

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 5, 2019	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: County Service Area 5 APPROVING PARTY: Tim H. Beals PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the costs of improvements to the Sierra Brooks Water System by county Service Area 5 to serve an area lawfully within its jurisdiction to serve.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
The resolution is in draft form as it is pending approval from USDA Rural Development on January 30, 2019. A final version will be provided as soon as it is available.

BACKGROUND INFORMATION: The next steps in the process of issuing the assessment bonds for the Sierra Brooks Water Project now that the assessments have been confirmed following the balloting process, is for the Board of Supervisors, acting as the governing authority of CSA 5, are the adoption of the Loan Resolution and the Bond Resolution. The attached is the Loan Resolution.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2019- _____ Agreement 2019- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD _____	DATE _____
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**COUNTY SERVICE AREA 5
COUNTY OF SIERRA**

**RESOLUTION AUTHORIZING AND PROVIDING FOR THE
INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF
PROVIDING A PORTION OF THE COSTS OF IMPROVEMENTS TO
THE SIERRA BROOKS WATER SYSTEM BY COUNTY SERVICE
AREA 5 TO SERVE AN AREA LAWFULLY WITHIN ITS
JURISDICTION TO SERVE**

RESOLUTION NO. 2019-___ CSA

WHEREAS, it is necessary for County Service Area 5 (“CSA 5) of the County of Sierra to raise a portion of the cost of improvements to the Sierra Brooks Water System by the issuance of its Limited Obligation Improvement Bond (the “Bond”) in the principal amount of \$[PAR AMOUNT] pursuant to the provisions of the California Streets and Highways Code; and

WHEREAS, CSA 5 intends to obtain assistance from the Rural Housing Service, Rural Business – Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture (herein called the “Government”), acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of the Bond lawfully issued, in the event that no other acceptable purchaser for the Bond is found by CSA 5.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Sierra, acting as the governing authority of CSA 5, as follows:

1. To have prepared on its behalf and to adopt a resolution for the issuance of the Bond and execution and delivery of Bond documents containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of the Bond upon the request of the Government if at any time it shall appear to the Government that CSA 5 is able to refinance the Bond by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, “Assurance Agreement,” and Form RD 400-1, “Equal Opportunity Agreement,” including an “Equal Opportunity Clause,” which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of CSA 5. Such indemnification shall be payable from the same source of funds pledged to pay the Bond or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the Bond or in the performance of any covenant or agreement contained herein or in the instruments incident

to making or insuring the loan, the Government at its option may (a) for the account of CSA 5 (payable from the source of funds pledged to pay the Bond or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the Sierra Brooks Water System (the “water system”) and such other reasonable expenses as may be necessary to cure the cause of default, and/or (b) take possession of the water system, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by CSA 5, and default under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the water system or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.

7. Not to defease the Bond, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the water system (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the Bond.

8. To place the proceeds of the Bond on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the water system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the water system in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the water system financed by the Government. No free service or use of the water system will be permitted.

10. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

11. To establish and maintain such books and records relating to the operation of the water system and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

12. To provide the Government at all reasonable times access to all books and records relating to the water system and access to the property of the water system so that the Government may ascertain that CSA 5 is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

13. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the Bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:

- a. Paying the cost of repairing or replacing any damage to the water system caused by catastrophe.
- b. Repairing or replacing short-lived assets.
- c. Making extensions or improvements to the water system.

Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.

14. To comply with the measures identified in the Government's environmental impact analysis for this water system for the purpose of avoiding or reducing the adverse environmental impacts of the water system's construction or operation.

15. The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon CSA 5 as long as the Bond is held or insured by the Government or assignee. The provisions of sections 6 through 14 hereof may be provided for in more specific detail in the Bond documents; to the extent that the provisions contained in such Bond documents should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between CSA 5 and the Government or assignee.

PASSED AND ADOPTED on February 5, 2019, by the following vote:

AYES:

NOES:

ABSENT:

PAUL ROEN
Chairman of the Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Heather Foster, Clerk of the Board

David Prentice, County Counsel

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Clerk of the Board of Supervisors of the County of Sierra, hereby certify that the Board of Supervisors of the County, which acts as the governing authority of County Service Area 5, is composed of five members, of whom _____, constituting a quorum, were present at a meeting thereof duly called and held on the 5th day of February, 2019; and that the foregoing resolution was adopted at such meeting by the vote shown above. I further certify that as of _____, the date of closing of the loan from the Government, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this _____ day of _____, 2019

Title Clerk of the Board of Supervisors