

**Memorandum**  
**Office of Jenine Windeshausen**  
**Treasurer-Tax Collector**



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**To:** The Board of Supervisors

**From:** Jenine Windeshausen, Treasurer-Tax Collector 

**Date:** September 27, 2011

**Subject:** Dry Creek - West Placer CFD 2001-1 Refunding

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**Action Requested:**

Adopt a resolution related to the refunding of the Dry Creek - West Placer CFD 2001-1 bonds.

1. Approving:
  - a. the form of the Fiscal Agent Agreement,
  - b. the form of the Escrow Agreement,
  - c. the form of the Bond Purchase Agreement,
  - d. the form of the Preliminary Official Statement,
  - e. the form of the Continuing Disclosure Certificate, and
  - f. allowing for the issuance of refunding bonds in an amount not to exceed \$15,000,000, and the refunding of the outstanding Dry Creek – West Placer CFD 2001-1 Bonds, provided the new Bonds do not have a net interest cost in excess of 5.57%, and
  - g. the sale of the Bonds to the Underwriter, and authorizing and directing the Underwriter to market the Bonds and distribute the Preliminary and Final Official Statements in connection with the offering and sale of the bonds.
2. Authorizing and directing the Treasurer-Tax Collector to execute and deliver the Bonds, the Fiscal Agent Agreement, the Escrow Agreement, the Bond Purchase Agreement, the Final Official Statement, the Bond Purchase Contract, and the Continuing Disclosure Certificate.
3. Authorizing and directing agents and officers of the County to do any and all things, and to take any and all actions and execute any and all documents they deem necessary to issue the new Bonds and refund the Prior Bonds, including the purchase of bond insurance that may be deemed necessary or advisable, and approving, confirming and ratifying all actions taken to date by officers and agents of the County related to the issuance of the new Bonds and the refunding of the Prior Bonds.
4. Designating Quint & Thimmig LLP as Bond Counsel, Jones Hall as Disclosure Counsel, Capitol Public Finance Group LLC as Financial Advisor and authorizing the County Executive to execute agreements for their legal and financial services with payment contingent upon the issuance of the bonds.

**Background:**

On December 4, 2001, the County issued \$20 million of County of Placer Community Facilities District No. 2001-1 (Dry Creek – West Placer) (the “CFD”) Special Tax Bonds, Series 2001 to provide financing for the construction of infrastructure related to the development of several housing projects in West Placer. The infrastructure financed through the CFD was related to sewer, water, drainage, park, roadway and traffic, and fire district improvements.

The 2001-1 CFD bonds are scheduled to mature in 2026, have an average interest rate of approximately 6.4% and an outstanding balance of approximately \$15,405,000.

Several opportunities currently exist to save the CFD property owners money on the special taxes collected on the annual property tax bill, which are used to pay the CFD bond debt service. The first opportunity concerns favorable interest rates available in today’s market. The new bonds are estimated to be issued at an average interest rate of approximately 4.95%. Additionally, the amount collected annually, as specified in the 2001-1 CFD bond documents, has actually resulted in annual collections in excess of what is needed to pay debt service and maintain reserves. As a result of these additional collections, approximately \$1.7 million is available to reduce the outstanding principal at the time of the refunding.

The special tax rates charged in the CFD are tiered based on certain property characteristics. By refunding the 2001-1 CFD bonds, the following reductions in special taxes are estimated<sup>1</sup>.

| Current Annual Per Parcel Tax Rates | Estimated Annual Per Parcel Reduction | Estimated New Annual Per Parcel Tax Rates | # of Parcels    |
|-------------------------------------|---------------------------------------|---|-----------------|
| \$2,260.00                          | \$267.80                              | \$1,992.20                                | 343             |
| \$1,850.00                          | \$219.21                              | \$1,630.79                                | 488             |
| \$1,511.32                          | \$1,511.32                            | 0   | 62 <sup>2</sup> |
| \$1,237.14                          | \$1,237.14                            | 0   | 3 <sup>3</sup>  |
| Golf Course                         | \$2,024.14                            | 0   | 5 <sup>4</sup>  |

The sale of the new Bonds is scheduled to occur on October 19, 2011 and to close on November 10<sup>th</sup>. The reduced property tax rates will appear on 2012/13 property tax bills.

<sup>1</sup> The reductions noted are estimates; the actual reduction will depend on the actual interest rate at which the new bonds are sold.

<sup>2,3,4</sup> Undeveloped parcels have only been taxed if the amount of special taxes on developed parcels is insufficient to cover debt service. The number of developed parcels is now sufficient to cover the debt service.

While this CFD has experienced some delinquency issues since the economic downturn, final collections of delinquent property taxes has been successful. The reduction in property tax rates will help to reduce overall financial burden on the CFD properties.

**Fiscal Agent Agreement:** This agreement between the County and the Fiscal Agent (The Bank of Mellon Trust Company, NA) establishes the parameters for the ongoing administration of the newly issued bonds. The Fiscal Agent Agreement describes the bonds including the amount, interest rate and payment dates, redemption provisions and dates. It outlines the procedures related to the transfer (sale/purchase) records of the bonds. It specifies the funds to be established, held or other disposition for the financial management of the bonds, including funds for payment of expenses, deposit of special tax collections, reserve fund requirements and timely payment of debt service. The Fiscal Agent Agreement also contains requirements for continuing disclosure and other reporting, requirements for actions related to delinquencies. It also outlines various regulatory compliance requirements related to the Mello-Roos Act, and IRS code,

**Escrow Agreement:** The Escrow Agreement between the The Bank of New York Mellon Trusts Company, NA directs the responsibilities of the escrow bank regarding disposition of a portion of the proceeds of the newly issued bonds and the pay-off of the old bonds. Once the new bond transaction has been completed, a call notice will be mailed to the holders of the 2001 Bonds giving them notice of redemption of 2001 Bonds. In the interim, the 2011 Bond proceeds to be used to redeem the 2001 Bonds will be deposited into an escrow account. After the call period lapses (approximately four weeks), the 2011 Bond proceeds will be used to redeem of the 2001 Bonds.

**Bond Purchase Agreement:** The Bond Purchase Agreement is the agreement between the County and the Underwriter as to the terms and closing of the bond purchase. The Underwriter was chosen using a competitive process that included a submission of fees, additional performance requirements of the County, including marketing and distribution assessment and overall experience.

In addition to specifying the dollar amount of bonds, the purchase price (which will be filled in at the time of the sale of the new bonds), the maturity, the Underwriter's discount and the original issue discount, it also references certain actions taken or to be taken and other compliance actions by the Underwriter and the County to insure the proper issuance of the bonds as disclosed. It includes certain representations and warranties by the County to the Underwriter regarding the bonds and their issuance.

**Preliminary Official Statement and Official Statement:** The Preliminary and Final Official Statements serve as the primary disclosure documents for the issuance. The attached Preliminary Official Statement has been reviewed and approved for transmittal to the Board of Supervisors by County staff and its financing team. The Preliminary Official Statement must include all facts that would be material to an investor in the 2011 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2011 Bonds. Members of the Board may review the Preliminary Official Statement

and/or question staff and consultants to make sure they feel comfortable that it includes all material facts.

**Continuing Disclosure Certificate:** The Continuing Disclosure Certificate (Appendix E of the Preliminary Official Statement) contains the requirements for ongoing disclosure over the life of the 2011 Bonds. The Certificate calls for annual disclosure of financial and administrative information about the 2011 Bonds and the underlying properties. Annual requirements include the County's financial statements, status of bond accounts, and delinquency rates. Additionally, it is required that the County immediately reports certain material information regarding the 2011 Bonds that becomes known to the County.

**Consultant Contracts:** To properly facilitate the refinancing program various consultants are required. These consultants include Quint & Thimmig LLP as Bond Counsel, Jones Hall as Disclosure Counsel and Capitol Public Finance Group as Financial Advisor. These consultants have been involved with the structuring of the refunding and preparation of the attached legal documents. The County has previously used all of the above consultants with successful results.

**Fiscal Impact:**

There is no direct fiscal impact to the County. This refunding is for the benefit of CFD property owners. Savings to CFD property owners from the refunding are as noted in the chart above. Payment for all costs of issuance is included in the bond proceed distribution. All estimated savings noted above are net of cost of issuance. The annual special tax collection includes an amount necessary to cover the County's costs of annual administration of the CFD and the bonds.

**Attachments:**

- Form of Fiscal Agent Agreement
- Form of Escrow Agreement
- Form of Bond Purchase Agreement
- Form of Preliminary Official Statement
- Form of Continuing Disclosure Certificate (Appendix E of the Preliminary Official Statement)
- Form of Bonds (Exhibit A of the Fiscal Agent Agreement)
- Bond Counsel Contract, Quint & Thimmig LLP
- Disclosure Counsel Contract, Jones Hall
- Financial Services Contract, Capitol Public Finance Group, LLC

**Before the Board of Supervisors  
County of Placer, State of California**

In the Matter of:

Reso. No.: \_\_\_\_\_

A Resolution of the Board of Supervisors of the County of Placer authorizing the issuance of Community Facilities District No. 2001-1 (Dry Creek – West Placer) 2011 Special Tax Refunding Bonds, and approving related documents and actions

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 27, 2011, by the following vote on roll call:

AYES:

NOES:

ABSENT:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

\_\_\_\_\_  
Robert Weygandt

Attest:  
Clerk of said Board

\_\_\_\_\_  
Ann Holman

BE IT RESOLVED BY THE BOARD OF SUPERVISORS (THE "BOARD") OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, AS FOLLOWS:

**WHEREAS**, the Board of Supervisors of the County of Placer (the "Board") has conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), to form the County of Placer Community Facilities District No. 2001-1 (Dry Creek – West Placer) (the "District"), to authorize the levy of special taxes upon the land within the District, and to issue bonds secured by said special taxes to finance certain public improvements authorized to be funded by the District; and

**WHEREAS**, on December 4, 2001, the County, for and on behalf of the District, issued \$20,000,000 principal amount of County of Placer Community Facilities District No. 2001-1 (Dry Creek – West Placer) Special Tax Bonds, Series 2001 (the "Prior Bonds"), the Prior Bonds

having been issued by the County for the District to finance facilities authorized to be funded by the District; and

**WHEREAS**, this Board has determined that, due to favorable interest rates, it is in the best interests of the County and the District that the Prior Bonds be refunded; and

**WHEREAS**, there has been submitted to this Board a fiscal agent agreement (the "Fiscal Agent Agreement") providing for the issuance of special tax refunding bonds of the County (the "Bonds") for and on behalf of the District under the authority provided in the Act and Article 11, commencing with Section 53580, of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Refunding Law"), and this Board, with the aid of County staff, has reviewed the Fiscal Agent Agreement and found it to be in proper order, and now desires to approve the Fiscal Agent Agreement and the issuance of the Bonds; and

**WHEREAS**, there has been presented to this Board an escrow agreement providing for the creation of an escrow fund which will be used to defease and refund the Prior Bonds and this Board now desires to approve such agreement in connection with the refunding of the Prior Bonds; and

**WHEREAS**, the County proposes to sell the Bonds to Piper Jaffray & Co. (the "Underwriter") pursuant to the terms of a bond purchase agreement (the "Bond Purchase Agreement") by and between the County and the Underwriter, and the Underwriter proposes to offer the Bonds to the investing public by means of a preliminary official statement (the "Preliminary Official Statement"); and

**WHEREAS**, it appears that each of said documents and instruments which are now before this meeting is in appropriate form and is an appropriate document or instrument to be executed and delivered for the purpose intended; and

**WHEREAS**, all conditions, things and acts require to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act and the Refunding Law.

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

Section 1. Issuance of Bonds; Approval of Fiscal Agent Agreement and Escrow Agreement. Pursuant to the Refunding Law, the Act, this Resolution and the Fiscal Agent Agreement, special tax refunding bonds of the County for the District designated as "County of Placer Community Facilities District No. 2001-1 (Dry Creek – West Placer) 2011 Special Tax Refunding Bonds" in an aggregate principal amount not to exceed \$15,000,000, are hereby authorized to be issued. The Bonds shall be executed in the form set forth in and otherwise as provided in the Fiscal Agent Agreement.

In furtherance of the issuance of the Bonds, the Board hereby makes the following findings and determinations: (i) it is prudent in the management of the fiscal affairs of the County, the Board and the District to issue the Bonds for the purpose of refunding the Prior Bonds, (ii) the total net interest cost to maturity on the Bonds plus the principal amount of the Bonds will not exceed the total net interest cost to maturity on the Prior Bonds to be refunded plus the principal amount of the Prior Bonds to be refunded, (iii) the final maturity date of the Bonds will not exceed the final

maturity date of the Prior Bonds, and (iv) the Bonds satisfy the requirements of Section 53345.8(a) of the Act in that the assessed value of the land in the District is more than three times the principal amount of the Bonds. The Board hereby further finds and determines that (i) the issuance of the Bonds should proceed for the public policy reason that, as a result of such issuance, the annual special taxes to be levied in the District will be lower than if the refunding contemplated with the proceeds of the Bonds did not occur, and (ii) the sale of the Bonds by negotiated sale to the Underwriter as contemplated by the Bond Purchase Agreement will result in a lower overall cost.

The Board hereby approves the Fiscal Agent Agreement in the form on file with the Clerk of the Board. The Treasurer-Tax Collector of the County is hereby authorized and directed to execute the Fiscal Agent Agreement, for and in the name and on behalf of the County and the District, in such form, together with any additions thereto or changes therein deemed necessary or advisable by the Treasurer-Tax Collector upon consultation with Bond Counsel and County Counsel. The proceeds of the Bonds shall be applied by the County for the purposes and in the amounts as set forth in the Fiscal Agent Agreement. The Board hereby authorizes the delivery and performance by the County of the Fiscal Agent Agreement. For purposes of Section 53363.2 of the Act, (i) it is expected that the purchase of the Bonds will occur on or after October 19, 2011, (ii) the date, denomination, maturity dates, places of payment and form of the Bonds shall be as set forth in the Fiscal Agent Agreement, (iii) the minimum rate of interest to be paid on the Bonds shall be one-half percent (0.5%) with the actual rate or rates to be set forth in the Fiscal Agent Agreement as executed, (iv) the place of payment for the Prior Bonds shall be as set forth in the fiscal agent agreement for the Prior Bonds; and (v) the designated costs of issuing the Bonds shall be as described in Section 53363.8(a) of the Act, and as otherwise described in the Fiscal Agent Agreement, in the Official Statement for the Bonds and the closing certificates for the Bonds, including Bond Counsel and Disclosure Counsel fees and expenses, Underwriter's discount, printing costs for the Official Statement, escrow verification costs, initial fiscal agent fees, and costs of County staff incurred in connection with the sale and issuance of the Bonds.

The Board hereby approves the refunding of the Prior Bonds with the proceeds of the Bonds, in accordance with the provisions of the indenture pursuant to which such Prior Bonds were issued and the Escrow Agreement between the County and the Escrow Bank identified therein. The Board hereby approves the Escrow Agreement in the form on file with the Clerk of the Board. The Board hereby authorizes and directs the Treasurer-Tax Collector of the County to execute and deliver the Escrow Agreement for and in the name and on behalf of the County, in such form, together with any changes therein or additions thereto deemed advisable by the Treasurer-Tax Collector upon consultation with Bond Counsel and County Counsel. This Board hereby authorizes the delivery and performance by the County of the Escrow Agreement.

Section 2. Delivery of the Bonds. The Bonds, when executed, shall be delivered to the Fiscal Agent for authentication. The Fiscal Agent is hereby requested and directed to authenticate the Bonds by executing the Fiscal Agent's certificate of authentication and registration appearing thereon, and to deliver the Bonds, when duly executed and authenticated, to the Underwriter or its order in accordance with written instructions executed on behalf of the County by the Treasurer-Tax Collector of the County, which instructions such officer is hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver to the Fiscal Agent. Such instructions shall provide for the deliver of the Bonds to the Underwriter or its order in accordance with the Bond Purchase Agreement, upon payment of the purchase price therefor.

**Section 3. *Sale of the Bonds.*** This Board hereby approves the sale of the Bonds to the Underwriter. The Bond Purchase Agreement, in the form on file with the Clerk of the Board, is hereby approved and the Treasurer-Tax Collector of the County is hereby authorized and directed to execute the Bond Purchase Agreement in said form, with such changes, insertions and omissions as may be approved by the Treasurer-Tax Collector, provided that the aggregate principal amount of the Bonds does not exceed the amount set forth in Section 1, the net interest cost of the Bonds is not in excess of 5.75%, and the Underwriter's discount (without regard to any original issue discount) is not in excess of 1.50% of the principal amount of the Bonds.

**Section 4. *Official Statement.*** This Board hereby approves the preliminary official statement for the Bonds (the "Preliminary Official Statement") in the form on file with the Clerk of the Board, together with any changes therein or additions thereto deemed advisable by the Treasurer-Tax Collector of the County. The Board authorizes and directs the Treasurer-Tax Collector, on behalf of the County and the District, to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Preliminary Official Statement prior to its distribution by the Underwriter to prospective purchasers of the Bonds.

The Underwriter, on behalf of the County and the District, is authorized and directed to cause the Preliminary Official Statement to be distributed to such municipal bond broker-dealers, to such banking institutions and to such other persons as may be interested in purchasing the Bonds.

The Treasurer-Tax Collector of the County is hereby authorized and directed to assist the Disclosure Counsel in causing the Preliminary Official Statement to be brought into the form of final official statement (the "Final Official Statement"), and the Treasurer-Tax Collector is hereby authorized to execute the Final Official Statement and a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Bonds, and do not, as of the date of delivery of the Bonds contain any untrue statement of material fact with respect to the County or the District or omit to state material facts with respect to the County or the District required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The execution and delivery by the Treasurer-Tax Collector of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the Treasurer-Tax Collector and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the County.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

**Section 5. *Continuing Disclosure Certificate.*** The Continuing Disclosure Certificate, in the form on file with the Clerk of the Board, is hereby approved. The Treasurer-Tax Collector of the County is hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate in said form, with such additions thereto or changes therein as are deemed necessary, desirable or appropriate by the Treasurer-Tax Collector, the approval of such changes to be conclusively evidenced by the execution and delivery by the Treasurer-Tax Collector of the Continuing Disclosure Certificate.

Section 6. Foreclosure Covenant. The County hereby covenants, for the benefit of the Bondowners, to commence and diligently pursue to completion any foreclosure action regarding delinquent installments of any amount levied as a special tax for the payment of interest or principal of the Bonds, said foreclosure action to be commenced and pursued as more completely set forth in the Fiscal Agent Agreement.

Section 7. Bond Counsel, Disclosure Counsel and Financial Advisor. The law firm of Quint & Thimmig LLP is hereby designated as Bond Counsel to the County for the Bonds, the law firm of Jones Hall is hereby designated as Disclosure Counsel to the County for the Bonds and the firm of Capitol Public Finance Group, LLC, hereby designated as Financial Advisor to the County for the Bonds. The County Executive Officer is hereby authorized to execute agreements with said firms for their services in connection with the Bonds, provided that the compensation payable to said firms is payable solely from the proceeds, and wholly contingent upon the issuance, of the Bonds.

Section 8. Official Actions. All actions heretofore taken by the officers and agents of the County with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the County are hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds and the refunding of the Prior Bonds in accordance with this Resolution, and any certificate, agreement, and other document described in the documents herein approved. In furtherance of the foregoing, the Treasurer-Tax Collector of the County is hereby authorized to obtain municipal bond insurance for the Bonds, and to approve changes to the documents approved by this Resolution as required in connection therewith if the Treasurer-Tax Collector, with the assistance of the County's Financial Advisor for the Bonds and the Underwriter, determines that the provision of such insurance is economic in the circumstances.

Whenever in this Resolution the Treasurer-Tax Collector of the County is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of the Treasurer-Tax Collector by the Assistant Treasurer-Tax Collector in the case the Treasurer-Tax Collector shall be absent or unavailable.

Section 9. Effective Date. This Resolution shall take effect immediately upon its adoption.

