



MARIPOSA COUNTY

Treasurer-Tax Collector-County Clerk ·



RESOLUTION - ACTION REQUESTED 2018-170

MEETING: April 17, 2018
TO: The Board of Supervisors
FROM: Keith Williams, Treasurer/Tax Collector
RE: Amend USDA Loan Agreement Lake Don Pedro Sewer

RECOMMENDATION AND JUSTIFICATION:

Approve a Workout Agreement Between the United States Department of Agriculture (USDA) to Prevent a Default on Loan Nos. 92-08 and 92-09 in Connection with the Lake Don Pedro Waste Water Treatment Plant; and Authorize the Board of Supervisors Chair to Sign the Agreement.

In 2006 and 2007 the Board of Supervisors entered into loan agreements (exhibit A) with the USDA in the amounts of \$4.5 and \$1.7 million. Prior to the loan agreements a Proposition 218 vote was taken in the district in order to secure funding for the loans through the issuance of bonds. In 2008 the housing crash occurred and property values dropped significantly along with the developer's ability to maintain the payment's on the assessment.

The delinquency problem is compounded by the concentration of properties with a single owner. These properties consist of undeveloped condominium lots too small for individual development. A developer would need to purchase the entire block of lots. A foreclosure process was started in 2013 but was suspended due to the inability to recover the costs.

The Workout Agreement will allow the county additional time to resolve the issues facing the area.

The County Administrative Officer and Public Works Director have reviewed the documents and concur.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board approved the original loan agreement with the USDA.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The County could chose to pay the loan shortfall from legally permissible funds to avoid being placed on the Treasury offset list.

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ATTACHMENTS:

USDA Workout Agreement (PDF)

Exhibit A (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: Marshall Long, District III Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

Form RD 1951-10
(Rev. 04-05)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
COMMUNITY PROGRAMS
WORKOUT AGREEMENT

FORM APPROVED
OMB No. 0572-0137
OMB No. 0575-0066

Date: 03-01-2018

This Workout Agreement (Agreement) is made between County of Mariposa
(Borrower) and the United States of America, acting
through the Department of Agriculture (Government).

The parties recite and declare that:

A. The Borrower has the following Direct Community Facilities, Association Recreation, or Water and/or Wastewater loans owed to the Government that are in default (if more space is needed, use an attachment):

<u>Loan No.</u>	<u>Loan Amount</u>	<u>Date of Loan</u>	<u>Amount Delinquent</u>	<u>Type of Default</u>
92-08	1,200,000.00	02-15-2007	17,796.19	Monetary
92-09	4,500,000.00	10-12-2006	77,732.50	Monetary

- B. The Government has the right to declare the entire balance of these loans immediately due and payable.
- C. The parties wish to avoid any acceleration or other collection action by the Government by entering into this Agreement.
- D. For the reasons stated above, and in consideration of the mutual covenants and promises of the parties, the Government and the Borrower agree as follows:

(1) Borrower will complete the following actions to resolve the defaults identified in paragraph A above, by the following completion dates (if more space is needed, use an attachment):

<u>Action</u>	<u>Completion Date</u>
The County Agrees to continue to make partial payments during the workout period as funds are collected. Delinquent interest will continue to accrue.	03-01-2019
The County Agrees to re-evaluate the forbearance on implementing Article V, Sec 5.02 (foreclosure) of bond.	06-01-2018
County Agrees to work with a consultant, if necessary to develop plan to achieve sustainability. The plan should consider remapping and other development options.	03-01-2019
The County will provide current financial information for the entire system (operating & non-operating) by 4/1/18 and quarterly thereafter.	03-01-2019

According to the Paperwork Reduction Act of 1995, no persons are 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 0572-0137 and 0575-0066. The time required to complete this information collection is estimated to average 3 hours 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.

Action

Completion Date

By the end of the Workout Agreement, the County will present a budget to USDA that indicates it is able to meet the proposed payment schedule.

03-01-2019

The term of this Workout Agreement may not exceed one(1) year.

03-01-2019

- (2) The Government will not accelerate Borrower's loans if each action is completed to the satisfaction of the Government by the relevant completion date.
- (3) Failure of the Government to immediately exercise its rights to accelerate the Borrower's loans upon Borrower's failing to comply with the terms of this agreement will not preclude the Government from doing so for the same or a subsequent default at a later time. Any such failure shall not be construed as a waiver or relinquishment of the Government's rights to any collection, including subsequent acceleration.
- (4) No other loan terms contained in the respective notes, bonds, mortgages, or deeds of trust are modified by this Agreement.
- (5) This Agreement shall be binding on the successors and assigns of the parties and any present or subsequent owners, encumbrances, tenants, and subtenants.
- (6) This Agreement may not be changed except in a written document signed by both parties.
- (7) If any part of this Agreement is determined to be illegal or unenforceable by a court of competent jurisdiction, those other portions not affected by that decision shall remain in effect.

Borrower

Rosemarie Smallcombe
Rosemarie Smallcombe, Chair

4/17/18
Date

Government

Pete Yribarren

4/23/18
Date

PETE YRIBARREN

Water Programs Director

Instructions: Type the name and title of the authorized person signing for the Borrower and the Government under their signature.

APPROVED AS TO FORM:

Steven W. Dahlem
STEVEN W. DAHLEM
COUNTY COUNSEL