

**RESOLUTION NO. 23-188**

**RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING NOTICE OF COMPLETION AND RELEASE OF CONTRACT SURETY, DEPARTMENT OF TRANSPORTATION CONTRACT NUMBER 230009, TO REMOVE AND REPLACE 52 FEET OF GUARDRAIL AT THE INTERSECTION OF EAST SIDE CALPELLA ROAD, COUNTY ROAD 227, AND MILANI DRIVE, COUNTY ROAD 227A (UKIAH AREA)**

WHEREAS, on June 14, 2023, DOT awarded DOT Contract Number 230009 to Midstate Barrier, Inc., of Stockton, California (CONTRACTOR), to remove and replace 52 feet of guardrail at the intersection of East Side Calpella Road, County Road 227 and Milani Drive, County Road 227A; and

WHEREAS, final inspection and submission of contract records for the construction activity on the project was made pursuant to the Recommendation for Acceptance and filing of Notice of Completion accompanying this resolution; and

WHEREAS, section 9204 of the California Civil Code provides that a public entity may record a notice of completion on or within 15 days after the date of completion of a work of improvement and section 9200 provides that completion of a work of improvement occurs at the earlier of the acceptance of the work of improvement by the public entity or the cessation of labor on the work of improvement for a continuous period of 60 days; and

WHEREAS, section 9356 of the California Civil Code provides that a stop payment notice is not effective unless given before the expiration of 30 days after the recordation of a Notice of Completion; and

WHEREAS, section 9558 of the California Civil Code provides that a claimant may commence an action to enforce the liability on a payment bond no later than six months after the period in which a stop payment notice may be given under section 9356 of the Civil Code.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors:

1. Accepts the completed work, approves the form of Notice of Completion and authorizes the Director of Transportation to execute the Notice of Completion for DOT Contract No. 230009 and file it with the County Recorder; and
2. Authorizes and directs the Director of Transportation to release, in accordance with the following schedule, the contract bonds filed by the contractor, Midstate Barrier, Inc., P.O. Box 30550, Stockton, California, 98213-0550, pursuant to the provisions of DOT Contract No. 230009 executed August 3, 2023; and
3. Authorizes and directs the Director of Transportation to release, thirty days from the date of recordation of Notice of Completion, upon confirmation with the Clerk of the Board and the Auditor that no claims or lawsuits have been filed against same, the Performance Bond (Number 30192331) in the amount of \$30,007.00 issued by the Western Surety Company, 101 S Reid St Ste 300, Sioux Falls, South Dakota, 57103-7045; and

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4. Authorizes and directs the Director of Transportation to release, thirty days plus six months from the date of recordation of Notice of Completion, providing no claims or lawsuits have been filed against same, the Payment Bond (Number 30192331) in the amount of \$30,007.00 issued by Western Surety Company, 101 S Reid St Ste 300, Sioux Falls, South Dakota, 57103-7045.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor Haschak, and carried this 5<sup>th</sup> day of December, 2023, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams  
NOES: None  
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE  
Clerk of the Board

  
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Deputy

APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS  
County Counsel

  
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GLENN MCGOURTY, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: DARCIE ANTLE  
Clerk of the Board

  
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Deputy