



# San Bernardino County

## Legislation Text

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**File #: 3245, Agenda Item #: 35**

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### **REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 17, 2020**

#### **FROM**

**GARY HALLEN, Director, Community Development and Housing**

#### **SUBJECT**

Sale of Creekside Village Apartments in the City of San Bernardino by BRE MG Creekside Village LP and Afton Holdings LLC.

#### **RECOMMENDATION(S)**

1. Approve the Assignment, Assumption, and Consent Agreement concerning the sale of Creekside Village Apartments in the City of San Bernardino by BRE MG Creekside LP and Afton Holdings LLC.
2. Authorize the County of San Bernardino Chief Executive Officer or the Community Development and Housing Director, upon review by County Counsel, to execute all documents related to the sale and transfer of Creekside Village Apartments, including the Assignment and Assumption Agreement, and make non-substantive changes to the existing documents, if needed, to conform to the transaction.

(Presenter: Gary Hallen, Director, 387-4411)

#### **COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Promote the Countywide Vision.**

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.**

#### **FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). All costs associated with the sale and transfer of the property will be borne by the buyer Afton Holdings, LLC.

#### **BACKGROUND INFORMATION**

BRE MG Creekside Village, LP (Transferor), the current Owner of the Creekside Village Apartments (Project), a 304-unit affordable housing project located in San Bernardino, desires to sell the Project to Afton Holdings LLC, or its affiliated assignee (Transferee). On September 14, 2020, the parties entered into a Purchase and Sale Agreement. Pursuant to the terms and conditions of the Regulatory Agreement and Declaration of Restrictive Covenants (Regulatory Agreement) recorded against the property, the Transferor must obtain the County's consent prior to the sale. Approval of this item will authorize the sale of Project and allow BRE MG Creekside Village, LP to assign and the Afton Holdings LLC to assume all terms and conditions as set forth in the Agreement. Additionally, the affordability period will remain in place until July 31, 2049.

On February 24, 1998 (Item No.37), the Board of Supervisors adopted Resolution No. 98-32 that approved issuance of Bonds that assisted in the financing of the acquisition and rehabilitation of this Project. With the issuance of tax-exempted bond financing, the 304-unit facility was then governed by the Regulatory Agreement.

The Regulatory Agreement sets forth the rules and regulations with which the Transferor of Creekside Village Apartments is required to comply and requires at least 20% of the units to be set aside for persons or families whose income meets the area median household income limits for the Project. The Regulatory Agreement maintains the Project's affordability status for Low- and Moderate-income households, and outlines other conditions required by the County. On November 5, 2013 (Item No.18) the Board adopted a resolution for the bond defeasance and redemption but extended the term for 35 years to July 31, 2049. The County will continue to monitor the Project annually per the Agreement.

During due diligence, the Owner provided documentation demonstrating the fiscal viability and organizational capacity necessary to operate the Project and will continue to fulfill all terms and conditions of the Regulatory Agreement.

**PROCUREMENT**

N/A

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Robert F. Messinger, Principal Assistant County Counsel, 387-8979) on October 20, 2020; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on October 26, 2020; and County Finance and Administration (Robert Saldana, Deputy Executive Officer 387-5423), on October 26, 2020.