RECOMMENDED ACTION AND JUSTIFICATION:

Approve a transfer from contingency to the Treasurer’s budget and increase expenditures in the amount of ($20,000) to pay for professional services connected with the foreclosure process on the delinquent Lake Don Pedro Limited Obligation Improvement Bonds Series 2006-A and Series 2007.

Per the bond documents approved by the Board of Supervisors August 1, 2006, Article V Covenants of the County, Section 5.02. Foreclosure (Exhibit A) the County has covenanted that it will “prosecute an action in the superior court to foreclose the lien of any assessment or installment thereof which had been billed, but has not been paid,...”.

The law firm of Stradling, Yocca, Carlson & Rauth has been retained as per Section 5.02 of the bond documents in addition to the services of NBS who currently administers the bonds. The funds requested will provide payment for steps 1 through 4 listed on Exhibit B as prepared by NBS.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors approved the bond documents and agreed to the process.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Failure to follow the covenant could make the County liable for the bond debt.

Financial Impact? (X) Yes ( ) No  Current FY Cost: $20,000  Annual Recurring Cost: $0
Budgeted In Current FY? ( ) Yes (x) No  ( ) Partially Funded
Amount in Budget:  $ 0
Additional Funding Needed:  $ 20,000
Source:  
Internal Transfer
Unanticipated Revenue  ( ) 4/5’s vote
Transfer Between Funds ( ) 4/5’s vote
Contingency  (X)  4/5’s vote
( ) General  ( ) Other

List Attachments, number pages consecutively
Exhibit A, Article V Section 5.02
Exhibit B
Budget Action Form

CLERK’S USE ONLY:
Res. No.: 2-35  Ord. No. ______
Vote – Ayes: 5  Noes: ______
Absent: _____
( ) Minute Order Attached  ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: ______
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California
By:  
Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended  
( ) No Opinion  
Comments:
________________________
________________________
________________________
________________________
CAO: [Signature]

Revised Dec. 2002
COUNTY OF MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JANET BIBBY, CHAIR
LYLE TURPIN, VICE-CHAIR
LEE STETSON
KEVIN CANN
JIM ALLEN

DISTRICT III
DISTRICT II
DISTRICT I
DISTRICT IV
DISTRICT V

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KEITH WILLIAMS, Treasurer
FROM: MARGIE WILLIAMS, Clerk of the Board


RES. 12-35

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on January 17, 2012

ACTION AND VOTE:

3

Treasurer

BOARD ACTION: Discussion was held with Keith Williams/Treasurer, relative to the request, delinquent parcels and the process. Supervisors Bibby and Allen asked about being able to recover the costs for staff time in this process; and Keith Williams advised that he will further review the administrative service fee. Supervisor Cann clarified that if the Board does not take this action, that the County becomes responsible for the bond debt. (M)Cann, (S)Turpin, Res. 12-35 was adopted approving the requested action; and the Treasurer was requested to bring status reports to the Board on this process. Supervisor Turpin initiated discussion and asked that Public Works notify the property owners that as long as they stay current with their payments, they will not be impacted by the foreclosures and that the operation of the district is not being impacted by this action. Supervisors Bibby noted that she has requested that Public Works bring an item to the Board on the status of fees. Rick Benson/County Administrative Officer, suggested that the notice requested by Supervisor Turpin be included with the invoices; and Peter Rei stated he could work with the County Administrative Officer on the wording. Ayes: Unanimous.

Cc: Mary Hodson, Deputy CAO
Bill Davis, Auditor
Peter Rei, Public Works Director
Rick Benson, CAO
File
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**TOTALS**: 20,000  20,000

**TRANSFER BETWEEN FUNDS**

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**TOTALS**

**ACTION REQUESTED**: (Check all that apply)

( x ) Budget appropriation by Board of Supervisors (4/5ths Vote Required): Amending the total amount available in the county budget, or in any one fund of the budget, or transferring appropriation from Contingencies.

( ) Transfer by Board of Supervisors (3/5ths Vote Required): Moving existing appropriations from one budget to another, or between categories within a budget unit.

**JUSTIFICATION**: Approve funding for foreclosure expenses LDP Bonds.

**DEPT HEAD SIGNATURE**

**APPROVED BY RES NO.** 18-35  CLERK

**DATE** 1/4/2012  1-17-12

**DEPARTMENT** Treasurer

**AUDITOR’S USE ONLY**

**BA #**

**Budget Revision Form Revised 07/2000**
ARTICLE V
COVENANTS OF THE COUNTY

Section 5.01. Collection of Unpaid Assessments. The County shall comply with all requirements of the Act, the Bond Law and this Resolution to assure the timely collection of the Assessments, including, without limitation, the enforcement of delinquent assessments. To that end, the following shall apply:

(A) Collections. The Assessments as set forth on the list thereof on file with the Treasurer, together with the interest thereon, shall be payable in annual series corresponding in number and proportionate amount to the number of installments and principal amounts of the Bonds maturing or becoming subject to mandatory prior redemption under Section 2.14 hereof. An annual proportion of each Assessment shall be payable in each Fiscal Year preceding the date of maturity or mandatory prior redemption date of each of the Bonds issued sufficient to pay the Bonds when due and such proportion of each Assessment coming due in any year, together with the annual interest thereon, shall be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interests after delinquency as do the general taxes on real property; provided, however, that the County may collect by direct billing or other means when tax roll collection procedures are not available for any particular property subject to an Assessment. All sums received from the collection of the Assessments and of the interest and penalties thereon shall be placed in the Redemption Fund.

(B) Auditor Record. The Treasurer shall, before the final date on which the Auditor will accept the transmission of the Assessments for the parcels within the Assessment District for inclusion on the next tax roll, prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the installments of the Assessments on the next secured tax roll. The Treasurer is hereby authorized to employ consultants to assist in computing the installments of the Assessments hereunder and in reconciling Assessments billed to amounts received as provided in the subsection (C) of this Section 5.01.

(C) Additional Costs. In addition to any amounts authorized pursuant to section 8682 of the Bond Law to be included with the annual amounts of installments as aforesaid, the County, pursuant to section 8682.1 of the Bond Law, may cause to be entered on the assessment roll on which taxes will next become due, opposite each lot or parcel of land within the Assessment District in the manner set forth in such section 8682, each lot's pro rata share of the estimated annual expenses of the County in connection with the administrative duties thereof for the Bonds, including, but not limited to, the costs of registration, authentication, transfer and compliance with the provisions of Article V hereof and the establishment of each Reserve Fund under Section 4.04 hereof.

Section 5.02. Foreclosure. The County hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced within 60 days after the Treasurer determines that the total amount of delinquency for the prior Fiscal Year was 5% or more of total of Assessments due and payable in such Fiscal Year, which determination shall take place not later than October 10 of the current Fiscal Year, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any assessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in sections 8830 and 8935, inclusive, of the Bond Law. The Treasurer shall notify the County Counsel of any such delinquency of which the Treasurer is aware, and the County Counsel shall commence, or cause to be commenced, such foreclosure proceedings. The County Counsel is
hereby authorized to employ counsel to conduct any such foreclosure proceedings without further action of the Board.

Section 5.03. Limited Obligation Bonds. All obligations of the County under this Resolution and the Bonds are not general obligations of the County, but are "Limited Obligation Improvement Bonds" under section 8769 of the Bond Law and are payable solely from and secured solely by the Assessments and the amounts in the Redemption Fund and each Reserve Fund. Neither the faith nor credit of the County, nor of any of its officers, nor the County, nor of the State of California or any political subdivision thereof, is pledged to the payment of the Bonds. Notwithstanding any other provision of this Resolution, the County is not obligated to advance any of its surplus funds to cure any deficiency in the Redemption Fund; provided, however, the County is not prevented, in its sole discretion, from so advancing funds for this purpose.

Section 5.04. Punctual Payment. Compliance With Documents. The County shall punctually pay or cause to be paid the interest and principal to become due with respect to all of the Bonds in strict conformity with the terms of the Bonds and of this Resolution, and will faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and all Supplemental Resolutions.

Section 5.05. No Priority For Additional Obligations. The County covenants that no additional bonds or other obligations shall be issued or incurred having any priority over the Bonds in payment of principal or interest out of the Assessments.

Section 5.06. Further Assurances. The County will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Resolution.

Section 5.07. Private Activity Bond Limitation. The County shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

Section 5.08. Federal Guarantee Prohibition. The County shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Tax Code.

Section 5.09. Rebate Requirement. The County shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds.

Section 5.10. No Arbitrage. The County shall not take, or permit or suffer to be taken by the Agent or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of section 148 of the Tax Code.

Section 5.11. Yield Of The Bonds. In determining the yield of the Bonds to comply with Section 5.09 and 5.10 hereof, the County will take into account redemption (including premium,
Foreclosure Steps:

1. NBS removes installments from the tax roll – NBS to work with Keith on pricing.
2. Stradling sends final demand letter with a CC to the mortgage holder, if any.
3. Evaluate success of #2 above.
4. County passes resolution authorizing FC.
5. Stradling prepares and files complaints.
7. All parties are served.
8. Lawsuit is initiated.