# Board of Supervisors Memorandum

**March 5, 2019**

**Resolution Relating to Certificate of Participation Issuance for the Valencia Road Extension**

Background

On May 15, 2018, the Pima County Board of Supervisors approved a Second Amendment and restated the Rocking K Development Agreement (the "Agreement") between Pima County, Rocking K Development Co. and Diamond Ventures, Inc. (collectively, "DVI"). The Agreement requires DVI to construct certain off-site roadway improvements, including the extension of Valencia Road approximately 2.6 miles east from Houghton Road to Old Spanish Trail and related bridge and bank-protection improvements (the "Valencia Road Extension Project). The Agreement also provides for the County issuance of up to $16,000,000 of tax-exempt certificates of participation (COPs) to cover the cost of the Valencia Road Extension. The COPs are to be repaid from development fees generated by the development of the property, with DVI obligated to cover shortfalls, if any. The agreement provided that, if bonds are not issued within nine months, reauthorization of the issuance of bonds may be required. As explained in the attached letter from David Goldstein, President of Diamond Ventures, Inc., the project has been delayed and DVI is requesting the County to again take steps to authorize the future issuance of debt for this purpose.

The resolution for the COPs authorizes staff to sell additional debt not to exceed $16,000,000. The proceeds of the debt will be available to fund the Valencia Road Extension as needed. The debt will be repaid over a 15 year period from development fees from the DVI project.

Recommendation

It is recommended that the Board of Supervisors approve the resolution for Certificates of Participation.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/mp – February 20, 2019

**RESOLUTION NO. 2019-__**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA AUTHORIZING THE LEASE AND LEASE-PURCHASE BACK OF CERTAIN REAL PROPERTY, INCLUDING BUILDINGS AND STRUCTURES, IN ORDER TO FINANCE AND REFINANCE PROJECTS FOR THE COUNTY; AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENTS AND SUPPLEMENTS TO A LEASE-PURCHASE AGREEMENT AND A TRUST AGREEMENT AND OTHER NECESSARY AGREEMENTS, INSTRUMENTS AND DOCUMENTS; APPROVING THE EXECUTION AND DELIVERY OF CERTIFICATES OF PARTICIPATION TO PROVIDE THE NECESSARY FINANCING AND REFINANCING THEREFOR; AND AUTHORIZING OTHER ACTIONS AND MATTERS IN CONNECTION THEREWITH.**

WHEREAS, Pima County, Arizona (the "County"), as lessee, previously entered into a Lease-Purchase Agreement, dated as of June 1, 2008, as amended, (the "Lease-Purchase Agreement") with U.S. Bank National Association, as trustee under the below-described Trust Agreement (the "Trustee"), as lessor (in such capacity, the "Lessor"), pursuant to which the Lessor leases to the County, as lessee, certain leased property (the "Leased Property") as described therein; and

WHEREAS, the Trustee and the County have previously entered into a Trust Agreement, dated as of June 1, 2008, as supplemented (the "Trust Agreement"), pursuant to which the Trustee executed and delivered multiple series of Certificates of Participation, for the purpose of financing and refinancing the costs of certain projects of the County approved by this Board, and amending and restructuring the County's lease payments (the "Lease Payments") under the Lease-Purchase Agreement; and

WHEREAS, the Trust Agreement permits, under certain conditions, the execution and delivery of "Additional Certificates," on a parity with the "Certificates" then outstanding under the Trust Agreement, and permits the further supplementation and amendment of the Trust Agreement and the Lease-Purchase Agreement to facilitate such an execution and delivery of such Additional Certificates; and

WHEREAS, the County has determined that it will be advantageous to cause the execution and delivery of Additional Certificates, in a principal amount, net of any original issue discount, which will produce $16,000,000 in net proceeds for financing or refinancing the Valencia Road Extension Project or other projects of the County approved by this Board, plus any amount approved by an Authorized Officer as being necessary to pay the costs associated with the execution and delivery of such Additional Certificates, and to restructure the Lease Payments under the Lease-Purchase Agreement; and

WHEREAS, in connection with the execution and delivery of the Additional Certificates, it will be necessary to enter into a supplemental or restated Trust Agreement or amendments or supplements thereto, between the County and the Trustee (collectively, "Trust Supplements"), and a supplemental or restated Lease-Purchase Agreement or amendments or supplements thereto, between the County and the Trustee, as lessor (collectively, "Lease Amendments"); and

WHEREAS, upon execution and delivery of each series of Additional Certificates, all the conditions for the execution and delivery of Additional Certificates under the Trust Agreement will have been met for such series; and

WHEREAS, The Additional Certificates will be offered and sold either (i) directly to one or more banks submitting a lending proposal to the County (the "Purchaser"), or (ii) through an underwritten offering, to one or more of the firms currently in the State of Arizona's pool of underwriters for State obligations, as underwriter (the "Underwriter"), in either case as determined by the Director of Finance and Risk Management of the County (the "Director of Finance"), to be the most advantageous to the County, and the County's Procurement Director is hereby authorized to execute and deliver engagement agreements with any selected Underwriter; and

WHEREAS, the Additional Certificates of any series sold through an underwritten offering to the Underwriter, will be offered for sale pursuant to a Preliminary Official Statement (the "Preliminary Official Statement"), in a form substantially the same as that used in connection with the sale of the 2018A Certificates which, with conforming changes, will become the Official Statement (the "Official Statement"); and

WHEREAS, the Additional Certificates will be sold pursuant to one or more certificate purchase agreements (collectively, the "Purchase Agreement") between the County and the Purchaser or the Underwriter, as applicable, which (a) with respect to the sale of a series of Additional Certificates to a bank or banks pursuant to a lending proposal, shall be evidenced by the Purchaser's certificate and receipt, and (b) with respect to the sale of a series of Additional Certificates sold through an underwritten offering, shall be evidenced by a purchase agreement between the County and the Underwriter in a form substantially the same as that used in connection with the sale of the 2018A Certificates; and

WHEREAS, in connection with the sale of Additional Certificates through an underwritten offering, Securities and Exchange Commission Rule 15(c)2-12 may require the County to make certain agreements for the benefit of holders and beneficial owners from time to time of the Additional Certificates, as evidenced in one or more Continuing Disclosure Undertakings from the County (the "Continuing Disclosure Undertaking"); and

WHEREAS, the County has the power and authority to enter into and deliver the Lease Amendments, the Trust Supplements, the Purchase Agreement, the Continuing Disclosure Undertaking and such additional agreements (collectively, the "County

Documents") or amendments thereto and has determined that it is advantageous and in the public interest to approve the execution, sale and delivery of the Additional Certificates in order to secure the financial advantages for the County;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, AS FOLLOWS:

Section 1. The execution, delivery and issuance of Additional Certificates for financing or refinancing the Valencia Road Extension Project or other projects of the County approved by this Board, plus any amount approved by an Authorized Officer as being necessary to pay the costs associated with the execution and delivery of such Additional Certificates, and to restructure the Lease Payments under the Lease-Purchase Agreement is hereby approved.

Section 2. The Chairman, Vice Chairman or Acting Chairman of this Board, the County Administrator of the County or the Director of Finance of the County (each an "Authorized Officer") are each hereby authorized, empowered and directed, with the approval of counsel to the County, in the name and on behalf of the County, to execute and deliver the County Documents, in such forms as shall be reviewed by counsel to the County and approved by the Authorized Officer executing the same.

Section 3. From and after the execution and delivery of the County Documents in definitive form by the County and the other parties thereto, as required, the officers, agents and employees of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such agreements, documents, instruments and certificates as may be necessary to carry out and comply with the provisions thereof, including but not limited to the execution of tax compliance certificates or any other such document necessary in relation to the tax-exempt status of any series of Additional Certificates intended by the County to be executed and delivered bearing tax-exempt interest or otherwise required by the related Purchase Agreement.

Section 4. The Additional Certificates in a principal amount, net of any original issue discount, which will produce not more than $16,000,000 in net proceeds for the Valencia Road Extension Project or other projects for the County approved by this Board, plus any amount approved by an Authorized Officer as being necessary to pay the costs associated with the execution and delivery of such Additional Certificates, may be executed and delivered at different times, in one or more series, on a tax-exempt or taxable basis, bear interest at the rate or rates per annum not to exceed a yield of 6.50% per annum computed in accordance with Section 148 of the Internal Revenue Code of 1986, as amended, and have the other terms and conditions to be provided in the related Purchase Agreement and the Trust Supplement (as executed and delivered) and consistent with this Resolution. Each series of Additional Certificates shall be sold and awarded to the Purchaser or the Underwriter, as applicable, at a price of not less than 98% of par (excluding any original issue discount). Each series of Additional Certificates shall mature over a period ending not later than fifteen (15) years from the date of execution and delivery thereof, may be subject to mandatory or optional redemption prior to maturity, and shall have such other terms, all as provided in the related Trust

Supplement and Purchase Agreement (as executed and delivered). Each series of Additional Certificates shall be sold to the Purchaser or to the Underwriter, in either case as determined by Director of Finance to be most advantageous to the County.

Section 5. As to any series of the Additional Certificates sold through an underwritten offering, the distribution of the Preliminary Official Statement by the Underwriter with respect to each series of Additional Certificates is hereby ratified and approved in the form approved by an Authorized Officer and an Official Statement for such series is hereby authorized and approved, in substantially the form of the related Preliminary Official Statement, with such changes or revisions as may be approved by the Authorized Officer executing the same. Any Authorized Officer is hereby authorized, empowered and directed, in the name and on behalf of the County, to execute and deliver the same to the Underwriter and to execute and deliver instruments confirming that the Preliminary Official Statement is "deemed final" in accordance with Securities and Exchange Commission Rule 15(c)2-12.

Section 6. If the Director of Finance of the County or her designee determines that the purchase of an insurance policy securing payment of any series of Additional Certificates would be advantageous to the County, any officer, agent or employee of the County is hereby authorized to negotiate with and secure, with proceeds of such series of Additional Certificates or otherwise, such an insurance policy from one or more institutions the claims-paying ability of which are then assigned a rating of "Aa3/AA-" or better by a nationally recognized credit rating agency at the time of issuance of the insurance policy. Each Authorized Officer is hereby further authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policy, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policy.

Section 7. The Authorized Officers, and the designees of any of them, are each hereby designated and appointed as the Lessee Representative, as defined in the Lease-Purchase Agreement, and each of them is authorized to execute in the name of and on behalf of the County any closing documents, certificates, or other instruments or documents necessary or appropriate in connection with the transactions described in or contemplated by the related Official Statement, Purchase Agreement, Lease-Purchase Agreement or Trust Agreement or amendments or supplements thereto and to do all acts and things as may be necessary or desirable to carry out the terms and intent of this Resolution and of any of the documents referred to herein.

Section 8. The proceeds received by the Trustee from the sale of each series of Additional Certificates shall immediately be applied as provided in the related Trust Supplement. Pending disbursement of any such proceeds received by the County and held by the County Treasurer, the County Treasurer is directed to invest the amounts so received and held in the State Treasurer's Local Government Investment Pool (LGIP); provided, however, that the Director of Finance of the County may at any time provide other written investment instructions to the County Treasurer and the County Treasurer, to the extent that such investments are lawful, is authorized and directed to invest monies as set forth in the instructions. The County Administrator or the Director of Finance of

the County are hereby authorized to transfer monies from the Transportation Fund, the Regional Wastewater Reclamation Enterprise Fund, the Capital Projects Fund or any other funds, as appropriate, and in the amounts proportional to the use of the Certificate proceeds for transportation projects, wastewater projects, capital projects, or other projects, facilities or equipment, needed to make lease payments under the Lease Agreement to pay principal and interest with respect to the Additional Certificates as such amounts become due.

Section 9. All actions of the officers, agents and employees of the County which are in conformity with the purposes and intent of the foregoing resolutions be, and the same are hereby, in all respects, authorized, approved, ratified and confirmed.

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PASSED, ADOPTED AND APPROVED, by the Board of Supervisors of Pima County, Arizona, on March 5, 2019.

PIMA COUNTY, ARIZONA

By:_____
Chairman, Board of Supervisors

ATTEST:

By:_____
Clerk, Board of Supervisors

Approved as to Form:
SQUIRE PATTON BOGGS (US) LLP,
Bond Counsel

By:_____
Timothy E. Pickrell

DIAMOND VENTURES

February 14, 2019

Chuck H. Huckelberry, County Administrator
Pima County Governmental Center
130 W. Congress Street, 10th Floor
Tucson AZ 85701-1317

FEB19 11:17A

Dear Mr. Huckleberry:

On May 15, 2018, the Pima County Board of Supervisors approved that certain Second Amended and Restated Rocking K Development Agreement (the "Agreement") by and between Pima County (the "County"), Rocking K Development Co. and Diamond Ventures, Inc. (collectively, "DVI"). The Agreement requires DVI to construct certain off-site roadway improvements, including the extension of Valencia Road approximately 2.6 miles east from Houghton Road to Old Spanish Trail and related bridge and bank-protection improvements (the "Valencia Road Extension"). The Agreement also provides for the County issuance of up to $16,000,000 of tax-exempt certificates of participation (the "Bonds") to cover the cost of the Valencia Road Extension. The Bonds are to be repaid from development fees generated by the development of the property, with DVI obligated to cover shortfalls, if any. Finally, recital H of the Agreement states that if Bonds were not issued within nine months (i.e., February 15, 2019), reauthorization of the Bonds may be required.

At the time of entering into the Agreement, DVI was in escrow with five national homebuilders for the sale of approximately 811 lots, which was designed to be the first phase of the project. DVI spent several months working with the builders and finalizing the plans for Valencia Road, the spine infrastructure and the on-site infrastructure, all of which were bid out in August of 2018. Unfortunately, Valencia Road and the various other project bids came back 10-15% over budget. In addition, two of the five national homebuilders backed out of their purchase contracts. The combination of the increased costs and loss of two builders meant the opening of the project was no longer viable.

DVI spent the next several months working to value engineer the project in order to make an opening feasible. Also, during that time, DVI was able to secure interest from an "active adult" developer to acquire 500 lots near the second entrance to the community. This combination of changes has, once again, put the opening of the project back on track, subject to final due

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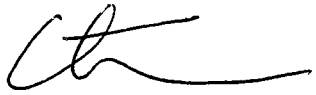
diligence by our homebuilder partners. DVI is proceeding as expeditiously as possible to move forward, with the goal of breaking ground this summer.

During this temporary hiatus, DVI has continued to work with the Vail School District (whose use of the Valencia Road Extension is critical to their new high school). We also have found an operator for the vacant convenience store, bringing much needed goods to the area. Finally, we have brought in Heirloom Farmers Markets to professionally manage the farmers market, a major activity for the Rincon Valley area residents.

The purpose of this letter is to request Pima County take whatever steps it deems appropriate to authorize the future issuance of the Bonds to allow DVI time to close with the homebuilders and commence construction of the project as described above. Please let us know if you have any question or need any additional information in connection with this request. We appreciate the County's continuing cooperation in bringing this important regional project to fruition.

Sincerely,



David Goldstein
President
Diamond Ventures, Inc.