

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

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

Adopted this Resolution on 12/12/2017 by the following vote:

AYE: ☒ 5 **John Gioia**
Candace Andersen
Diane Burgis
Karen Mitchoff
Federal D. Glover

NO: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2017/448

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MULTIFAMILY HOUSING REVENUE NOTE AND THE ISSUANCE OF TWO SERIES OF MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$130,000,000 TO FINANCE THE ACQUISITION AND CONSTRUCTION OF A MULTIFAMILY RENTAL HOUSING PROJECT FOR RICHMOND NEVIN ASSOCIATES, 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, Richmond Nevin Associates, a California Limited Partnership (the "Borrower") has requested that the County borrow funds evidenced by a multifamily housing revenue note (the "Note") and issue two series of multifamily housing revenue bonds (collectively, the "Subordinate Bonds"), and loan the proceeds of the Note and the Subordinate Bonds to the Borrower to finance the acquisition and construction by the Borrower of a 271 unit residential rental housing development currently identified as Twenty One and Twenty Three Nevin Apartments (the "Development") to be located on two parcels, one at 344 21st Street and one at the Southwest corner of Nevin Avenue and 23rd Street, both in Richmond, California; and

WHEREAS, on October 23, 2017, the Assistant Deputy Director of the Department of Conservation and Development of the County held a public hearing on the proposed borrowing of funds by the County for, and the 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 November 7, 2017, the Board of Supervisors of the County adopted a Resolution authorizing the incurrence of debt by the County to finance the Development in satisfaction of the public approval requirements of the Code; and

WHEREAS, the California Debt Limit Allocation Committee will consider adopting a Resolution on December 13, 2017, allocating a portion of the State of California ceiling on private activity bonds to the County for the purpose of financing the Development (the "Allocation"); and

WHEREAS, in order to assist in the financing of the Development, the County has determined to borrow funds evidenced by the Note, as authorized by the Act, and sell the Note to Citibank, N.A. (the "Bank"), all pursuant to a funding loan agreement (the "Funding Loan Agreement") among the County, Wilmington Trust, National Association, as fiscal agent, and the Bank, and to use the proceeds of the sale of the Note 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 Note and the Funding Loan Agreement to be payable from amounts paid by the Borrower under the Borrower Loan Agreement; and

WHEREAS, in order to provide additional financing for the Development, the County has determined to issue the Subordinate Bonds in two series, each of which is to be issued pursuant to a separate indenture of trust (collectively, the "Indentures") between the County and Wilmington Trust, National Association, as trustee (the "Trustee"), and to use the proceeds of the

Subordinate Bonds to make two loans to the Borrower pursuant to two separate financing agreements (collectively, the "Financing Agreements"), each among the County, the Borrower and the Trustee, with amounts due from the County under the Indentures and the Subordinate Bonds to be payable from amounts paid by the Borrower under the Financing Agreements; and

WHEREAS, there have been prepared various documents with respect to the Note and the Subordinate Bonds, copies of which are on file with the Clerk of the Board, and the Board of Supervisors now desires to approve the borrowing of funds to be evidenced by the Note and the issuance of the Subordinate Bonds, and the execution and delivery of the related 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 borrowing to be evidenced by the Note and the issuance of the Subordinate Bonds 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 borrowing evidenced by the Note (with the Note to be designated as "County of Contra Costa Limited Obligation Multifamily Housing Revenue Note (Twenty One and Twenty Three Nevin Apartments), Series 2017B"), in an aggregate principal amount, together with the principal amounts of the Subordinate Bonds, of not to exceed the lesser (a) the amount of the Allocation, plus \$20,000,000; or (b) \$130,000,000, is hereby authorized (it being acknowledged that proceeds of \$20,000,000 principal amount of the Subordinate Bonds, when and if drawn down under the applicable Indenture, may only be used to refund other Subordinate Bonds). The Note 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, the Vice-Chair of the Board of Supervisors, the County Administrator, the Director of the Department of Conservation and Development of the County and the Assistant Deputy Director of the Department of Conservation and Development of the County (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 13 hereof), 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 date, interest rate or rates, privileges, manner of execution, place of payment, terms of prepayment and other terms of the Note 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 13 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. Pursuant to the Act and the Indentures, Subordinate Bonds designated as "County of Contra Costa Limited Obligation Multifamily Housing Revenue Subordinate Bonds (Twenty One and Twenty Three Nevin Apartments), Series 2017B-B1" (the "B-B1 Bonds"), and "County of Contra Costa Limited Obligation Multifamily Housing Revenue Subordinate Bonds (Twenty One and Twenty Three Nevin Apartments), Series 2017B-B2" (the "B-B2 Bonds"), in an aggregate principal amount, together with the principal amount of the borrowing evidenced by the Note, of not to exceed the lesser (a) the amount of the Allocation, plus \$20,000,000; or (b) \$130,000,000, are hereby authorized to be issued (it being acknowledged that proceeds of \$20,000,000 principal amount of the B-B2 Bonds, when and if drawn down under the applicable Indenture, may only be used to refund the B-B1 Bonds). The Subordinate Bonds shall be executed by the manual or facsimile signature of the Chair, in the forms set forth in and otherwise in accordance with the Indentures.

Section 6. The Indentures between the County and the Trustee, in the respective forms on file with the Clerk of the Board, are 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 Indentures in said forms, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Indentures upon consultation with Bond Counsel to the County (including such

additions or changes as are necessary or advisable in accordance with Section 13 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Indentures by the County. The date, maturity date, interest rate or rates, privileges, manner of execution, place of payment, terms of redemption and other terms of the Subordinate Bonds shall be as provided in the Indentures as finally executed.

Section 7. The Financing Agreements among the Trustee, the County and the Borrower, in the respective forms on file with the Clerk of the Board, are hereby approved. Any one of the Designated Officers is hereby authorized to execute and deliver the Financing Agreements in said forms, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Financing Agreements upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 13 hereof), the approval of such changes to be conclusively evidenced by the execution and delivery of the Financing Agreements by the County.

Section 8. The bond purchase agreement relating to the B-B2 Bonds, among the bond purchaser identified therein, the County and the Borrower, and acknowledged and agreed to by the Trustee (the "Bond Purchase 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 Bond Purchase Agreement in said form, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Bond Purchase Agreement upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 13 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement by the County.

Section 9. 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 13 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 10. The Assignment of Deed of Trust and Loan Documents, by the County to the Bank, relating to the Note, the Assignment of Junior Deed of Trust and Other Loan Documents (B-1), by the County to the Trustee relating to the B-B1 Bonds and the Assignment of Junior Deed of Trust and Other Loan Documents (B-2), by the County to the Trustee relating to the B-B2 Bonds (collectively, the "Assignments"), in the respective forms on file with the Clerk of the Board, are 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 Assignments in said forms, together with such additions thereto or changes therein as are recommended or approved by the Designated Officer executing the Assignments upon consultation with Bond Counsel to the County (including such additions or changes as are necessary or advisable in accordance with Section 13 hereof), the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Assignments by the County.

Section 11. The Note, when executed by the County, shall be delivered to the Bank (as the purchaser of the Note), 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 Note to the Bank upon the funding by the Bank of the initial advance of the purchase price of the Note as described in Section 2.1(b) of the Funding Loan Agreement.

The Subordinate Bonds, when executed by the County, shall be delivered to the Trustee, 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 Subordinate Bonds to the purchasers thereof upon payment to the Trustee of the purchase prices of the Subordinate Bonds, as contemplated by Sections 2.10 of the Indentures.

Section 12. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Note and the Subordinate Bonds. The fees and expenses of such firm for matters related to the Note and the Subordinate Bonds shall be payable solely from the proceeds of the loans made to the Borrower from proceeds of the Note and the Subordinate Bonds, or from contributions by the Borrower.

Section 13. All actions heretofore taken by the officers and agents of the County with respect to the borrowing evidenced by the Note and the issuance of the Subordinate Bonds 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 borrowing of funds evidenced by the Note and the issuance and delivery of the Subordinate Bonds 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 Indentures, the Financing Agreements, the Regulatory Agreement or the Assignments, or otherwise necessary to deliver the Note and issue the Subordinate Bonds, and to consummate the transactions contemplated by the documents approved by this Resolution.

Section 14. This Resolution shall take effect upon its adoption.

Contact: Kara Douglas 925-674-7880

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: December 12, 2017

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

Stephanie Mello
By: Stephanie Mello, Deputy



cc: