

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



To: The Board of Supervisors
From: Jenine Windeshausen, Treasurer-Tax Collector
Date: October 25, 2011
Subject: Placer mPOWER AB 811 Program Administration Tax and Revenue Anticipation Note

Action Requested:

Adopt a resolution authorizing the borrowing of funds for the Fiscal Year 2011-12 and the Issuance and Sale of a County of Placer, California 2011-2012 Placer mPOWER Program Administration Tax and Revenue Anticipation Note (the "TRAN") in an Amount Not to Exceed \$5 Million.

Background:

The note resolution authorizes the issuance of a thirteen month note, not to exceed \$5 million at an interest rate not to exceed 0.75% to finance the administrative costs of the mPOWER Placer Program. The note will be purchased by the Treasurer for the Treasurer's Investment Pool and is not transferable to another note purchaser.

Specifically, the resolution provides for:

- the issuance of the note in an amount not to exceed \$5 Million,
- an interest rate of not to exceed 0.75%,
- a maturity not to exceed thirteen months,
- prepayment at anytime without penalty,
- increases on the principal amount as may be necessary to finance program costs,
- the note proceeds are used to finance the costs of administering the Placer mPOWER Placer Program,
- the deposits and accounting necessary for repayment of the note,
- authorization of the Chairman of the Board, the County Executive, the Treasurer-Tax Collector and the Clerk of the Board to execute the note and to take any other actions necessary to consummate the note transaction.

On October 6, 2009, the Board considered a Feasibility Study and heard a proposal on an AB 811 program for Placer County. The delay in cost recovery for an AB 811 program was detailed in the Feasibility Study and outlined in the proposal presentation. The delay in cost recovery is due to the timing of the assessment financing advances to property owners in relation to the property tax roll preparation, and billing cycle. Because of this cost recovery delay, it is anticipated that a short-term note will need to be issued in each of the next two to three years to finance the mPOWER Placer Program administration.

On February 9, 2010, your Board adopted the first resolution approving the sale and issuance of the first TRAN issued in an amount not to exceed \$5 million, to finance the delay in the cost recovery of mPOWER Placer administrative costs. The TRAN principal amount is currently at \$976,000 and the new TRAN will be initially issued in that same amount. During the term of the note, the amount can be increased by the Treasurer as needed by the issuance of a replacement note.

In September, the County received reimbursement on the CEC grant in the amount of \$91,368.00. Two more invoices have been sent for reimbursement in the amounts of \$37,369, and \$37,554.28. Cost recovery from the property tax roll for the program totaled \$10,167 for the 10/11 fiscal year. The amount billed on the property tax roll in the current fiscal year is \$77,581.

Fiscal Impact:

Program costs are recovered from interest charges collected on the assessments over the financing period as noted above. The CEC grant provides another source of revenue which helps to reduce the impact of the delay in cost recovery. There is no direct fiscal impact on the General Fund as proceeds from the Treasurer's purchase of the TRAN are credited to the mPOWER account in the General Fund, thereby avoiding a negative balance in the mPOWER account.

Attachments:

Note Resolution
mPOWER Program Summary

mPower Program Summary

(As of Oct. 19, 2011)

Current Program Statistics

Loans Issued YTD

- 11 residential and 4 commercial loans issued for total loans of \$815,749.43.
- 2 additional commercial loan applications being processed
- 8 additional commercial loan applications are under pre application work. (Consults, Reviews)

Staffing:

- 2 building department staff redirected to staff the commercial program and intermittent use of Treasury staff time for program management.
- Current annual salaries and benefits for redirected staff: \$245,660.
- Primary work identified at program start was processing. Now working significantly on commercial outreach and marketing, as well as application processing.

Revenue and repayment projections

- California Energy Commission (CEC) awarded ARRA grant funds October 28, 2010 to support of current and future Property Assessed Clean Energy (PACE) programs in California. The grant funding may be used to cover operational and other program related costs including staffing, loan loss reserve funding, energy audits and direct and indirect program overhead.
 - On April 5, 2011 BOS took action to accept **\$372,600** that will offset expenses related to the mPOWER Placer program incurred as of October 29, 2010 through March 2012.
 - In September, the County received reimbursement on the CEC grant in the amount of \$91,368.00.
 - Two more invoices have been sent to the CEC for reimbursement in the amounts of \$37,369, and \$37,554.28.
- Cost recovery from the property tax roll for the program totaled \$10,167 for the 10/11 fiscal year. The amount billed on the property tax roll in the current fiscal year is \$77,581.

Bond Authorization	\$ 33,000,000.00
Amount disbursed to property owners	815,749.43
Balance Available for Disbursements	\$ 32,184,250.57
TRAN Outstanding	\$ 976,000.00
Total Program Costs to date	\$ 976,000.00
Total Assessment Interest on distributed amount over 20 years @ 7.25%	\$ 782,985.41
Interest to Treasury depositors	323,068.04
Reimbursement to County	459,917.37
CEC Grant	372,600.00
Projected Cost Recovery	\$ 832,517.37
Assessments in Pre-Application (8)	\$ 1,996,343.00

Future of the Program

- **Federal Legislation:** On July 20, 2011 Federal Legislation H.R. 2599 PACE Assessment Protection Act of 2011 was introduced to the 112th Congress: To prevent Fannie Mae, Freddie Mac, and other Federal residential and commercial mortgage lending regulators from adopting policies that contravene established State and local property assessed clean energy laws. The bill has been referred to committee and has 39 co-sponsors.
- **Litigation:** The litigation against FHFA is ongoing and updates to the Board are provided by County Counsel.

Program Background

Program approved December 8, 2009 and January 26, 2010, by BOS under AB 811 and AB 474. On July 27, 2010, the residential program was suspended by the BOS due to policy actions taken by the Federal Housing Finance Authority.

The financing provided to property owners is secured by an assessment contract and the amortized repayment is collected in twice yearly installments on the annual property tax bills.

Financing: \$33M bond and a loan agreement approved by the BOS on Feb.9, 2010.

Structure: Placer County Public Financing Authority (PCPFA) issued bonds which were purchased by the County's Treasurer's Investment Pool.

TRAN: The PCPFA in turn entered into a \$5M loan agreement with the County to finance the administration of the program. The current balance for approval by the Board is \$

Repayment: The financing provided to property owners is secured by an assessment contract and the amortized repayment is collected in twice yearly installments on the annual property tax bills.

Operating Budget:

The mPOWER program established a separate enterprise fund which accounts for the administration and ongoing operations of the program. It consists of the a) program fund to pay for eligible costs for distribution to the property owner, b) the administrative expense fund which pays for program administrative expenses and receives TRAN proceeds, and c) the redemption fund for collection of assessment payments.

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

In the matter of:

Resol. No: _____

Authorizing the Borrowing of Funds for Fiscal Year 2011-12 and the Issuance and Sale to the Placer County Treasurer of a County of Placer, California 2011-12 Placer mPOWER Program Administration Tax and Revenue Anticipation Note in an Amount Not to Exceed \$5 Million.

Related to Ord. No: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on October 25, 2011 .

By the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, pursuant to Article 7.6 (commencing with section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Law"), this Board of Supervisors (the "Board of Supervisors") has found and determined that moneys are needed for the requirements of the County of Placer, a municipal corporation and county duly organized and existing under the laws of the State of California (the "County"), and that it is necessary that said sum be borrowed for such purpose at this time by the issuance of a note in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received by the County for the General Fund of the County (the "General Fund"), during or allocable to the fiscal year of the County beginning July 1, 2011 and ending June 30, 2012 ("Fiscal Year 2011-12");

NOW, THEREFORE, it is hereby DETERMINED and ORDERED as follows:

Section 1. Authorization and Terms of Note. Solely for the purpose of anticipating taxes, income, revenue, cash receipts and other moneys to be received by the County for the General Fund during or allocable to Fiscal Year 2011-12, and not pursuant to any common plan of financing, the County hereby determines to and shall borrow the principal amount of not-to-exceed \$5 Million Dollars (\$5,000,000) subject to the (the "Maximum Principal Amount") by the issuance of a note under the Law, designated "County of Placer, California 2011-12 Placer mPOWER Program Administration Tax and Revenue Anticipation Note" (the "Note"). The Note shall bear interest at the rate of no more than 0.75% on the outstanding principal amount of the Note. The Note shall be dated the date of initial delivery, shall mature no later than thirteen months after the date of issuance, and shall bear interest, payable at maturity and computed on a 30-day month/360-day year basis. Both the principal of and interest on the Note shall be payable in lawful money of the United States of America, as described below.

The Note is subject to redemption prior to maturity, in whole or in part, at any time, without premium.

Section 2. Purchase of Note; Payment of Principal and Interest. The Treasurer-Tax Collector is authorized to purchase the Note, in an amount not to exceed the Maximum Principal Amount, on behalf of the Placer County Treasurer's Investment Pool.

All payments of the principal of and interest on the Note and all notices with respect to the Note shall be made and given to the Treasurer-Tax Collector.

Section 3. Limitation on Maximum Amount. The principal amount of the Note, when added to the interest payable thereon, shall not exceed one and one-half percent (1.5%) of the estimated amount of the uncollected taxes, income, revenue, cash receipts and other moneys of the County for the General Fund attributable to Fiscal Year 2011-12, and available for the payment of the Note and the interest thereon.

Section 4. Initial Principal Amount; Increases in the Principal Amount. The initial principal amount of the Note shall be an amount determined by the Treasurer-Tax Collector; provided that the maximum principal amount shall not exceed the Maximum Principal Amount. Thereafter, the Treasurer-Tax Collector may cause the principal amount of the Note to be increased by causing a replacement Note to be prepared to reflect such increased principal amount; provided that the maximum principal amount shall not exceed the Maximum Principal Amount.

Section 5. Form of Note. The Note shall be issued as a single note in fully registered form, without coupons, and shall be substantially in the form and substance set forth in Exhibit A attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures.

Section 6. Use of Proceeds. The proceeds of the sale of the Note shall be deposited in a segregated account in the General Fund and used by the County to pay the costs of administering the County's "Placer money for Property Owner Water & Energy Efficiency Retrofitting Program".

Section 7. Security. The principal amount of the Note, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the County for the General Fund for Fiscal Year 2011-12. As security for the

payment of the principal of and interest on the Note the County hereby pledges the first "unrestricted moneys" (as hereinafter defined) to be received by the County (a) an amount equal to fifty percent (50%) of the principal amount of the Note in the month of January, 2012; (b) an amount equal to fifty percent (50%) of the principal amount of the Note in the month of May, 2012; and (c) an amount sufficient to pay interest as due on the Note at their maturity, in the month of June, 2012 (such pledged amounts being hereinafter called the "Pledged Revenues"). The principal of the Note and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Note shall be paid from any other moneys of the County lawfully available therefor. In the event that there are insufficient "unrestricted moneys" received by the County to permit the deposit into the Redemption Fund (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the County lawfully available for the repayment of the Note and interest thereon. The term "unrestricted moneys" shall mean taxes, income, revenue, cash receipts, and other moneys intended as receipts for the General Fund for Fiscal Year 2011-12 and which are generally available for the payment of current expenses and other obligations of the County.

Section 8. Redemption Fund. There is hereby created, within the General Fund, a special account to be designated the "2011-12 Placer mPOWER Program Administration Tax and Revenue Anticipation Note Redemption Fund" (the "Redemption Fund") and applied as directed in this Resolution. Any money placed in the Redemption Fund shall be for the benefit of the owners of the Note and, until the Note and all interest thereon are paid or until provision has been made for the payment of the Note at maturity with interest to maturity, the moneys in the Redemption Fund shall be applied solely for the purposes for which the Redemption Fund is created.

During June, 2012, the County shall deposit all Pledged Revenues in the Redemption Fund. On the maturity date of the Note, the County shall transfer to the Treasurer-Tax Collector the moneys in the Redemption Fund necessary to pay the principal of and interest on the Note at maturity and to the extent said moneys are insufficient therefor an amount of moneys from the General Fund which will enable payment of the full principal of and interest on the Note at maturity. Any moneys remaining in the Redemption Fund after the Note and the interest thereon have been paid, or provision for such payment has been made, shall be transferred to the General Fund.

Section 9. Deposit and Investment of Redemption Fund. All moneys held by the County in the Redemption Fund, if not invested, shall be held in time or demand deposits as public funds and shall be secured at all times by bonds or other obligations which are authorized by law as security for public deposits, of a market value at least equal to the amount required by law.

Moneys in the Redemption Fund shall, to the greatest extent possible, be invested by the County directly, or through an investment agreement, in investments as permitted by the laws of the State of California as now in effect and as hereafter amended, and the proceeds of any such investments shall be deposited in the Redemption Fund. The moneys in the Redemption Fund may be invested in the Placer County Treasurer's Investment Pool.

Section 10. Execution of Note. The Chairman of the Board of Supervisors, the County Executive Officer, or the Treasurer-Tax Collector (each an "Authorized Officer") is hereby authorized to execute the Note by manual or facsimile signature, and the County Clerk of the

County is hereby authorized to countersign the same by manual or facsimile signature (although at least one of such signatures shall be manual) and to affix the seal of the County thereto by facsimile impression thereof, and said officers are hereby authorized to cause the blank spaces thereof to be filled in as may be appropriate.

Section 11. Transfer of Note. The Note is not subject to transfer.

Section 12. Covenants and Warranties. It is hereby covenanted and warranted by the County that all representations and recitals contained in this Resolution are true and correct, and that the County and its appropriate officials have duly taken all proceedings necessary to be taken by them, and will take any additional proceedings necessary to be taken by them, for the prompt collection and enforcement of the taxes, income, revenue, cash receipts and other moneys pledged hereunder in accordance with law and for carrying out the provisions of this Resolution.

Section 13. Tax Matters. The interest on the Note is not exempt from federal income taxation.

Section 14. Official Action. The Chairman of the Board of Directors, the County Executive Officer, the Treasurer-Tax Collector and the County Clerk, or any of them, are further authorized and directed to make, execute and deliver such certificates, agreements and other closing documents as are necessary to consummate the transactions contemplated by this Resolution.

Section 15. Amendment. The Chairman of the Board of Directors, the County Executive Officer and the Treasurer-Tax Collector are all authorized to make minor amendments to this Resolution in order to correct any mis-reference or misspelling contained herein. Such amendment shall be done by a certificate signed by the Chairman of the Board, the County Executive Officer, the Treasurer-Tax Collector and the County Clerk.

Section 16. Effective Date. This Resolution shall take effect upon its adoption.

EXHIBIT A
FORM OF NOTE

No. 1

*****\$ _____****

COUNTY OF PLACER, CALIFORNIA

2011-12 PLACER MPOWER PROGRAM ADMINISTRATION
TAX AND REVENUE ANTICIPATION NOTE

INTEREST RATE:	MATURITY DATE:	ISSUE DATE:	CUSIP:
%	____, 2012	____, 2011	

REGISTERED OWNER: COUNTY TREASURER-TAX COLLECTOR

PRINCIPAL AMOUNT: ***** _____ MILLION DOLLARS*****
(NOT TO EXCEED \$5 MILLION DOLLARS)

The COUNTY OF PLACER, a county duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "County"), for value received hereby promises to pay to the Registered Owner stated above (the "Owner"), on the Maturity Date stated above, the Principal Amount stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money at the rate per annum stated above, payable on the Maturity Date stated above, calculated on the basis of 360-day year composed of twelve 30-day months. Both the principal of and interest on this Note shall be payable at maturity to the Owner.

It is hereby certified, recited and declared that this Note is authorized to be issued in a principal amount not to exceed \$5 Million Dollars (\$5,000,000) (the "Maximum Principal Amount"), pursuant to Resolution No. _____ of the Board of Supervisors of the County duly passed and adopted on October 25, 2011 (the "Resolution"), and pursuant to Article 7.6 (commencing with section 53850) of Chapter 4, Part 1, Division 2, Title 5, of the California Government Code, and that all things, conditions and acts required to exist, happen and be performed precedent to and in the issuance of the Note exist, have happened and have been performed in regular and due time, form and manner as required by law, and that this Note, together with all other indebtedness and obligations of the County, does not exceed any limit prescribed by the Constitution or statutes of the State of California.

Pursuant to the Resolution, the initial principal amount of the Note shall be an amount determined by the Treasurer-Tax Collector; provided that the maximum principal amount shall not exceed the Maximum Principal Amount. Thereafter, the Resolution authorizes the Treasurer-Tax Collector to cause the principal amount of the Note to be increased by causing a

replacement Note to be prepared to reflect such increased principal amount; provided that the maximum principal amount shall not exceed the Maximum Principal Amount.

The principal amount of the Note, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the County for the General Fund of the County for Fiscal Year 2011-12. As security for the payment of the principal of and interest on the Note the County has pledged the first "unrestricted moneys" (as hereinafter defined) to be received by the County (a) an amount equal to fifty percent (50%) of the principal amount of the Note in the month of January, 2012; (b) an amount equal to fifty percent (50%) of the principal amount of the Note in the month of May, 2012; and (c) an amount sufficient to pay interest as due on the Note at their maturity, in the month of June, 2012 (such pledged amounts being hereinafter called the "Pledged Revenues"). The principal of the Note and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the Note shall be paid from any other moneys of the County lawfully available therefor. In the event that there are insufficient "unrestricted moneys" received by the County to permit the deposit into the Redemption Fund (as hereinafter defined) of the full amount of the Pledged Revenues to be deposited in any month by the last business day of such month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the County lawfully available for the repayment of the Note and interest thereon. The term "unrestricted moneys" shall mean taxes, income, revenue, cash receipts, and other moneys intended as receipts for the General Fund of the County for Fiscal Year 2011-12 and which are generally available for the payment of current expenses and other obligations of the County.

The Note is issuable as fully registered note, without coupons.

The Note is subject to redemption, in whole or in part, at any time without premium prior to maturity.

This Note is not subject to transfer.

IN WITNESS WHEREOF, the County of Placer has caused this Note to be executed by the Chair of the Board of Supervisors and countersigned by the County Clerk, all as of the Issue Date stated above.

COUNTY OF PLACER

By _____
Chairman of the Board of Supervisors

Countersigned:

By _____
County Clerk