SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-B**

FROM: Steve Mack, General Manager

Meeting Date: October 2, 2014

SUBJECT: DISCUSSION/ACTION RE RESOLUTION 14-18 WHICH APPROVES A RESCHEDULING AGREEMENT WITH THE U.S. DEPARTMENT OF AGRICULTURE (USDA) FOR RESOLUTION OF USDA BOND REFINANCING ISSUES AND A SIDE LETTER CLARIFYING CERTAIN LANGUAGE IN THE AGREEMENT

RECOMMENDED ACTION: Approve Resolution 14-18 which approves a Rescheduling Agreement with U.S. Department of Agriculture (USDA) for the remainder of the USDA 2003 Series Bonds along with a Side Letter which clarifies some objectionable language in the Rescheduling Agreement.

FISCAL IMPACT: Approximately $900,000 savings over the life of the repayment; $8,000 annual savings in first 19 years.

DISCUSSION:

The District refinanced its USDA bond debt last summer (2013). Because of the instability of the bond market, the District was only able to refinance the first 20 years of 29 years remaining on the series 2003 bonds leaving a remainder of approximately $1.6 million in bonds that would have principal due starting in 2033. At the time of the refinancing, the District and its financial advisors Brandis Tallman and Meyers Nave Bond Counsel understood via written emails that USDA concurred with the District's refinancing approach. In March 2014 we heard from USDA that the refinancing approach was not acceptable to them; the main issue appeared to be nonpayment of principal during the first 20 years or so of the remaining 2003 series bonds.

After much discussion and exchange of emails USDA has proposed resolution of this misunderstanding. Their proposal is to refinance the Series 2003 bonds remainder for 40 years at 2.375%. Compared to the refinancing that we thought went into effect a year ago, the USDA proposal would reduce the District's annual payments by approximately $8,000 per year in the first 20 years, substantially reduce the payments for the next 9 years – the bonds that were not called – but add 11 years to the total payment period. Their proposal saves the District approximately $900,000 over the life of the total repayment period which adds to the savings already accrued with the initial refinancing (approximately $925,000). The proposed solution includes deferring the FY2014-2015 payment – the 2015 fiscal year payment would be skipped and the next payment would be in August 2015. This is a good resolution of this situation.

The Rescheduling Agreement (Exhibit A) required by USDA to put this resolution into effect contains inaccurate language regarding the facts of the situation and is objectionable to the District as well. If the agreement is left alone, third parties who have not been a part of this resolution may be led to the conclusion that the District has not fulfilled its financial obligations with respect to repaying its USDA debt and that is not correct. USDA staff have informed us that changing the language of the Rescheduling Agreement is not possible at this time because it is a required form agreement and so we are proposing a Side Letter that corrects the inaccurate language. The Side Letter is still under review by USDA; we anticipate agreement by both parties to something substantially similar to this letter (Exhibit B, it may be on District letterhead rather than USDA, for example).

Staff recommends approval of Resolution 14-18 which approves the Rescheduling Agreement and the Side Letter clarifying the objectionable language in the Rescheduling Agreement.

RESOLUTION 14-18

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT APPROVING A RESCHEDULING AGREEMENT WITH US DEPARTMENT OF AGRICULTURE AND A SIDE LETTER CLARIFYING CERTAIN LANGUAGE IN THE AGREEMENT

WHEREAS, the Sweetwater Springs Water District (the "District") entered into a partial refinancing of its US Department of Agriculture (USDA) Series 2003 bonds in August 2013 and believed, through verbal and written communications, that USDA concurred with all aspects of the refinancing, including repayment of the remainder of the Series 2003 bonds; and

WHEREAS, in March 2014 USDA communicated to the District that the repayment approach was unacceptable to the USDA; and

WHEREAS, the two parties, District and USDA, have reached an resolution of the misunderstanding through the approval of a Rescheduling Agreement, attached as Exhibit A based on a form provided by USDA; and

WHEREAS, the general form of the resolution is rescheduling the District's payments on the remaining debt as shown in Attachment A which includes repayment of the remaining principal of $1,611,000 and accumulated interest of $36,874.90 for a total principal repayment of 1,647,874.00 at an interest rate of 2.375%; and

WHEREAS, the form of the agreement required by USDA contains language objectionable to the District in that it states the District is "in default under that bond" and uses the term "delinquent payment", and cannot be readily changed to the agreement of both parties; and

WHEREAS, this discrepancy can be addressed by a Side Letter, attached as Exhibit B, to the satisfaction of both parties.

BE IT RESOLVED, by the Board of Directors of the Sweetwater Springs Water District, as follows:

Section 1. Rescheduling Agreement. The Board hereby approves the Rescheduling Agreement, attached at Exhibit A.

Section 2. Side Letter. The Board hereby approves a Side Letter in substantial conformance to the Side Letter, attached as Exhibit B, with the understanding that this letter is still under review by USDA and may have some minor changes.

Section 3. The General Manager is authorized to sign the Rescheduling Agreement and Side Letter on behalf of the District.

Section 4. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on October 2, 2014, by the following vote.

Director	**Aye**	**No**
Sukey Robb-Wilder	_____	_____
Tim Lipinski	_____	_____
Richard Holmer	_____	_____
Gaylord Schaap	_____	_____
Victoria Wikle	_____	_____

_____
Richard Holmer
President of the Board of Directors

_____
Attest: Julie A. Kenny
Clerk of the Board of Directors

In accordance with § 1782.11 of this Staff Instruction, the following format may be used to document a rescheduling agreement with the borrower.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

RESCHEDULING AGREEMENT
(Public Bodies)

Effective Date: _9-1-2014___

State: ___California__County: _____Sonoma_____

Case No.: _04-009-0680240474 Fund Code: 91__ Loan No.: _02_____

Amount Rescheduled: $___1,647,874.00_____Interest Rate: __2.3750___

The undersigned, a public body entity (herein called "Borrower"), being indebted for a loan made by the Rural Utilities Service, United States Department of Agriculture, (herein called "Government"), as evidenced by a bond or other debt instrument (herein called the "bond") dated April 29th, 2003, with an outstanding balance in the principal sum of $1,611,000.00 plus accrued interest as of September 1st, 2014, in the sum of $36,874.90, and being in default under that bond, hereby agrees with the Government as follows:

1. AMOUNT: The amount of the debt rescheduled is $1,647,874.90, consisting of $1,611,000.00 principal plus __$36,874.90__accrued interest. This amount represents:

_____ the delinquent amount only
____ the amount of the outstanding debt plus the delinquent amount.

2. PAYMENT SCHEDULE: The first installment of the rescheduled amount, including interest at the bond rate shown above, in the amount of $_25,147.00_ will be due and payable on ____September 1st, 2015; thereafter, _**SEE ATTACHED SCHEDULE** regular installments, each in the amount of $___**PER SCHEDULE**, will be due and payable on _____**September 1st** of each ___**YEAR**_____ until the rescheduled amount or, if the entire debt is being rescheduled, the entire indebtedness due under the bond, has

been fully repaid. The final installment, if not sooner paid, shall be due and payable as stated in the bond. Regular payments due in accordance with the bond ____ are _XX__ are not required in addition to the payments specified above.

3. The Government, as consideration for this agreement, will not enforce the remedies available to it by reason of any payment default occurring prior to the effective date of the agreement.

4 This agreement establishes a revised payment schedule to bring the delinquent loan account involved current, and nothing herein shall be construed as effecting any of the terms or conditions of the bond other than the payment schedule or suggest the satisfaction of the outstanding bond.

5. Upon default by the borrower on any terms or conditions of this agreement or other agreement, or violation of other rights of the Government as a lender, the Government at its option may declare the entire indebtedness immediately due and payable and exercise any and all rights and remedies available to it.

By resolution duly adopted on the _____ day of _____, 20 __, the Borrower

has authorized its _____ to execute this

agreement and its _____ to affix its corporate seal.

ATTEST: _____
Name of Borrower

BY _____ BY
_____

_____
_____
(Title) (Title)

Exhibit B. Proposed Side Letter

[UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
LETTERHEAD]

_____, 2014

VIA EMAIL AND FEDERAL EXPRESS

Sweetwater Springs Water District
Board of Directors
17081 Highway 116, Suite B
Guerneville, CA 95446

Re: Resolution 03-15 entitled "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT AUTHORIZING THE ISSUANCE OF IMPROVEMENT DISTRICT NO. 1 GENERAL OBLIGATION BONDS OF 1990, SERIES 2003" (the "Bond Resolution"), Resolution 03-16 relating to Loan Resolution (RUS Bulletin 1780-27) (the "Loan Resolution") and Resolution __ relating to the Rescheduling Agreement (Staff Instruction 1782-1) (the "Rescheduling Resolution")

Dear Board of Directors:

In connection with the above-referenced matter, this letter agreement (this "Letter Agreement") by and between Sweetwater Springs Water District ("Borrower") and Rural Utilities Service, United States Department of Agriculture ("Government") (collectively, the "Parties") confirms the Parties' agreement that notwithstanding formulaic language in Government's Rescheduling Resolution stating that Borrower is in default of its payment obligations under the Bonds (as defined in the Bond Resolution) issued under the Bond Resolution, and that the proposed revised repayment schedule will bring the "delinquent" loan current, Borrower is in fact neither in payment default nor delinquency, and has never received any notice from Government to that effect. Rather, the purpose of the Rescheduling Agreement is simply to provide a re-amortization of the Borrower's loan under the Loan Agreement at a reduced interest rate, to settle a misunderstanding between the Parties that occurred during the refinancing of Borrower's USDA bonds that was undertaken in August 2013.

In addition, the Parties agree that Government shall not report the Rescheduling Agreement to any rating agency or any financial institution that may provide credit to Borrower and, should any such rating agency or financial institution become aware of the Rescheduling Agreement and negatively rate or provide or decline to provide credit on that basis, Government shall use its best efforts to remedy the harm caused to Borrower as a result to references to "default" and "delinquent" in Government's form Rescheduling Agreement.

If Borrower agrees with and accepts the foregoing, please indicate acceptance of the terms of this Letter Agreement by executing a copy of the same and returning it to the

undersigned. This Letter Agreement may be executed in counterparts, and may be executed and delivered by facsimile transmission, which facsimile signatures shall be treated as originals.

GOVERNMENT:

RURAL UTILITIES SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM

By: Office of General Counsel
Name: _____
Title: _____

AGREED AND ACKNOWLEDGED

BORROWER:

SWEETWATER SPRINGS WATER DISTRICT

By: _____
Name: _____
Title: _____

2333040.2

Attachment A. Sweetwater Springs Water District
Rescheduled Bond Principal Amounts

	Maturity Date (September 1)	Principal Amount ($)	2.375% Interest	Interest Rate Annual Payment
	2014			
1	2015	25,147.00	$39,137.03	$64,284.03
2	2016	25,744.00	$38,540.10	$64,284.10
3	2017	26,355.00	$37,929.00	$64,284.00
4	2018	26,981.00	$37,303.38	$64,284.38
5	2019	27,622.00	$36,662.91	$64,284.91
6	2020	28,278.00	$36,007.22	$64,285.22
7	2021	28,950.00	$35,335.96	$64,285.96
8	2022	29,637.00	$34,648.76	$64,285.76
9	2023	30,341.00	$33,945.24	$64,286.24
10	2024	31,062.00	$33,225.01	$64,287.01
11	2025	31,799.00	$32,487.67	$64,286.67
12	2026	32,555.00	$31,732.83	$64,287.83
13	2027	33,328.00	$30,960.05	$64,288.05
14	2028	34,119.00	$30,168.92	$64,287.92
15	2029	34,930.00	$29,359.00	$64,289.00
16	2030	35,759.00	$28,529.85	$64,288.85
17	2031	36,608.00	$27,681.00	$64,289.00
18	2032	37,478.00	$26,812.00	$64,290.00
19	2033	38,368.00	$25,922.35	$64,290.35
20	2034	39,279.00	$25,011.58	$64,290.58
21	2035	40,212.00	$24,079.17	$64,291.17
22	2036	41,167.00	$23,124.62	$64,291.62
23	2037	42,145.00	$22,147.40	$64,292.40
24	2038	43,146.00	$21,146.97	$64,292.97
25	2039	44,171.00	$20,122.78	$64,293.78
26	2040	45,220.00	$19,074.27	$64,294.27
27	2041	46,294.00	$18,000.85	$64,294.85
28	2042	47,393.00	$16,901.94	$64,294.94
29	2043	48,519.00	$15,776.93	$64,295.93
30	2044	49,671.00	$14,625.20	$64,296.20
31	2045	50,851.00	$13,446.12	$64,297.12
32	2046	52,058.00	$12,239.04	$64,297.04
33	2047	53,295.00	$11,003.28	$64,298.28
34	2048	54,561.00	$9,738.18	$64,299.18
35	2049	55,856.00	$8,443.03	$64,299.03
36	2050	57,183.00	$7,117.12	$64,300.12
37	2051	58,541.00	$5,759.72	$64,300.72
38	2052	59,931.00	$4,370.09	$64,301.09
39	2053	61,355.00	$2,947.45	$64,302.45
40	2054	61,965.90	$1,491.02	$63,456.92
	TOTAL:	**1,647,874.90**	**922,955.04**	**2,570,829.94**