



Legislation Details (With Text)

File #: RES 2024-284 **Version:** 1 **Name:**

Type: Consent Resolution **Status:** Passed

File created: 7/24/2024 **In control:** BOARD OF SUPERVISORS

On agenda: 8/6/2024 **Final action:** 8/6/2024

Title: ADOPT Resolution No. 2024-284 conditionally providing for the issuance of Multifamily Housing Revenue Bonds in an amount not to exceed \$30,000,000 to finance the acquisition, construction, and rehabilitation of Riverhouse Hotel, a multifamily residential rental housing development located at 700 Alhambra Avenue, Martinez, and approving related actions, as recommended by the Conservation and Development Director. (No fiscal impact)

Attachments:

Date	Ver.	Action By	Action	Result	Tally
8/6/2024	1	BOARD OF SUPERVISORS	adopted	Pass	5:0

To: Board of Supervisors

From: John Kopchik, Director, Conservation and Development

Report Title: Reimbursement Resolution for Multifamily Housing Revenue Bonds - Riverhouse Hotel in Martinez

Recommendation of the County Administrator Recommendation of Board Committee

RECOMMENDATIONS:

- ADOPT a resolution conditionally providing for the authorization of revenue bonds (“Bonds”) in an aggregate amount not to exceed \$30,000,000 to finance the acquisition, construction and rehabilitation of 84 units of multifamily residential rental housing currently identified as Riverhouse Hotel located at 700 Alhambra Avenue, Martinez, California (the “Development”), and approving related actions.
- FIND and DECLARE that the recitals contained in the proposed resolution are true and correct.
- DETERMINE that the issuance of Bonds to finance the Development, including reimbursement of expenses incurred by the Borrower, is necessary and providing conditional approval thereof and setting forth conditions for the issuance of Bonds.
- DECLARE the County’s official intent to use proceeds of the Bonds to reimburse expenditures of the Borrower incurred for the Development.
- AUTHORIZE the Director of the Department of Conservation and Development, or designee, to submit an application to CDLAC for an allocation from the state ceiling of private activity bonds.
- APPOINT Stradling Yocca & Rauth, LLP as bond counsel for the transaction.

7. AUTHORIZE the Director of the Department of Conservation and Development, or designee, to implement the approvals set forth in the resolution.

FISCAL IMPACT:

There is no fiscal impact associated with this action. In the event that the Bonds are issued, the Contra Costa County (the “County”) will be reimbursed for any costs incurred in the issuance process. Annual expenses for monitoring of Regulatory Agreement provisions ensuring certain units in the Development will be rented to low-income households are accommodated in the bond issue. The Bonds will be solely secured by and payable from revenues (e.g., development rents, reserves, etc.) pledged under the bond documents. No County funds are pledged to secure the Bonds.

BACKGROUND:

The County, through the Department of Conservation and Development, operates a multifamily housing revenue bond financing program. The purpose of the program is to increase or preserve the supply of affordable rental housing available to low and very low-income households. The County program may be undertaken within the unincorporated County and within the cities located in the County that have agreed to let the County operate the program in their jurisdiction.

Eden Development, Inc. (“Eden”) requested to participate in the County’s multifamily housing revenue bond financing program. Eden (through a borrower entity to be formed by Eden or an affiliate or assignee approved by the County, referred to herein as the “Borrower”) will use the bond proceeds for the acquisition, construction, and rehabilitation of the Development, which is approximately 108 years old, constructed in 1914. The Development is an existing, occupied 75-unit apartment development with 6 ground floor retail spaces. The 6 retail spaces on the ground floor will be replaced with 9 new residential units, for a total of 83 low-income and very low-income units between 30-60% area median income (AMI), to be restricted to occupancy by residents who are disabled or over 62 years old, plus one manager’s unit. The building design and project entitlements have been approved by the City of Martinez. The Development meets the eligibility criteria for bond financing and the County policy for this program. The Development will be managed by Eden Housing Management, Inc.

A requirement of federal tax law is that the prospective financing be subject to a conditional statement of intent to issue bonds to reimburse expenses incurred prior to the date the bonds are issued and a reimbursement resolution that is adopted by the Board of Supervisors fulfills that requirement. Also, the California Debt Limit Allocation Committee, the entity that allocates tax-exempt bond authority in California, requires that a reimbursement resolution be adopted before an application may be submitted for such an allocation. The adoption of a reimbursement resolution will not obligate the County or the owner without future discretionary actions but will indicate the intent of the County to issue the bonds if all conditions in the reimbursement resolution have been satisfied.

CONSEQUENCE OF NEGATIVE ACTION:

Without the reimbursement resolution, Eden will not be able to proceed with the process of applying to the California Debt Limit Allocation Committee for multifamily housing revenue bond authority through the County, which would severely delay the development of this project.

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

IN THE MATTER OF Resolution No. 2024/284

RESOLUTION SETTING FORTH THE COUNTY'S OFFICIAL INTENT TO ISSUE REVENUE BONDS TO FINANCE A MULTIFAMILY RENTAL HOUSING DEVELOPMENT KNOWN AS RIVERHOUSE HOTEL

WHEREAS, the Board of Supervisors of the County of Contra Costa (the "County") has determined that there is a shortage of safe and sanitary housing within the County, and that it is in the best interest of the residents of the County and in furtherance of the health, safety and welfare of the public for the County to assist in the financing of multifamily rental housing developments; and

WHEREAS, pursuant to Division 31 of the Health and Safety Code of the State of California, and particularly Chapter 7 of Part 5 thereof (the "Act"), the County is empowered to issue and sell revenue bonds for the purpose of making mortgage loans or otherwise providing funds to finance the acquisition, construction and rehabilitation of multifamily rental housing, including units for lower income households and very low-income households; and

WHEREAS, Eden Development, Inc. ("Eden") has requested that the County consider the issuance and sale of revenue bonds (the "Bonds") pursuant to the Act, in one or more series, including Bonds the interest on which is federally tax-exempt, all for the purpose of lending the proceeds thereof to a County-approved limited partnership entity to be formed by Eden, or an affiliate or assignee of Eden (the "Borrower") to finance the acquisition, construction and rehabilitation by the Borrower of 84 units of multifamily rental housing currently identified as Riverhouse Hotel to be located at 700 Alhambra Avenue (APN No. 373-225-002-6 and 373-225-003-4) in the City of Martinez, County of Contra Costa (the "Development"), to be owned by the Borrower; and

WHEREAS, the County expects that the Borrower has paid or may pay certain expenditures (the "Reimbursement Expenditures") in connection with the Development within 60 days prior to the adoption of this resolution and may incur additional Reimbursement Expenditures prior to the issuance of indebtedness, for the purpose of financing costs associated with the Development on a long-term basis; and

WHEREAS, Sections 1.103-8(a)(5), 1.142-4, and 1.150-2 of the United States Treasury Regulations require the County to declare its reasonable official intent to reimburse prior expenditures for the Development with proceeds of a subsequent tax-exempt borrowing; and

WHEREAS, the County wishes to declare its intention to authorize the issuance of the Bonds for the purpose of financing costs of the Development (including reimbursement of the Reimbursement Expenditures, when so requested by the Borrower upon such terms and conditions as may then be agreed upon by the County, the Borrower and the purchaser of the Bonds) in an aggregate principal amount not to exceed \$30,000,000; and

WHEREAS, Section 146 of the Internal Revenue Code of 1986, as amended (the “Code”) limits the amount of multifamily housing mortgage revenue bonds that may be issued in any calendar year by entities within a state and authorizes the governor or the legislature of a state to provide the method of allocation within the state; and **WHEREAS**, Chapter 11.8 of Division 1 of Title 2 of the California Government Code governs the allocation of the state ceiling among governmental units in the State of California having the authority to issue private activity bonds; and

WHEREAS, Section 8869.85 of the California Government Code requires a local agency desiring an allocation of the state ceiling to file an application with the California Debt Limit Allocation Committee (CDLAC) for such allocation, and CDLAC has certain policies that are to be satisfied in connection with any such allocation.

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. (a) The Board of Supervisors hereby determines that it is necessary and desirable to provide financing for the Development (including reimbursement of the Reimbursement Expenditures) pursuant to the Act by the issuance of the Bonds in an aggregate principal amount not to exceed \$30,000,000. The issuance of the Bonds shall be subject to the following conditions: (a) the County, by Resolution of the Board of Supervisors, shall have first agreed to acceptable terms and conditions for the Bonds (and for the sale and delivery thereof), and for all agreements with respect to the Bonds to which the County will be a party; (b) all requisite governmental approvals for the Bonds shall have first been obtained; (c) the Bonds shall be payable from revenues received with respect to a loan to the Borrower made with the proceeds of the Bonds, and neither the full faith nor the credit of the County shall be pledged to the payment of the principal of or interest on the Bonds; and (d) any occupancy and other requirements of the Code are satisfied or otherwise provided for with respect to Bonds, the interest on which is intended to be excluded from gross income for federal tax purposes. The expected date of issue of the Bonds is within eighteen (18) months of the later of the date the first Reimbursement Expenditure was made and the first date the Development is placed in service and in no event later than three (3) years after the date of the first Reimbursement Expenditure.

(b) Proceeds of the Bonds to be used to reimburse for Development costs are not expected to be used directly or indirectly to pay debt service with respect to any obligation or to be held as a reasonably required reserve or replacement fund with respect to an obligation of the County or any entity related in any manner to the County, or to reimburse any expenditure that was originally paid with the proceeds of any obligation, or to replace funds that are or will be used in such manner.

(c) As of the date hereof, the County has a reasonable expectation that the Bonds will be issued to reimburse Development costs. This Resolution is consistent with the budgetary and financial circumstances of the County, as of the date hereof. The Bonds will be repaid solely from proceeds of the Bonds and amounts paid by the Borrower. No other moneys are, or are reasonably expected to be, reserved, allocated on a long-

term basis, or otherwise set aside by the County (or any related party) pursuant to its budget or financial policies to repay the Bonds.

Section 3. This Resolution is being adopted by the County in part for the purpose of establishing compliance with the requirements of Sections 1.103-8(a)(5), 1.142-4, and 1.150-2 of the Treasury Regulations. In such regard, the County hereby declares its official intent to use proceeds of the Bonds to reimburse the Reimbursement Expenditures. This action is taken expressly for the purpose of inducing the Borrower to undertake the Development, and nothing contained herein shall be construed to signify that the Development complies with the planning, zoning, subdivision, environmental and building laws and ordinances applicable thereto or to suggest that the County, or any officer or agent of the County will grant any such approval, consent or permit that may be required in connection with the acquisition, construction and equipping of the Development, or that the County will make any expenditure, incur any indebtedness, or proceed with the financing of the Development.

Section 4. The Director of the Department of Conservation and Development, or designee (the “Designated Officer”) is hereby authorized and directed to apply to CDLAC for an allocation from the state ceiling of private activity bonds to be issued by the County for the Development in an amount not to exceed \$30,000,000 and to take any and all other actions as may be necessary or appropriate in connection with such application, including but not limited to the payment of fees, the posting of deposits and the provision of certificates, additional applications to CDLAC (if necessary), and any such actions heretofore taken by such the Designated Officers and their designees are hereby ratified, approved and confirmed.

Section 5. Stradling Yocca Carlson & Rauth LLP is hereby appointed to serve as Bond Counsel to the County in connection with the Development and the issuance and sale of the Bonds.

Section 6. The Director of the Department of Conservation and Development, or designee, are hereby authorized to execute all necessary documents, in a form approved by County Counsel and/or Bond Counsel, and to perform such acts as are necessary to implement the approvals provided for in this Resolution.

Section 7. This Resolution shall take effect immediately upon its adoption.



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

Attested

August 6 2024

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By:

Jane Mettuen
Jane Mettuen

Deputy Clerk