RESOLUTION - ACTION REQUESTED 2020-121

MEETING: March 10, 2020

TO: The Board of Supervisors

FROM: Keith Williams, Treasurer/Tax Collector

RE: USDA Letter of Intent

RECOMMENDATION AND JUSTIFICATION:
Approve the United States Department of Agriculture (USDA) Letter of Intent to Meet Conditions Regarding the Lake Don Pedro Sewer Bonds 2016; and Authorize the Board of Supervisors Chair to Sign the Letter.

The Letter of Intent to Meet Conditions moves the process of reamortizing the loans forward for Board Approval.

See Staff Report.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has previously approved agreements with the USDA to assist in resolving this issue.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ATTACHMENTS:
Mariposa Co LOC 01-13-2020 (PDF)
Staff Report 3-10-2020 (PDF)
Mariposa County of_RD1942-46 (PDF)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Merlin Jones, District II Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
LETTER OF INTENT TO MEET CONDITIONS

Date March 10th, 2020

TO: United States Department of Agriculture
   Rural Development
   (Name of USDA Agency)
   920 E Stowell Rd
   Santa Maria, CA 93454

   (USDA Agency Office Address)

We have reviewed and understand the conditions set forth in your letter dated 01-13-2020. It is our intent to meet all of them not later than 03-31-2020.

Mariposa, County of

BY

(Title)

APPROVED AS TO FORM:

STEWEN W. DALEMM
COUNTY COUNSEL

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015 and 0570-0062. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data, needed, and completing and reviewing the collection of information.
01-13-2020

Keith Williams
County of Mariposa
4982 10th St – PO Box 247
Mariposa, CA 95388

SUBJECT: Reamortization of USDA Loans
Borrower: Mariposa County
Project: Lake Don Pedro Assessment District # 05-1
Loan Numbers: 08 and 09

Dear Mr. Williams:

This letter establishes the conditions that must be understood and agreed to by the County before further consideration may be given to their request to re-amortize its existing debt for the subject project.

If you desire that we give further consideration to your re-amortization request, please complete and return the attached Form RD 1942-46, “Letter of Intent to Meet Conditions”. The execution of all documents required by USDA Rural Development must be authorized by appropriate resolutions of the applicant’s governing body.

The conditions listed below must be satisfied by March 31, 2020. In the event the conditions have not been met by March 31, 2020, USDA Rural Development reserves the right to discontinue the processing of this request and the servicing of the account will be addressed under 7 CFR 1782 and other applicable regulations, statutes, and policies.

1. All applicable bond closing documents must be submitted by the Bond Counsel at least 60 days prior to closing and are subject to USDA’s Office of General Counsel’s closing instructions.

2. The borrower shall provide sufficient funds for the repayment of installments due on the USDA loans. It is explicitly understood that if the Assessment District # 05-1 does not generate enough net revenue from the operation of the wastewater treatment plant and collection of assessments, the County shall supplement from other sources, the amount necessary to keep the loans current. This Condition shall be ratified by Resolution of the County Board of Supervisors, prior to closing.

3. The borrower shall agree to submit the latest audit or management report to USDA, annually.

USDA is an equal opportunity provider and employer.
4. The amount of indebtedness to be reamortized as of 1/10/2020 is $4,577,510.14. The principal and interest to be reamortized will change depending on the closing date.

5. The loan will be scheduled for repayment over the remaining assessment period. Payments will be annual principal installments and semi-annual interest installments. The interest rate shall be the poverty rate which is currently 1.625% until March 31, 2020.

6. The payment due date will be established as the day that the loan closes. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided.

7. The loan will remain secured by an Assessment bond with first lien position. The amount of the indebtedness shall be the amount calculated to the day of closing. The bond will be fully registered as to both principal and interest in the name of the United States of America, Acting through the Rural Utilities Service.

8. The bond and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983. The bond must be prepared in accordance with RUS Instruction 1780 Subpart D, and State law. The assistance and opinion of a recognized bond counsel must be obtained.

Prior to loan closing, the following must be duly adopted and executed:

a. RUS Bulletin 1780-27, Loan Resolution (Public Bodies)

b. Bond Resolution

9. Electronic Payments – Payments will be made on the day the recipient payment is due through an electronic preauthorized debit system. The recipient will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing. It will allow for the recipient’s payment to be electronically debited from the bank account on the day that the payment is due.

10. Reserves – Reserves must be properly budgeted to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs, and assist with debt service should the need arise. The following reserves are required to be established as a condition of this loan and must be shown separately and as restricted funds in the recipient’s financial statements and/or audits.
a. Debt Service Reserve – As a part of this Agency’s loan proposal, the recipient must re-establish a debt service reserve fund equal to at least one annual loan installment that accumulates at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. Prior written concurrence from the Agency must be obtained before funds may be withdrawn from this account during the life of the loan. When funds are withdrawn during the life of the loan, deposits will continue as designated above until the fully-funded amount is reached.

11. Proposed Operating Budget – The recipient must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O&M), debt service, and reserves.

12. Ongoing Compliance – The continuation of all servicing requirements during the term of the loan will continue including but not limited to:

a. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The recipient will be required to submit a certification to the servicing office every three years that the VA/ERP is current and covers all sites related to the facility. The documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

b. Insurance and Bonding Requirements - It is the recipient’s responsibility and not that of the Agency to assure that adequate insurance and fidelity or employee dishonesty bond coverage throughout the life of the loan.

c. Statutory and National Policy Requirements – The recipient has received an award of Federal funding and is required to comply with U.S. statutory and public policy requirements, including but not limited to:

i. Section 504 of the Rehabilitation Act of 1973
ii. Civil Rights Act of 1964
iii. The Americans with Disabilities Act (ADA) of 1975
iv. Age Discrimination Act of 1975
v. Limited English Proficiency (LEP) under Executive Order 13166

d. Compliance Reviews and Data Collection – The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter. If beneficiaries
(users) are required to complete an application or screening for the use of the facility or service that the recipient provides, the recipient must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

All other items in our original security documents remain unchanged.

We look forward to working with the County on this request. If there are any questions, please contact me at 805-863-9938 or by e-mail at al.correale@usda.gov.

Sincerely,

Al Correale
Programs Specialist

cc: Steve Dahlem, Mariposa County Legal Counsel
    Scott Furguson, Bond Counsel, Jones Hall
    Pete Yribarren, USDA Rural Development, Community Programs Director