

Memorandum
Office of Jenine Windeshausen
Treasurer-Tax Collector



To: The Board of Supervisors

From: Jenine Windeshausen, Treasurer-Tax Collector

Date: June 16, 2015

Subject: Public Hearing related to new mPOWER Bonds and Loan Agreements in an amount not to exceed \$67 million, and a Resolution Approving Issuance and Sale of Bonds and Approving Related Loan Agreements

Action Requested:

1. Hear a presentation reporting on the statistical and financial status of the mPOWER Program.
2. Hold a public hearing to consider:
 - a. an amendment of the Amended and Restated AB 811 Program Report and Administrative Guidelines,
 - b. the proposed issuance of one or more series of revenue bonds (the "Authority Bonds") by the Placer County Public Financing Authority (the "Authority"),
 - c. the making of one or more loans (the "Loans") by the Authority to the County from the proceeds of the Authority Bonds for the purpose of financing the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements (the "Authorized Improvements"), and
 - d. whether there are any significant public benefits to the County, in accordance with the criteria specified in Section 6586 of the Government Code, from the issuance of the Authority Bonds, the making of the Loans and the installation of the Authorized Improvements.
3. Adopt a Resolution confirming, approving and ratifying the Amended and Restated AB 811 Program Report and Administrative Guidelines for the Placer money for Property Owner Water & Energy Efficiency Retrofitting Program, including an increase in the maximum aggregate dollar amount of voluntary contractual assessments to \$100 million, and approving the execution and delivery of one or more limited obligation loan agreements and the issuance of the Bonds by the Authority for the purpose of financing the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property, authorizing the purchase of one or more series of bonds by the Treasurer-Tax Collector, authorizing the Treasurer-Tax Collector to act as Trustee, to hire a registered broker-dealer to act as placement agent for the Authority Bonds and to hire Jones Hall as bond counsel, and providing for other matters.

Background:

On January 26, 2010, after holding public hearing, the Board of Supervisors adopted Resolution No. 2010-22, pursuant to which the Board of Supervisors, confirmed and approved the original Program Report for the mPOWER program, established the mPOWER Program (Program), and authorized the execution of Assessment Contracts with the owners of property in the County to provide for the levy of contractual assessments to finance installation of certain energy efficiency, water conservation and renewable generation improvements.

The Program was launched in March of 2010. Then the residential program was suspended between July 2010 and July 2013. Since the suspension was lifted, the program has seen robust demand from both residential and non-residential property owners. The following table shows the demand and deal flow of both residential and non-residential applications received as of June 8, 2015.

	# Received	Total \$ Amount
Applications Received:	1,456	\$43,726,583
Applications Approved:	1,009	\$34,669,829
Applications Funded:	876	\$28,299,719
Applications Withdrawn or denied:	314	

The above table reflects an average monthly demand of 60 applications received for an average amount of \$30,000 per application, or approximately \$1.8 million in deal flow per month. More detailed information on the Program's performance and current Program budget and finances are included in the presentation to your Board.

The original Program Report established an initial maximum aggregate dollar amount of assessments of \$33 million, but also provided for future amendment of the original Program Report to increase the maximum aggregate dollar amount of voluntary contractual assessments in response to demand.

Based on the experience of the Program over the past two years, the Treasurer-Tax Collector has determined that there is demand for financing from the Program in excess of \$33 million, and is therefore requesting approval to further amend the Amended and Restated AB 811 Program Report and Administrative Guidelines which was most recently updated by the Treasurer-Tax Collector on June 9, 2014, (the "2014 Program Report") to increase the maximum aggregate dollar amount of voluntary contractual assessments to \$100 million which is an increase of \$67 million over the \$33 million previously authorized.

The County published a notice of public hearing with respect to its intention to amend the 2014 Program Report related to the authorization for issuance and sale of the Bonds by the Authority and the associated Loans from the Authority to the County. The Board is asked to hold the public hearing and upon the close of the public hearing to adopt the attached resolution and to thereby make a

288

finding of public benefit from the public financing in that (i) there will be demonstrable savings to the County and the owners of the Participating Parcels from the sale of the Authority Bonds to the Placer County Treasurer-Tax Collector and by the lending of the proceeds thereof to the County, including savings in effective interest rate and issuance costs, (ii) there will be significant reductions in the cost of installation of Authorized Improvements by the owners of Participating Parcels, and (iii) there will be employment benefits from undertaking the financing in a timely fashion because it will increase the number of Authorized Improvements being installed in the County. Adoption of the resolution therefore approves the financing of the Authorized Improvements, confirms, approves and ratifies the Amended and Restated AB 811 Program Report and Administrative Guidelines for the Placer money for Property Owner Water & Energy Efficiency Retrofitting Program, including an increase in the maximum aggregate dollar amount of voluntary contractual assessments in an amount not to exceed \$100 million, and approves the execution and delivery of one or more limited obligation loan agreements and approves the issuance of Bonds by the Authority. Pursuant to the issuance and sale of the Authority Bonds, the resolution authorizes the Treasurer-Tax Collector to act as Trustee, to hire a registered broker dealer and to hire bond counsel to complete the issuance and sale transaction. The resolution also authorizes the proper County officials to take other actions as necessary to complete the issuance and sale of the Authority Bonds.

Subsequently, the Authority will consider issuing one or more series of Authority Bonds in an aggregate principal amount not to exceed \$67 million. The Authority will use the proceeds of the Bonds to make one or more loans from the Authority to the County, and the County will use the proceeds of the loan to finance the installation of Authorized Improvements on property in the County. The proceeds of the Loans to the County are an aggregate principal amount not to exceed \$67 million.

Fiscal Impact:

The mPOWER program operates under an enterprise fund therefore there is no direct impact to the County General Fund. The repayment of the Loan(s) is fully payable from proceeds on the underlying assessments without recourse to the County and the repayment of the Authority Bonds is fully payable from proceeds of the repayment of the Loan(s) without recourse to the County. A portion of the interest from the underlying assessments will flow to the Program as revenue.

On file with the Clerk of the Board:

1. Limited Obligation Loan Agreement
2. Amended and Restated Program Report and Administrative Guidelines for the money for Property Owner Water and Energy Efficiency Retrofitting Program.

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

In the matter of:

Resol. No: _____

Confirming, approving and ratifying the Amended and Restated AB 811 Program Report and Administrative Guidelines for the Placer money for Property Owner Water & Energy Efficiency Retrofitting Program, including an increase in the maximum aggregate dollar amount of voluntary contractual assessments, and approving the execution and delivery of one or more limited obligation loan agreements and the issuance of bonds for the purpose of financing the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property, and providing other matters properly relating thereto

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 _____, 2015 .

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

290

WHEREAS, the Placer County Public Financing Authority (the "Authority") is a joint powers authority duly organized and existing under that certain Joint Exercise of Powers Agreement, dated May 9, 2006, by and between the County of Placer (the "County") and the Placer County Redevelopment Agency, and under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"); and

WHEREAS, the Authority is authorized pursuant to Article 4 of the Act to issue bonds for the purpose of making loans to local agencies, to the extent those local agencies are authorized by law to borrow moneys, when the loan proceeds will be used by the local agencies to pay for public capital improvements; and

WHEREAS, the County is authorized to borrow money under Sections 5898.22 and 5898.28 of Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Chapter 29") to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property (the "Authorized Improvements"), and the Authorized Improvements constitute "public capital improvements" as defined in the Act; and

WHEREAS, on December 8, 2009, the Board of Supervisors of the County (the "Board of Supervisors") adopted Resolution No. 2009-343, entitled "Declaring the County of Placer's Intention to Finance Distributed Generation Renewable Energy Sources, and Energy Efficiency Improvements and Water Efficiency Improvements Through the Use of Contractual Assessments Pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and Setting a Public Hearing Thereon" (the "Resolution of Intention"), to initiate proceedings under Chapter 29 to establish the "Placer money for Property Owner Water & Energy Efficiency Retrofitting Program" (the "Program"), pursuant to which the County will enter into contractual assessments to finance the installation of Authorized Improvements as described in the Resolution of Intention; and

WHEREAS, on January 26, 2010, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed Program or any of its particulars, the Board of Supervisors adopted Resolution No. 2010-22, entitled "Resolution Confirming Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources, Energy Efficiency and Water Efficiency Improvements and Approving and Ordering Other Related Matters," (the "Resolution Confirming Program Report"), pursuant to which the Board of Supervisors, among other things, (i) confirmed and approved a report (the "Original Program Report") addressing all of the matters set forth in Section 5898.22 of Chapter 29, and authorized the Treasurer-Tax Collector to make such changes to the matters addressed by the Original Program Report as the Treasurer-Tax Collector determined were appropriate in connection with implementation of the Program, (ii) established the Program, and (iii) authorized execution of agreements ("Assessment Contracts") with the owners of property in the County (the "Program Area") to provide for the levy of contractual assessments to finance installation of Authorized Improvements; and

WHEREAS, the Original Program Report established an initial maximum aggregate dollar amount of voluntary contractual assessments of \$33 million, but also provided for future

amendment of the Original Program Report to increase the maximum aggregate dollar amount of voluntary contractual assessments in response to demand; and

WHEREAS, the County has determined that there is demand for financing from the Program in excess of \$33 million, and wishes to approve an amendment of the current Amended and Restated AB 811 Program Report and Administrative Guidelines (which was most recently updated by the Treasurer-Tax Collector on June 9, 2014) (the "2014 Program Report") to increase the maximum aggregate dollar amount of voluntary contractual assessments to \$100 million; and

WHEREAS, the County published a notice of public hearing with respect to its intention to amend the 2014 Program Report; and

WHEREAS, for the purpose of providing moneys to fund one or more loans to the County in an aggregate principal amount not to exceed \$67 million (the "Loans"), the proceeds of which Loan the County will use to finance the installation of Authorized Improvements on property in the County (the "Participating Parcels"), the Authority has determined to issue one or more series of Placer County Public Financing Authority Revenue Bonds (Placer mPOWER Program) in an aggregate principal amount not to exceed \$67 million (the "Bonds"); and

WHEREAS, the County has the authority to incur the Loans under Chapter 29 and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the "1915 Act"); and

WHEREAS, as a condition precedent to the issuance of the Bonds by the Authority, Section 6586.5 of the California Government Code requires that the County approve the proposed issuance of the Bonds by the Authority, and that the County make certain findings with respect to such issuance of the Bonds, and Section 6586.5 further requires that such approval be given and findings be made only after noticed public hearings thereon; and

WHEREAS, the County has given such required notice and duly held such public hearing; and

WHEREAS, the Board desires to make a finding of significant public benefit, pursuant to section 6586.5(a)(2) of the California Government Code, and to approve the financing of the Authorized Improvements; and

WHEREAS, a default judgment was entered on November 19, 2010, by the Superior Court of the County of Placer in the validation action entitled "ALL PERSONS INTERESTED IN THE MATTER of the mPOWER Placer Program, All Proceedings Relating Thereto and All Bonds, Contracts, Obligations or Evidences of Indebtedness Relating Thereto," Case No. SCV-26931;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Placer takes the following actions:

Section 1. The Board of Supervisors hereby finds and declares that the above recitals are true and correct.

Section 2. The Board hereby approves, confirms and ratifies an amendment of the 2014 Program Report (the "Amended Program Report"), in substantially the form on file with the Clerk, and specifically approves an increase in the maximum aggregate dollar amount of voluntary

contractual assessments to \$100 million. The Treasurer-Tax Collector is hereby authorized to make such changes to the matters addressed by the Amended Program Report, including but not limited to the list of Authorized Improvements, the draft Contract and the plan for financing installation of the Authorized Improvements, as the Treasurer-Tax Collector determines are appropriate in connection with implementation of the Program.

Section 3. The Board of Supervisors hereby approves the issuance of the Bonds by the Authority and determines that there are significant public benefits to the County from the proposed financing in that (i) there will be demonstrable savings to the County and the owners of the Participating Parcels from the sale of the Bonds to the Placer County Treasurer-Tax Collector and by the lending of the proceeds thereof to the County, including savings in effective interest rate and issuance costs, (ii) there will be significant reductions in the cost of installation of Authorized Improvements by the owners of Participating Parcels, and (iii) there will be employment benefits from undertaking the financing in a timely fashion because it will increase the number of Authorized Improvements being installed in the County.

Section 4. In connection with the issuance of the Bonds, the Board of Supervisors hereby approves the execution and delivery of one or more Limited Obligation Loan Agreements (each, a "Loan Agreement") substantially in the form on file with the Clerk, together with any changes therein or additions thereto approved by the County Executive Officer or the Treasurer-Tax Collector (the "Designated Officers"), the execution of which shall be conclusive evidence of such approval.

The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the County to execute, the final form of the Loan Agreements for and in the name of the County.

The Participating Parcels may be divided into two or more pools as determined by the Treasurer-Tax Collector.

Section 5. The Board of Supervisors hereby approves the sale of one or more series of Bonds to one or more accredited investors (as that term is defined in Rule 501 of Regulation D promulgated under the United States Securities Act of 1933, as amended) to be identified by the Treasurer-Tax Collector, after consultation with County Counsel, the County's municipal advisor and bond counsel, with each sale to be documented pursuant to a Purchase Agreement (each, a "Purchase Agreement") among the Authority, the County and the purchaser, in substantially the form on file with the Clerk, together with any changes therein or additions thereto approved by a Designated Officer, whose execution thereof shall be conclusive evidence of approval of any such additions and changes. The Purchase Agreement shall be executed in the name and on behalf of the County by a Designated Officer, each of whom is hereby authorized and directed to execute and deliver the Purchase Agreement on behalf of the County.

Pursuant to Government Code Section 53601, the Board of Supervisors hereby authorizes the purchase by the Treasurer-Tax Collector on behalf of the Placer County Treasurer's Investment Portfolio of one or more series of the Bonds even though the Bonds will have a maturity date in excess of five years. The sale shall be accomplished by execution of a Purchase Agreement among the County, the Authority and the Placer County Treasurer-Tax Collector.

The Board of Supervisors hereby authorizes the Treasurer-Tax Collector to act as trustee with respect to the Bonds or to retain a national banking association with a corporate trust

department to act as trustee, as the Treasurer-Tax Collector determines is most appropriate from time to time.

The Board of Supervisors hereby authorizes the Treasurer-Tax Collector, on behalf of the County, to hire a registered broker-dealer to act as placement agent for the Bonds and to enter into an agreement with such registered broker-dealer, and execution by a Designated Officer of an agreement with the registered broker-dealer shall be conclusive evidence of the approval of such agreement.

The Board of Supervisors hereby authorizes the Treasurer-Tax Collector, on behalf of the County, to hire Jones Hall to act as bond counsel for the Bonds and to enter into an agreement with such Jones Hall, and execution by a Designated Officer of an agreement with the Jones Hall shall be conclusive evidence of the approval of such agreement.

Section 6. All actions heretofore taken by the officers and agents of the County with respect to the Amended Program Report, the sale and issuance of the Bonds, and the execution and delivery of the Loan Agreements are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are 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 and execute and deliver 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 execution and delivery of the related documents in accordance with this Resolution, including but not limited to those certificates, agreements and other documents described in the Loan Agreements and the Purchase Agreements and the other documents herein approved, and any certificates, agreements or documents as may be necessary to further the purpose hereof or provide additional security for the Bonds and the Loan Agreements, but which shall not create any obligation or liability of the County other than the contractual assessments pledged as security for the Loan Agreements.

Section 7. This Resolution shall take effect from and after the date of approval and adoption thereof.