTES IN A PRINCIPAL AMOUNT NOT TO EXCEED \$14,500,000 TO FINANCE THE ACQUISITION AND CONSTRUCTION OF A MULTIFAMILY RENTAL HOUSING PROJECT FOR BERRELLESA PALMS, L.P., AND OTHER MATTERS RELATING THERETO

WHEREAS, the County of Contra Costa (the "County") is authorized pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") to issue bonds and notes for the purpose of financing multifamily rental housing facilities; and

WHEREAS, Berrellesa Palms, L.P., a California limited partnership (the "Borrower") has requested that the County issue multifamily housing revenue notes (the "Notes") and loan the proceeds of the Notes to the Borrower to finance the acquisition and construction by the Borrower of a 49 unit senior residential rental housing development (the "Development") located at 301 Buckley Street in Martinez, California; and

WHEREAS, on June 6, 2012, the Community Development Bond Program Manager of the County held a public hearing on the proposed issuance of Notes by the County for, and the financing, ownership and operation of, the Development, as required under the provisions of the Internal Revenue Code (the "Code") applicable to tax-exempt obligations, following published notice of such hearing, and communicated to the Board of Supervisors of the County all written and oral testimony received at the hearing; and

WHEREAS, on June 26, 2012, the Board of Supervisors of the County adopted Resolution No. 2012/287 authorizing the issuance of the Notes to finance the Development in satisfaction of public approval the requirements of the Code; and

WHEREAS, the California Debt Limit Allocation Committee adopted its Resolution No. 12-100 on September 26, 2012 allocating \$14,500,000 of the State of California ceiling on private activity bonds for 2012 to the County for the purpose of financing the Development; and

WHEREAS, in order to assist in the financing of the Development, the County has determined to issue the Notes, as authorized by the Act, and sell the Notes to Bank of the West (the "Bank") pursuant to a funding loan agreement (the "Funding Loan Agreement") between the County and the Bank, and to use the proceeds of the sale of the Notes to the Bank to make a loan to the Borrower pursuant to a borrower loan agreement (the "Borrower Loan Agreement") between the County and the Borrower, with amounts due from the County to the Bank under the Notes and the Funding Loan Agreement to be payable solely from amounts paid by the Borrower under the Borrower Loan Agreement; and

WHEREAS, there have been prepared various documents with respect to the issuance by the County of the Notes, copies of which are on file with the Clerk of the Board, and the Board of Supervisors now desires to approve the issuance of the Notes and the execution and delivery of such documents by the County; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in connection with the issuance of the Notes as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

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

Section 1. The Board of Supervisors hereby finds and declares that the foregoing recitals are true and correct.

Section 2. Pursuant to the Act and the Funding Loan Agreement, the Notes designated as "County of Contra Costa Multifamily Housing Revenue Construction/Permanent Note, Series 2012B (Berrellesa Palms)" and "County of Contra Costa Multifamily Housing Revenue Construction Note, Series 2012B (Berrellesa Palms)," in an aggregate principal amount of not to exceed \$14,500,000, are hereby authorized to be issued. The Notes shall be executed by the manual or facsimile signature of the Chair of the Board of Supervisors (the "Chair"), in the form set forth in and otherwise in accordance with the Funding Loan Agreement.

Section 3. The Funding Loan Agreement between the County and the Bank, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Chair of the Board of Supervisors, the Vice-Chair of the Board of Supervisors, the County Administrator, the Director of Conservation and Development and the Community Development Bond Program Manager (collectively, the "Designated Officers") is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Funding Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Funding Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof, provided that no additions or changes shall authorize an aggregate principal amount of the Notes in excess of the amount set forth in Section 2 above), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Funding Loan Agreement by the County. The date, maturity dates, interest rate or rates, privileges, manner of execution, place of payment, terms of redemption and other terms of the Notes shall be as provided in the Funding Loan Agreement as finally executed.

Section 4. The Borrower Loan Agreement between the County and the Borrower, in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized to execute and deliver the Borrower Loan Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Borrower Loan Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such changes to be conclusively evidenced by the execution and delivery of the Borrower Loan Agreement by the County.

Section 5. The regulatory agreement and declaration of restrictive covenants relating to the Development, between the County and the Borrower (the "Regulatory Agreement"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Regulatory Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Regulatory Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Regulatory Agreement by the County.

Section 6. The Assignment of Deed of Trust and Loan Documents, by the County to the Bank (the "Assignment"), in the form on file with the Clerk of the Board, is hereby approved. Any one of the Designated Officers is hereby authorized, for and in the name and on behalf of the County, to execute and deliver the Assignment in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Assignment upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 9 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Assignment by the County.

Section 7. The Notes, when executed, shall be delivered to the Bank (as the purchaser of the Notes), in accordance with written instructions executed on behalf of the County by any one of the Designated Officers of the County, which instructions said officers are hereby authorized, for and in the name and behalf of the County, to execute and deliver. Such instructions shall provide for the delivery of the Notes to the Bank upon the funding by the Bank of the initial advance of the purchase price of the Notes as described in Section 2.1(b) of the Funding Loan Agreement.

Section 8. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Notes. The fees and expenses of such firm for matters related to the Notes shall be payable solely from the proceeds of the Notes or contributions by the Borrower.

Section 9. All actions heretofore taken by the officers and agents of the County with respect to the issuance of the Notes are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, 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 lawful issuance and delivery of the Notes in accordance with this Resolution, including but not limited to any certificates, agreements and other documents described in the Funding Loan Agreement, the Borrower Loan

Agreement, the Regulatory Agreement or the Assignment, or otherwise necessary to issue the Notes and consummate the transactions contemplated by the documents approved by this Resolution.

Section 10. This Resolution shall take effect upon its adoption.

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.

Contact: Kristen Lackey, 674-7888

ATTESTED: December 4, 2012

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

By: , Deputy

cc: