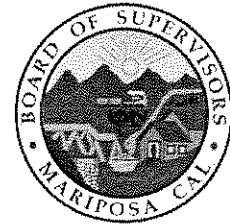




# MARIPOSA COUNTY

Administration · 209-966-3222



## RESOLUTION - ACTION REQUESTED 2013-416

MEETING: September 24, 2013

TO: The Board of Supervisors

**MINUTE ORDER ATTACHED**

FROM: Rick Benson, County Administrative Officer

RE: Government Center COP Refinancing

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**RECOMMENDATION AND JUSTIFICATION:** Adopt a Resolution Approving, Authorizing and Directing Execution of Certain Financing Documents in Connection with the 2013 Refunding Certificates of Participation (1997 County Government Center Project); and Providing for Other Matters Properly Related Thereto Including Appointment of and Approval of Agreements with Financial Advisor and Bond Counsel

Please see the attached report.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:** The original financing took place in 1997.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

**FINANCIAL IMPACT:**

Approximate savings of \$22,000 to the general fund

**ATTACHMENTS:**

Refi Memo (DOC)

Mariposa County Resolution Authorizing COPs Final (DOC)

Mariposa Site Lease Final (DOCX)

Mariposa Lease Agreement [Draft 09-14-13] (PDF)

Mariposa Assignment Agreement Final (DOCX)

Mariposa Trust Agreement Final (DOCX)

Mariposa Termination Agreement [Draft 09-14-13] (PDF)

County's Refunding Instructions [Draft 09-16-13] (PDF)

Financing Summary (PDF)

Bond Counsel Services Agreement Draft 09-13-2013 (DOC)

Financial Advisor Agreement (DOC)

**CAO RECOMMENDATION**

Requested Action Recommended

  
Rick Benson, County Administrator/Office

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Kevin Cann, District IV Supervisor  
**SECONDER:** John Carrier, District V Supervisor  
**AYES:** Stetson, Jones, Bibby, Cann, Carrier

**MARIPOSA COUNTY RESOLUTION NO. 13-416**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF MARIPOSA, APPROVING, AUTHORIZING AND DIRECTING  
EXECUTION OF CERTAIN FINANCING DOCUMENTS IN CONNECTION WITH  
COUNTY OF MARIPOSA 2013 REFUNDING CERTIFICATES OF PARTICIPATION  
(1997 COUNTY GOVERNMENT CENTER PROJECT); AND PROVIDING FOR OTHER  
MATTERS PROPERLY RELATED THERETO**

**WHEREAS**, the County of Mariposa (the "County") has previously financed the acquisition and construction of real property and improvements from the proceeds of the County's previously issued County of Mariposa, Certificates of Participation (County Administration Building Project), dated July 29, 1997 and executed and delivered in the original principal amount of \$2,730,850 (the "1997 Certificates"); and

**WHEREAS**, the County, working together with the Mariposa County Public Financing Corporation, a nonprofit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation"), have agreed to enter into certain contractual relations for the purpose, among other things, of providing refinancing of the 1997 Certificates (the "Refinancing"); and

**WHEREAS**, for the purpose of providing for the Refinancing, the County is hereby requesting the Corporation to issue its County of Mariposa, Series 2013 Refunding Certificates of Participation (County Administration Building Refunding Project), in the aggregate principal amount of not to exceed \$810,000 (the "2013 Certificates"), all pursuant to and secured by an Trust Agreement (the "Trust Agreement"), dated as of October 1, 2013, by and among the County, the Corporation and the County's Auditor - Controller, as trust administrator (the "Trust Administrator"); and

**WHEREAS**, in order to provide collateral for the 2013 Certificates the County has agreed to sublease the real property and improvements which constitute the County Administration Building, located at 5100 Bullion Street, Mariposa, CA 95338 (the "Leased Property") to the Mariposa County Public Financing Corporation (the "Corporation") pursuant to a Site Lease dated as of October 1, 2013 (the "Site Lease") by and between the County as lessor and the Corporation as lessee, and the Corporation has agreed to sublease the Leased Property back to the County pursuant to that certain Lease Agreement, dated as of October 1, 2013 (the "Lease") by and between the Corporation as sublessor and the County as sublessee, in exchange for the payment of a prescribed schedule of payments (the "Lease Payments"); and

**WHEREAS**, to further implement the foregoing, the Corporation and the Trust Administrator propose to execute and enter into an Assignment Agreement (the "Assignment Agreement"), dated as of October 1, 2013, whereby the Corporation will assign to the Trust Administrator all of its rights and entitlements under the Site Lease and the Lease Agreement, including but not limited to the entitlement to receive the Lease Payments from the County; and

**WHEREAS**, in order to provide for the legal efficacy of the Trust Agreement, Lease Agreement, Site Lease and Assignment Agreement, the County proposes to execute and enter into a Termination Agreement (the "Termination Agreement"), dated as of October 1, 2013, by and among the County, the Corporation and the County Auditor-Controller, as trust administrator for the 1997 Certificates (the "1997 Trust

Administrator”), providing for the termination of all previously recorded financing documents associated with the 1997 Certificates; and

**WHEREAS**, in order to provide for the prepayment and legal defeasance of all 1997 Certificates, the County proposes to execute and deliver its Irrevocable Refunding Instructions, dated as of October 1, 2013 (the “Refunding Instructions”), to the 1997 Trust Administrator which instructions provide for the prepayment and legal defeasance of all outstanding 1997 Certificates; and

**WHEREAS**, the County and Corporation propose to sell the 2013 Certificates to Westamerica Bank (the “Bank”), all on the terms and conditions herein set forth and as provided in the Trust Agreement and Lease Agreement, so long as the aggregate principal amount of the 2013 Certificates does not exceed \$810,000, the final maturity date does not exceed August 1, 2017, and the average interest rate does not exceed two and one-half percent (2.5%) per annum; and

**WHEREAS**, the Board desires to designate the 2013 Certificates for purposes of Paragraph (3) of Section 265(b) of the Internal Revenue Code as a “Qualified Tax-Exempt Obligation;” and

**WHEREAS**, the County, with the aid of its staff, has reviewed the Trust Agreement, the Site Lease, the Lease Agreement, the Assignment Agreement, the Termination Agreement and the Refunding Instructions, the forms of which are on file with the Clerk of the Board, and the Board wishes at this time to approve the foregoing in the public interests of the County; and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the County is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such Refinancing in the manner and upon the terms herein provided; and

**WHEREAS**, the Board wishes at this time to authorize all proceedings relating to the Refinancing and the issuance of the 2013 Certificates and the execution and delivery of all agreements and documents relating thereto;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Mariposa hereby orders and determines as follows:

**Section 1. Recitals and Findings.** The Board hereby specifically finds and declares that each of the statements, findings and determinations of the County set forth in the recitals set forth above and in the preambles of the documents approved herein are true and correct and that the Refinancing will result in significant public benefits for the residents of the County.

**Section 2. Authorized Representatives.** The Chairman, Vice-Chairman and County Administrative Officer and any other person authorized by the Board to act on behalf of the County shall each be an “Authorized Representative” of the County for the purposes of structuring and providing for the issuance of the 2013 Certificates, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the

County, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the sale of the 2013 Certificates, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the County has approved in this Resolution.

**Section 3. Approval of the Issuance of the 2013 Certificates; Significant Public Benefits.** The Board hereby approves the issuance of the 2013 Certificates by the County in a principal amount of not to exceed \$810,000, all as above described. The Board hereby finds and determines that the issuance and sale of the 2013 Certificates by the County to the Bank will result in savings in effective interest rates, underwriting costs and issuance costs and thereby result in significant public benefits to the County.

**Section 4. Appointment of Trust Administrator.** The County's Auditor-Controller is hereby appointed to act as Trust Administrator under the Trust Agreement unless and until replaced in accordance with the provisions of the Trust Agreement and the Board hereby further agrees that the County's Auditor-Controller, when acting as Trust Administrator under the Trust Agreement, may take such actions as permitted or required of the Trust Administrator under the Trust Agreement, including actions which may be counter to those of the County. The Auditor-Controller is authorized to execute and deliver the Trust Agreement on behalf of the Trust Administrator thereunder.

**Section 5. Approval of Site Lease.** The Board hereby authorizes and approves the lease of the Site by the County to the Corporation pursuant to the Site Lease. The Board hereby approves the Site Lease in substantially the form on file with the Clerk of the Board together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Representative of the County, upon the advice of the County's Bond Counsel. Any Authorized Representative of the County is hereby authorized and directed to execute, and the Clerk of the Board is hereby authorized and directed to attest and affix the seal of the County to, the final form of the Site Lease for and in the name and on behalf of the County and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Site Lease.

**Section 6. Approval of Lease Agreement.** The Board hereby authorizes and approves the lease of the Site by the County pursuant to the Lease Agreement. The Board hereby approves the Lease Agreement in substantially the form on file with the Clerk of the Board together with any additions thereto or changes therein (including, but not limited to, the final amount of the sale price for the Site and the final lease payment schedule) deemed necessary or advisable by an Authorized Representative of the County, upon the advice of the County's Bond Counsel. Any Authorized Representative of the County is hereby authorized and directed to execute, and the Clerk of the Board is hereby authorized and directed to attest and affix the seal of the County to, the final form of the Lease Agreement for and in the name and on behalf of the County and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Lease Agreement.

**Section 7. Approval of Trust Agreement.** The Board hereby approves the Trust Agreement in substantially the form on file with the Clerk of the Board and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative of the County. Any Authorized Representative of the County is hereby authorized and directed to execute, and the Clerk of the Board is hereby authorized and directed to attest and affix the seal of the County to, the final form of the Trust Agreement for

and in the name and on behalf of the County and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes. The Board hereby authorizes the delivery and performance of the Trust Agreement.

**Section 8. Approval of Assignment Agreement.** The form of the Assignment Agreement presented to this meeting and on file with the Clerk of the Board, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver to the Corporation the Assignment Agreement in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Assignment Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives. The Board hereby authorizes the delivery and performance of the Assignment Agreement.

**Section 9. Approval of Termination Agreement.** The form of the Termination Agreement presented to this meeting and on file with the Clerk of the Board, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver to the Corporation and the 1997 Trust Administrator the Termination Agreement in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Termination Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives. The Board hereby authorizes the delivery and performance of the Termination Agreement.

**Section 10. Approval of Refunding Instructions.** The form of the Refunding Instructions presented to this meeting and on file with the Clerk of the Board, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver to the 1997 Trust Administrator the Refunding Instructions in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Refunding Instructions may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives. The Board hereby authorizes the delivery and performance of the Refunding Instructions.

**Section 11. Appointment of Bond Counsel and Financial Advisor.** The Board hereby appoints The Weist Law Firm as Bond Counsel, and Cooperman Associates as Financial Advisor, in connection with the Refinancing described in this Resolution. An Authorized Representative is authorized and directed to execute an agreement with each of such firms in the respective forms on file with the Clerk of the Board. As provided in such agreements compensation payable to Financial Advisor and Bond Counsel is entirely contingent upon the successful completion of the Refinancing proceedings and shall be paid from a portion of the proceeds of the 2013 Certificates.

**Section 12. Qualified Tax-Exempt Obligation.** The Board hereby designates the 2013 Certificates for purposes of Paragraph (3) of Section 265(b) of the Internal Revenue Code as a "Qualified Tax-Exempt Obligation" and covenants that the 2013 Certificates do not constitute a private activity bond as defined in Section 141 of the Code and that the aggregate face amount of all tax-exempt obligations issued by the County (including all subordinate entities of the County and all entities which may issue obligations on behalf of the County) during the calendar year 2013 is not reasonably expected to exceed \$10,000,000, excluding, however,

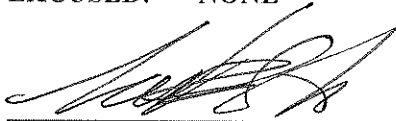
private activity bonds, as defined in Section 141 of the Internal Revenue Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code) and current refunding obligations having a principal amount not in excess of the refunded obligation.

**Section 13. Official Actions.** Each Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution.

**Section 14. Effective Date.** This Resolution shall take effect from and after the date of its passage and adoption.

**PASSED AND ADOPTED** this 24th day of September, 2013, by the following vote:

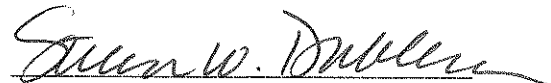
**AYES: STETSON, JONES, BIBBY, CANN, CARRIER**  
**NOES: NONE**  
**ABSTAINED: NONE**  
**EXCUSED: NONE**

  
\_\_\_\_\_  
LEE STETSON, Chairman

ATTEST:

  
\_\_\_\_\_  
RENE LaROCHE,  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
STEVEN W. DAHLEM,  
County Counsel



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

LEE STETSON, CHAIR  
KEVIN CANN, VICE-CHAIR  
JANET BIBBY  
MERLIN JONES  
JOHN CARRIER


DISTRICT I  
DISTRICT IV  
DISTRICT III  
DISTRICT II  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

TO: RICK BENSON, CAO

FROM: RENE' LaROCHE, Clerk of the Board 

SUBJECT: Adopt a Resolution Approving, Authorizing and Directing Execution of Certain Financing Documents in Connection with the 2013 Refunding Certificates of Participation (1997 County Government Center Project); and Providing for Other Matters Properly Related Thereto Including Appointment of and Approval of Agreements with Financial Advisor and Bond Counsel

RES. 13-416

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on September 24, 2013

#### ACTION AND VOTE:

2. Administration RES-2013-416

Adopt a Resolution Approving, Authorizing and Directing Execution of Certain Financing Documents in Connection with the 2013 Refunding Certificates of Participation (1997 County Government Center Project); and Providing for Other Matters Properly Related Thereto Including Appointment of and Approval of Agreements with Financial Advisor and Bond Counsel

The staff presentation was made by Rick Benson who noted that, essentially, this will be replacing the 1997 Certificate of Participation (COP) with a new COP; that there is no extension of the term; and that the only thing that is being done is lowering the payments. He also noted that in addition to the item's recommendation, he would also recommend that the Board give staff the latitude to make minor changes and alterations to the documents in order to insure flexibility for processing this item. He also noted that the interest rate will change from the current rate of 5% per annum to 1.98% per annum.

Supervisor Stetson required clarification of any other buildings involved in the COP. Mr. Benson noted that there was another building at Public Works involved in the original COP. Keith Williams responded from the audience that the other building will be paid off, and the only building involved in the new COP will be the Government Center.

Supervisor Bibby required clarification that there is no additional cost associated with the payoff, and inquired if the refinancing will affect Mariposa County's rating in any way. Keith Williams and Joshua Cooperman/Independent Public Finance Advisor



indicated from the audience that there is no additional cost, and that it will not affect the County's rating. CAO remarked that, if anything, it would improve the County's position. Supervisor Bibby also required clarification that the \$271,000 can only be used for capital improvements in the County. CAO affirmed. Supervisor Bibby noted that page 162 discusses the cost of Bond Counsel and Financial Advisor, and inquired if we have the total dollar amount for any and all costs. CAO noted that all costs are incorporated in the agreements; there are no other expenses other than those that the Board is seeing today as part of this project. Keith Williams reported that there is an \$1800 Title Insurance Fee, but noted that it is included in the fees that are part of the financing. Supervisor Bibby inquired if the Auditor supports this action. Mr. Williams affirmed. Supervisor Bibby noted a sub-leasing clause and inquired as to the reason for its inclusion. CAO explained that, legally, a COP has to be structured in a certain way; and noted that this follows that structure so that the County owns the property, leases it to the Public Finance Corporation, and then the Corporation subleases it back to the County. Supervisor Bibby also required clarification of various items of the transaction. Mr. Cooperman responded to those concerns. Supervisor Bibby expressed concern regarding authorizing Staff to make changes and inquired if the Board will be advised of significant changes. CAO noted that Staff will not make changes of significance; that he is only seeking authorization to make minor changes, many of which could be defined as clerical changes.

No public comment.

Supervisor Carrier urged that no part of the funds be committed to any other projects until the Government Center repairs are completed. Supervisor Stetson noted his agreement with that suggestion.

Supervisor Cann commended Mr. Williams and CAO for being proactive in this matter. Supervisors Carrier and Bibby extended thanks and compliments.

Action was taken to approve the item as requested, as well as additionally authorizing staff to make minor, and clerical, changes in order to process these documents.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: John Carrier, District V Supervisor

AYES: Stetson, Jones, Bibby, Cann, Carrier

10:23 AM Chair Stetson recessed the Board of Supervisors.

Cc: Keith Williams, Treasurer/Tax Collector/County Clerk  
Bill Davis, Auditor  
File