



**Contra  
Costa  
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: October 22, 2019

Subject: Multifamily Housing Revenue Bonds - Hilltop Commons Apartments

## **RECOMMENDATION(S):**

ADOPT Resolution No. 2019/608:

1. Approving the issuance of Multifamily Housing Revenue Bonds (the "Bonds") by the California Statewide Communities Development Authority (CSCDA) in an amount not to exceed \$85,000,000, for the benefit of Fairfield Hilltop LP, a California limited partnership (the "Borrower"), to provide for the financing of the acquisition and rehabilitation of a 322-unit multifamily housing development generally known as Hilltop Commons Apartments (the "Project") located at 15690 Crestwood Drive in the unincorporated area of the County near San Pablo. Such adoption is solely for the purposes of satisfying the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Section 147(f) of the Internal Revenue Code of 1986 and California Government Code Section 6500 (and following).
2. Waiving the requirement of the County Multifamily Bond Policies that the County serve as issuer of multifamily housing bonds for projects located in the unincorporated area of the County.
3. Approving the sale and transfer of the Project from Steadfast Hilltop Commons, L.P. (the "Current Owner") to the Borrower subject to receipt of an Assignment and Assumption of Regulatory Agreement (the "Assignment Agreement"), an opinion of Borrower's counsel

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **10/22/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I  
Supervisor  
Candace Andersen, District II  
Supervisor  
Diane Burgis, District III  
Supervisor  
Karen Mitchoff, District IV  
Supervisor

ABSENT: Federal D. Glover, District V  
Supervisor

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: October 22, 2019

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

By: Stephanie Mello, Deputy

Contact: Kristen Lackey (925)  
674-7888

cc:

regarding the enforceability of the Assignment Agreement against the Borrower, and a related Bond Counsel opinion.

#### RECOMMENDATION(S): (CONT'D)

4. Authorizing staff to assist with the redemption of the 2001 Bonds issued by the County for the original development of the Project.
5. Approving the termination of certain 2001 Bond documents upon such redemption, provided that the County is included as a third party beneficiary to a new regulatory agreement and the Borrower agrees to continue paying County annual issuer fees.
6. Authorizing the Director of the Department of Conservation and Development (the "Director") to execute the Assignment Agreement, a termination agreement and any other documents deemed necessary in order to effectuate the purpose of this Resolution.

#### FISCAL IMPACT:

No impact to the General Fund. The County will be reimbursed for any costs incurred in the process of conducting the TEFRA Hearing, assisting with the bond redemption and the termination of 2001 bond documents. The CMFA will issue tax-exempt revenue bonds on behalf of the Borrower. Repayment of the Bonds is solely the responsibility of the Borrower. The Borrower will continue operating the project in compliance with the existing Regulatory Agreement, including payment of County annual fees.

#### BACKGROUND:

Fairfield Hilltop LP has requested that the County conduct a Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) public hearing for the California Statewide Communities Development Authority (CSCDA) issuance of Multifamily Housing Revenue Bonds in an amount not to exceed \$85,000,000 to be used to finance the acquisition and rehabilitation of a 322-unit multifamily rental housing development commonly known as Hilltop Commons Apartments located at 15690 Crestwood Drive in the unincorporated area of the County near San Pablo (the "Project"). The Project will be operated by Fairfield Residential, one of the nation's largest full service property managers. An elected body of the governmental entity having jurisdiction over the area where the project is located must approve the issuance of the Bonds following the conduct of a public hearing regarding the financing of the project in order for all or a portion of the Bonds to qualify as tax-exempt bonds for the financing of the Project. The County is a member of the CSCDA (since 19990) and is the governmental entity having jurisdiction over the area where the project is located.

One of the purposes of the proposed Resolution is to acknowledge that a public hearing was held by the County's Affordable Housing Program Manager on October 14, 2019, where members of the community were given an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the project and to approve of CSCDA's use of tax-exempt bonds for the financing of the Project. No public comments were received during or prior to the public hearing. A notice of the public hearing was published in the Contra Costa Times (proof of publication attached) on October 7, 2019.

Typically the County would be the conduit bond issuer for a project located in the unincorporated area of the County, but Fairfield is on a short timeline to close the

transaction for this Project and has already begun the bond issuance process with the assistance of CSCDA. Additionally, CSCDA has a special carryforward allocation of bond authority from prior years from the California Debt Limit Allocation Committee (CDLAC) needed for the bonds to be tax-exempt in the event that the Project does not receive a direct allocation from CDLAC. The Resolution waives the requirement of the County Multifamily Bond Policies that the County be the conduit bond issuer for this Project located within the unincorporated area of the County.

Prior to Fairfield Hilltop LP acquiring and rehabilitating the Project after the bond transaction closes, FRH Realty LLC, an affiliate of Fairfield Residential, will purchase the Project from the current owner, Steadfast Hilltop Commons, L.P. The County currently administers a Regulatory Agreement on the property from a 2001 bond issuance that requires 169 of the 322 units be rented by households earning at or below 60% of the area median income for a term of 30 years. The Regulatory Agreement can be assumed by a new Project owner if the County finds that the new owner has sufficient experience and capability to fulfill the obligations provided for in the Regulatory Agreement. County staff conducted a due diligence review and finds Fairfield Residential to be so capable.

The Resolution approves the sale and transfer of the Project and the associated Assignment and Assumption of Regulatory Agreement and Declaration of Restrictive Covenants. Execution of the document is contingent on a legal opinion of enforceability from Borrower's counsel and an opinion of the County's Bond Counsel, Quint & Thimmig.

When the new bond transaction closes, the 2001 Regulatory Agreement will be terminated and the requirements imposed by the County in that terminated agreement will be incorporated into a new Regulatory Agreement between Fairfield Hilltop LP and CSCDA, allowing for the County to have enforceability rights to ensure the rental requirements that were in the 2001 Regulatory Agreement are adhered to by Fairfield Hilltop LP and continue to receive its annual issuer fee.

#### CONSEQUENCE OF NEGATIVE ACTION:

Negative action would prevent CSCDA from providing tax-exempt financing for the acquisition and rehabilitation of the Hilltop Commons project in the unincorporated area of the County near San Pablo.

#### CHILDREN'S IMPACT STATEMENT:

The recommendation supports one or more of the following children's outcomes:

- (1) Children Ready for and Succeeding in School;
- (2) Children and Youth Healthy and Preparing for Productive Adulthood;
- (3) Families that are Economically Self Sufficient;
- (4) Families that are Safe, Stable and Nurturing; and
- (5) Communities that are Safe and Provide a High Quality of Life for Children and Families.

## ATTACHMENTS

Resolution 2019/608

Hilltop Commons Proof of Publication

Hilltop Commons Transcript