

RESOLUTION NO. 23-178

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS CONDITIONALLY APPROVING CONTRACT AWARD TO BROWARD BUILDERS, INCORPORATED FOR THE SB 844 JAIL EXPANSION PROJECT; AUTHORIZING CONTRACT EXECUTION UPON FUNDING APPROVAL BY THE STATE OF CALIFORNIA AND ASSURING NECESSARY COUNTY MATCH FUNDING

WHEREAS, the State of California established a lease revenue bond financing program to construct and renovate adult local criminal justice facilities through the SB 844 Adult Local Criminal Justice Facilities Construction Financing Program ("Program"); and

WHEREAS, under the Program, counties designated as "small" (having a population of less than 200,000) are allocated a maximum of Twenty-Five Million Dollars (\$25,000,000) per project, and are required to provide a ten percent (10%) local match, which can be in the form of cash or in-kind costs such as administration, land value, and transition planning, though small counties can request a reduction in the required match; and

WHEREAS, Mendocino County conducted a needs assessment and determined a critical need for additional bed space, additional programing and training space, and space for expanded mental health and healthcare services in the jail due to the ongoing and ever increasing pressures from Public Safety Realignment and other factors; and

WHEREAS, Mendocino County developed conceptual plans and prepared an application seeking funding under the Program for upgraded facilities to provide space for programs, training, and mental health care (the "Jail Expansion Project"); and

WHEREAS, the Mendocino County Board of Supervisors adopted Resolution No. 17-019, authorizing an application for funding under SB 844 to support the construction of the Jail Expansion Project, and identified a total of \$1,046,740 of local cash matching funds for the exclusive use of supporting the construction of the Jail Expansion Project; and

WHEREAS, Mendocino County applied for and received an award under this Program for the Jail Expansion Project in the amount of up to \$25,000,000 in addition to the County's required cash matching funds, with any costs of the Jail Expansion Project above the \$25,000,000 award being the responsibility of Mendocino County; and

WHEREAS, since the adoption of Resolution No. 17-019, Mendocino County has set aside a total of \$12,513,738 as a cash match amount for construction costs for the Jail Expansion Project; and

WHEREAS, of the amount set aside, Mendocino County to date has obligated \$5,560,286 in soft costs for the Jail Expansion Project and total soft costs are budgeted to be \$7,065,030; and

WHEREAS, on July 20, 2023, the County released Invitation to Bid No. 030-23 for the Jail Expansion Project to prequalified bidders; and

WHEREAS, bids for the Jail Expansion Project were received on September 14, 2023, and revealed the apparent lowest responsible responsive bidder costs of \$35,859,000; and

WHEREAS, based on the soft costs for the Jail Expansion Project, the apparent construction cost of the project and a construction contingency amount, the total cost of the Jail

Expansion Project is estimated to be \$43,999,800; and

WHEREAS, awarding the bid for construction of the Jail Expansion Project will require the County to allocate an additional \$6,786,062 in local funds, as the County's total share of the Jail Expansion Project will be \$18,999,800; and

WHEREAS, given the County's critical need for additional correctional space, staff recommends that the Board increase the local cash match amount; and

WHEREAS, one of the prerequisites for Program funding approval by the Department of Finance is for the County to conditionally award the construction contract to the lowest responsible responsive bidder; and

WHEREAS, staff recommends that the Board conditionally award the construction contract to Broward Builders, a California Corporation, contingent upon approval by the Department of Finance and receipt of Program funds, and authorize the Chair to finalize and execute the construction contract following approval by the Department of Finance and authorizes the Chief Executive Officer to take all actions necessary to ensure receipt of Program funds towards the Jail Expansion Project.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors hereby resolves as follows:

1. The Board of Supervisors hereby approves an additional \$6,786,062 in County funds from the County General Fund to fully fund the County's share of the costs of the Jail Expansion Project of \$18,999,800.
2. The Board of Supervisors finds lowest responsible responsive bidder costs of \$35,859,000 acceptable and conditionally awards the Jail Expansion Project contract to Broward Builders, a California Corporation in the amount of \$35,859,000 contingent upon receiving approval from the State Department of Finance and confirmation of State funding; and,
3. Authorizes the Chair to finalize and execute the construction contract following approval by the Department of Finance and County receipt of Program funds, and to take all actions necessary to ensure receipt of State funding towards the Jail Expansion Project; and
4. The County hereby assures that (i) it has authorized an adequate amount of cash contribution, as indicated in Exhibit "A" attached hereto and updated to reflect the allocation of additional funds by this Resolution, identified by the County on the Cash Match Review Form for SB 844 submitted to the State, and (ii) the funding is compatible with the State's lease revenue bond financing.
5. Lawfully Available Funds: The County cash contribution funds have been derived exclusively from lawfully available funds of Mendocino County.
6. County Cash Contribution Funds Are Legal and Authorized: The payment of the county cash contribution funds for the proposed Jail Expansion Project (i) is within the power, legal right, and authority of the County; (ii) is legal and will not conflict with or constitute on the part of the County a material violation of, a material breach of, a material default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the County under the provisions of any charter instrument, bylaw, indenture, mortgage, deed

of trust, pledge, note, lease, loan, installment sale agreement, contract, or other material agreement or instrument to which the County is a party or by which the County or its properties or funds are otherwise subject or bound, decree, or demand of any court or governmental agency or body having jurisdiction over the County or any of its activities, properties or funds; and (iii) have been duly authorized by all necessary and appropriate action on the part of the governing body of the County.

7. No Prior Pledge: The county cash contribution funds and the Jail Expansion Project are not and will not be mortgaged, pledged, or hypothecated by the County in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest by the County. In addition, the county cash contribution funds, and the Jail Expansion Project are not and will not be mortgaged, pledged, or hypothecated for the benefit of the County or its creditors in any manner or for any purpose and have not been and will not be the subject of a grant of a security interest in favor of the County or its creditors. The County shall not in any manner impair, impede or challenge the security, rights and benefits of the owners of any lease-revenue bonds sold by the State Public Works Board for the Project (the "Bonds") or the trustee for the Bonds.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor Gjerde, and carried this 31st day of October, 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

GLENN MCGOURTY, Chair
Mendocino County Board of Supervisors

Deputy

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

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: DARCIE ANTLE
Clerk of the Board

Deputy

EXHIBIT "A"

County Cash Match - SB 844

Total Project Cost: \$43,999,800

State Funding: \$25,000,000

County Cash Match: \$18,954,800

County In-Kind Match: \$45,000

County Cash Match Funding Sources: General Fund