

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
NAPA, STATE OF CALIFORNIA, APPROVING ISSUANCE OF A NOTE ON
FUNDS LOANED TO LAKE BERRYESSA RESORT IMPROVEMENT
DISTRICT FOR THE PURPOSE OF FUNDING EXPENSES; AND
AUTHORIZING THE CHAIR AND CLERK OF THE BOARD TO SIGN THE
NOTE**

WHEREAS, pursuant to California Government Code section 25214.4, the board of supervisors may loan any available funds of the county to a county service area to pay for any lawful expenses of the county service area; and

WHEREAS, California Public Resource Code section 13031 applies the provisions of the County Service Area Law, including Government Code section 25214.4, to the conduct of the business of the resort improvement districts; and

WHEREAS, the Board of Supervisors (the "Board") of Napa County (the "County") has received from the Lake Berryessa Resort Improvement District ("District") a loan request for \$345,000 to provide funding for operations and a number of necessary equipment repairs that will both prevent future spills of wastewater; and

WHEREAS, the District may also be subject to additional fines for past spills of wastewater from the Regional Water Quality Control Board ("RWQCB") if the above-mentioned necessary maintenance activities are not addressed immediately;

WHEREAS, the District's inability to meet current obligations arose, in part, from emergency capital repairs during a period of time the District is assessing the future capital improvements to the wastewater treatment facilities;

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

1. All of the recitals herein set forth are true and correct and the Board so finds and determines.
2. The Board finds good cause to approve a loan to the District in light of the District's proposed solution to the ongoing concerns of wastewater spillage problems. The loan shall be repaid by the District to the County on or before June 30, 2014.
3. The Board hereby approves the request of the District for the \$345,000 loan. The Board authorizes the issuance of a note in District's name solely for the payment of the District's necessary maintenance activities, payable from the general fund of the County during or allocable to Fiscal Year 2010-2011, and not pursuant to any common plan of financing.
4. Issuance of a Note to Fund Payment of District Operations. The Board hereby authorizes issuance of a note ("Note") not to exceed the amount of \$345,000 and also authorizes

the Board's Chairperson and the Clerk of the Board to execute such Note. The term of the Note shall be from the date of execution until June 30, 2014. Interest on the Note shall be payable at the same rate of interest that the County applies to funds of the District on deposit with the County. A copy of the Note is attached herein as Exhibit A.

5. Security. The principal amount of the Note, together with the interest thereon, shall be payable from taxes, revenue and other moneys which are received by the District for the general fund of the District for the Fiscal Years of 2010-2014, ending on June 30, 2014. As security for the payment of the principal of and interest on the Note, the District pledges the first "unrestricted moneys", as hereinafter defined, (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 paid 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 District lawfully available therefore. In the event that there are insufficient unrestricted moneys received by the District to permit repayment of the Note in the full amount of the Pledged Revenues to be deposited on the last business day of the fiscal year 2013-2014, then the amount of any deficiency shall be satisfied and made up from any other moneys of the District lawfully available for the repayment of the Note and interest thereon during the fiscal years of 2011-2014. The term "unrestricted moneys" shall mean taxes, income, revenue and other moneys intended as receipts for the general fund of the District and which are generally available for the payment of current expenses and other obligations of the District.

6. The Clerk of the Board is directed to file a copy of this Resolution and its resulting Note with the Auditor-Controller.

7. In connection with the issuance of the Note, the Napa County Auditor is hereby

directed and authorized to transfer the necessary funds to District.

THE FOREGOING RESOLUTION WAS READ, CONSIDERED, AND APPROVED at a regular meeting of the Board of Supervisors on the 10th day of May, 2011, by the following vote:

AYES:

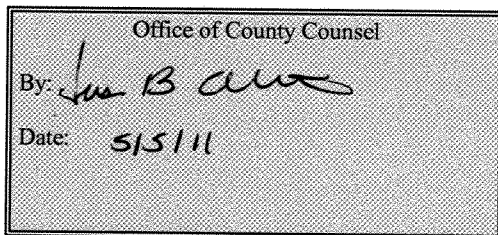
NOES:

ABSENT:

BILL DODD, Chairman of the
Napa County Board of Supervisors

ATTEST:
GLADYS I. COIL
Clerk of the Board

By: _____



**Approved by the Napa County
Board of Supervisors**

Date:

Processed by:

Clerk of the Board

EXHIBIT A

2011 PROMISSORY NOTE (Government Code §25214.4)

Lake Berryessa Resort Improvement District

\$345,000

The Lake Berryessa Resort Improvement District ("District"), duly organized and existing under and pursuant to the Constitution and laws of the State of California, for value received hereby promises to pay (but only out of the funds hereinafter mentioned) to the County of Napa the principal sum of \$345,000, together with accrued and unpaid interest thereon, payable in the manner set forth below.

This Note is issued pursuant to resolutions ("Resolutions") adopted by the Board of Supervisors of the County, and by the Governing Board of the District on May 3, 2011. Reference is hereby made to the Resolutions for a specific description of the security therein provided, and for the payment of the principal of and interest on this Note, to all of the provisions of which the District's acceptance of this Note hereby consents and agrees and has recourse to all of the provisions of the Resolutions and is bound thereby. All terms defined in the Resolutions shall have the same definitions when used herein, unless otherwise defined herein.

This Note shall bear interest on the outstanding principal amount hereof from the date hereof until payment in full at a variable rate, adjusted annually (commencing May 10, 2011), equal to the rate of interest the County applies to funds of the District on deposit with the County.

Interest shall be payable on or before the dates set forth below and shall be calculated on the basis of a 365-day year for the actual number of days elapsed.

This Note shall be payable in full upon maturity, which shall be June 30, 2014. At maturity, outstanding principal and any accrued but unpaid interest shall be payable at the end of the 20013-2014 fiscal year. Both the principal of and interest on this Note are payable by the Napa County Auditor–Controller in lawful money of the United States of America at the Office of the Napa County Treasurer.

This Note is not a lien, charge or liability against the District or against the Governing Board of the District, or against any property or funds of the District or said Governing Board, except the monies available in the 2010-2014 fiscal years as provided in the Resolutions, and neither the payment of the principal hereof nor any part thereof, nor of any interest hereon, constitutes a debt, liability or obligation of the District except as provided in the Resolutions.

The District hereby covenants and warrants that it will pay promptly, when due, the principal of this Note and any interest accruing hereon, all in accordance with the terms hereof and the terms and provisions set forth in the Resolution.

It is hereby certified that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law.

This Note is subject to call and redemption in whole or in part at any time prior to maturity without penalty or premium by the District giving the County 30 days' prior written notice thereof.

This Note shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

IN WITNESS WHEREOF, the District has caused this Note to be signed in its name by the Chair of the Governing Board and countersigned by the District Secretary, and has caused this Note to be dated May 10, 2011.

Lake Berryessa Resort Improvement District

By _____
Bill Dodd, Chairman of the District's
Governing Board

ATTEST: Gladys I. Coil,
District Secretary

By _____

LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT
Date: May 10, 2011
Processed by: _____
Secretary of the District Board

APPROVED AS TO FORM
Office of County Counsel
By: <u>Aus. Batten</u>
Assistant County Counsel
Date: <u>5/5/11</u>

APPROVED AS TO FORM
Office of County Counsel
By: <u>Thomas S. Capriola</u>
(by e-signature)
District Counsel
Date: <u>April 26, 2011</u>