

**RESOLUTION NO. 5-2022**

**A RESOLUTION OF MONTEZUMA COUNTY, COLORADO AMENDING RESOLUTION NO. 16-2021 BY AWARDED PRIVATE ACTIVITY BOND VOLUME CAP FOR THE SLEEPING UTE APARTMENTS PROJECT**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF MONTEZUMA, STATE OF COLORADO**

WHEREAS, Montezuma County, Colorado, is a legally and regularly created, established, organized and existing body politic and corporate of the State of Colorado (the "State"); and

WHEREAS, the County is authorized by the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the "Act") and the Colorado Supplemental Public Securities Act, constituting Article 57, Title 11, Section 201 et seq., Colorado Revised Statutes, as amended (the "Supplemental Public Securities Act"), to finance and refinance one or more projects (which includes any land, building or other improvement and real and personal properties) to the end that residential facilities for low- and middle-income persons or families may be provided which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, the County is further authorized by the Act and the Supplemental Public Securities Act to issue revenue bonds for the purpose of defraying the cost of financing any project, including the payment of principal and interest on such revenue bonds for not exceeding three years, the funding of any reserve funds which the County may deem advisable to establish in connection with the retirement of such revenue bonds or the maintenance of the project and all incidental expenses incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as provided in the Act; and

WHEREAS, the Board of County Commissioners of the County (the "Board") previously adopted Resolution No. 16-2021 (the "Initial Resolution") declaring the intent of the Board to authorize the issuance of its multifamily housing revenue bonds, in one or more series (the "Bonds"), in an aggregate principal amount not to exceed \$3,500,000, to finance the acquisition, rehabilitation, construction, improvement and equipping of the Sleeping Ute Apartments Project (or such other name as the Developer may elect for this property, the "Project"), an affordable multifamily housing facility, consisting of approximately 60 units containing complete residential facilities, and the Project will be owned and operated by FishPond Living at Sterling, LP, including any subsidiaries, affiliates, successors or assigns (but only if such subsidiaries, affiliates, successors or assigns are acceptable to the County) (the "Developer"); and

WHEREAS, in the Initial Resolution, the County agreed to apply for private activity bond volume cap allocation from the Colorado Department of Local Affairs for the Project; and

WHEREAS, the County has \$1,429,086 of 2022 private activity bond volume cap allocation that was directly allocated to the County and an award of \$2,050,279 of 2021 private activity bond cap allocation Statewide Balance from the Department of Local Affairs; and

WHEREAS, the Board desires to award private activity bond volume cap allocation to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO, THAT:

**Section 1.** The Board hereby awards the Project up to \$3,479,365 of its private activity bond volume cap allocation.

**Section 2.** All actions not inconsistent with the provisions of this Resolution heretofore taken by the Board or any officer or employee of the County in furtherance of the issuance of the Bonds are hereby ratified, approved and confirmed.

**Section 3.** All prior acts, orders, resolutions, ordinances or parts thereof of the County in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive an act, order, resolution, ordinance, or part thereof, heretofore repealed.


**Section 4.** If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

**Section 5.** All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency, and if so repealed, no other bylaw, order, resolution, ordinance, or part thereof, shall be revived. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

INTRODUCED AND ADOPTED at a regular meeting of the Board of County Commissioners of the County on March 29, 2022.

    
Jim Candelaria Kent Lindsay Gerald Koppenhafer

Attest:

  
Kim Percell  
County Clerk and Recorder  
Montezuma County, Colorado



**RESOLUTION NO. 16-2021**

**A RESOLUTION DECLARING THE INTENT OF MONTEZUMA COUNTY, COLORADO TO ISSUE MULTIFAMILY HOUSING REVENUE BONDS FOR THE SLEEPING UTE APARTMENTS PROJECT**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF MONTEZUMA, STATE OF COLORADO**

**WHEREAS**, Montezuma County, Colorado (the "County"), is a legally and regularly created, established, organized and existing body politic and corporate of the State of Colorado (the "State"); and

**WHEREAS**, the County is authorized by the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the "Act") and the Colorado Supplemental Public Securities Act, constituting Article 57, Title 11, Section 201 et seq., Colorado Revised Statutes, as amended (the "Supplemental Public Securities Act"), to finance and refinance one or more projects (which includes any land, building or other improvement and real and personal properties) to the end that residential facilities for low- and middle-income persons or families may be provided which promote the public health, welfare, safety, convenience and prosperity; and

**WHEREAS**, the County is further authorized by the Act and the Supplemental Public Securities Act to issue revenue bonds for the purpose of defraying the cost of financing any project, including the payment of principal and interest on such revenue bonds for not exceeding three years, the funding of any reserve funds which the County may deem advisable to establish in connection with the retirement of such revenue bonds or the maintenance of the project and all incidental expenses incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as provided in the Act; and

**WHEREAS**, representatives of FishPond Living at Cortez, LP, including any subsidiaries, affiliates, successors or assigns (but only if such subsidiaries, affiliates, successors or assigns are acceptable to the County) (the "Developer"), have met with officials of the County and have advised the County of the Developer's interest in the financing of the acquisition, rehabilitation, construction, improvement and equipping of an affordable multifamily housing facility, consisting of approximately 60 units containing complete residential facilities, and have proposed that the County issue its multifamily housing revenue bonds, in one or more series, to finance the Sleeping Ute Apartments Project (or such other name as the Developer may elect for this property, the "Project"), which Project is located at 516 South Madison Street, Cortez, Colorado, within the boundaries of the County, to be owned and operated by the Developer; and

**WHEREAS**, the Project constitutes a project under the Act, and the County wishes to declare its intention to authorize an issue of its multifamily housing revenue bonds, in one or more series (the "Bonds"), for the purpose of paying the cost of financing the Project, upon such terms and conditions as are contained herein; and

**WHEREAS**, the County has considered the Developer's Project proposal and, upon the expectation that the Project will provide more adequate residential rental housing for low- and middle-income persons and families within the County, the County wishes to declare its present intention to authorize the Bonds for the aforesaid purposes, all upon such terms and conditions as may be agreed upon by the County, Kutak Rock LLP ("Bond Counsel") and the Developer;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTEZUMA COUNTY, COLORADO, THAT:**

**Section 1.** In order to benefit the residents of the County, the County hereby declares its intent to authorize the issuance, in one or more series, of the Bonds in an aggregate principal amount not to exceed \$3,500,000, which amount is estimated to be sufficient: (a) to finance a portion of the Project; and (b) to pay certain costs incurred in connection with the issuance of the Bonds.

**Section 2.** The Bonds shall be special, limited obligations of the County payable solely from the payments to be made by the Developer to the County under a Loan Agreement to be entered into by and between the County and the Developer.

**Section 3.** The Board of County Commissioners of the County (the "Board") hereby finds, determines, recites and declares that the Bonds shall not constitute any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the County, the State or any political subdivision of the State within the meaning of any provision or limitation of the State Constitution or statutes, and the Bonds shall not constitute or give rise to a pecuniary liability of the County or a charge against the County's general credit or taxing powers, or ever be deemed to be an obligation or agreement of any commissioner, officer, director, agent or employee of the County in such person's individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

**Section 4.** The Board hereby finds, determines, recites and declares that the issuance of the Bonds to finance the Project will promote the public purposes set forth in the Act, including, without limitation, assisting persons or families of low- and middle-income in obtaining decent, safe and sanitary housing.

**Section 5.** The Board hereby finds, determines, recites and declares the County's intent that this Resolution constitute an official indication of the present intention of the County to issue the Bonds as herein provided, subject to: (a) the Developer either obtaining a binding final commitment of credit enhancement for the Bonds from a credit enhancement entity which is acceptable to the County and its Bond Counsel or obtaining a commitment for the purchase of the Bonds on a private placement basis by qualified institutional buyers or accredited investors which are acceptable to the County and its Bond Counsel, (b) the delivery of an approving opinion of Bond Counsel to the County, (c) the delivery of a market study, appraisal, survey, title insurance, environmental audit and plans and specifications which are all acceptable to the County, (d) the Developer obtaining sufficient debt and equity financing acceptable to the County, and (e) the adoption of a final bond resolution by the Board.



**Section 6.** The County hereby agrees to apply for private activity bond volume cap allocation from the Colorado Department of Local Affairs for the Project.

**Section 7.** All actions not inconsistent with the provisions of this Resolution heretofore taken by the Board or any officer or employee of the County in furtherance of the issuance of the Bonds are hereby ratified, approved and confirmed.

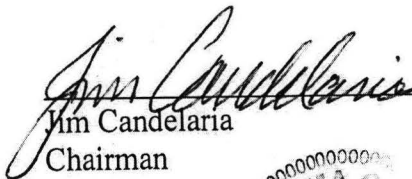
**Section 8.** All prior acts, orders, resolutions, ordinances or parts thereof of the County in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive an act, order, resolution, ordinance, or part thereof, heretofore repealed.

**Section 9.** If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution.

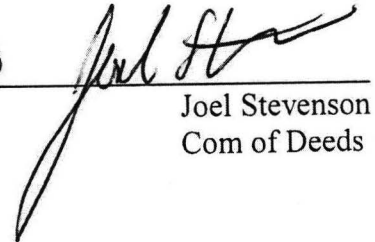
**Section 10.** All bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency, and if so repealed, no other bylaw, order, resolution, ordinance, or part thereof, shall be revived. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

INTRODUCED AND ADOPTED at a regular meeting of the Board of County Commissioners of the County on October 26, 2021.

MONTEZUMA COUNTY, COLORADO


  
Jim Candelaria  
Chairman

  
Kent Lindsay  
Vice Chair

  
Joel Stevenson  
Com of Deeds

[SEAL]

ATTEST:

By   
Kim Percell  
County Clerk

