

## RESOLUTION NO. 21-013

### RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO APPROVING, AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO A SITE LEASE, AN AMENDMENT TO A FACILITY LEASE AND AN AMENDMENT TO AN ASSIGNMENT AGREEMENT IN CONNECTION WITH THE REMOVAL OF A PORTION OF THE EXISTING LEASED PROPERTY AND THE EXECUTION AND DELIVERY OF EASEMENTS ACROSS COUNTY PROPERTY WITH RESPECT TO THE COUNTY OF MENDOCINO REFUNDING CERTIFICATES OF PARTICIPATION 2012 SERIES A AND 2012 SERIES B (FEDERALLY TAXABLE) AND THE SB 844 PROJECT AND OTHER ACTIONS AND MATTERS RELATING THERETO

WHEREAS, the County of Mendocino (the "County") has previously issued its \$25,760,000 principal amount Refunding Certificates of Participation, 2012 Series A and \$50,000 principal amount Refunding Certificates of Participation, 2012 Series B (Federally Taxable) (collectively, the "Series 2012 Certificates") pursuant to a Trust Agreement, dated as of May 1, 2012 (the "Trust Agreement"), by and among the County, the Mendocino County Public Facilities Financing Corporation (the "Corporation"), and U.S. Bank National Association, as Trustee (the "Trustee"); and

WHEREAS, in connection with the execution and delivery of the Series 2012 Certificates, the County leased certain interests in real property belonging to the County together with the improvements located or to be located thereon and certain equipment located thereon (the "Leased Property") to the Corporation pursuant to a Site Lease dated as of May 1, 2012 (the "Original Site Lease"); and

WHEREAS, to provide for the repayment of the Series 2012 Certificates, the Corporation leased the Leased Property back to the County pursuant to a Facility Lease dated as of May 1, 2012 (the "Original Lease") under which the County has agreed to make base rental payments to the Corporation in an amount sufficient to pay the principal of and interest and premium (if any) on the Series 2012 Certificates when due and payable; and

WHEREAS, the Corporation assigned certain of its rights under the Site Lease and the Lease, including all of its rights to receive the base rental payments to be paid by the County pursuant to the Lease, to the Trustee for the benefit of the owners of the Series 2012 Certificates pursuant to an Assignment Agreement, dated as of May 1, 2012 (the "Original Assignment Agreement"), by and between the Corporation and the Trustee; and

WHEREAS, the County desires to design, finance, and construct certain correctional facilities (the "SB 844 Project") through the issuance of revenue bonds by the State Public Works Board (the "SPWB"); and

WHEREAS, the proposed location of the SB 844 Project consists of a portion of the existing Leased Property under the Original Lease (the "SB 844 Project Site"); and

WHEREAS, as a condition to the SPWB issuing revenue bonds for the SB 844 Project, the SPWB requires that the SB 844 Project Site be removed from the Leased Property under the Original Lease, Original Site Lease, and Original Assignment Agreement; and

WHEREAS, related to the SB 844 Project, the SPWB and the City of Ukiah are requiring certain easements (the "Easements") to be placed across County property, including the Leased Property, the forms of which are on file with the Clerk of the Board of Supervisors; and

WHEREAS, the County and the Corporation desire to Remove (as that term is defined in the Original Lease) a portion of the existing Leased Property under the Original Lease, Original Site Lease and Original Assignment Agreement, and the County and the Corporation desire to execute and deliver the Easements which will be Permitted Encumbrances on the Leased Property under the Lease, as amended by the First Amendment to the Lease; and

WHEREAS, in connection with said Removal, an easement will be executed and delivered to the Trustee for parking and public utility purposes for the purpose of maintaining access to and use of certain parking spaces and utility connections for the Leased Property (the "Leased Property Easement"); and

WHEREAS, Assured Guaranty Municipal Corporation, the Insurer of the Series 2012 Certificates, has consented to said Removal and the Easements as Permitted Encumbrances under the Lease; and

WHEREAS, in order to accomplish the Removal of a portion of the Leased Property and the execution and delivery of the Easements, the County and the Corporation desire to amend the Original Lease, Original Site Lease and Original Assignment Agreement; and

WHEREAS, Government Code section 25526.6 authorizes the Board to grant or convey interests in County real property, including easements, upon a finding by the Board that the conveyance is in the public interest and that the interest in land conveyed will not substantially conflict with or interfere with the use of the property by the County; and

WHEREAS, there have been presented to this meeting proposed forms of the following documents:

1. the First Amendment to the Site Lease;
2. the First Amendment to the Facility Lease;
3. the First Amendment to the Assignment Agreement; and
4. the Closing Certificate of the County, together with the exhibits attached thereto as described below.

NOW, THEREFORE, IT IS RESOLVED, DETERMINED AND ORDERED, by the Board of Supervisors of the County of Mendocino (the "Board"), as follows:

Section 1. Findings and Determinations. The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Government Code Section 25526.6. The Board hereby finds that the conveyance of easements authorized by this Resolution and the amendments to the Site Lease, Facility Lease and Assignment Agreement, forms of which are on file with the Clerk of the Board, are in the public interest and will not substantially conflict with or interfere with the use of the property by the County, as the easements will assist the County in developing its property for County purposes, namely, the construction of the SB 844 Project.

Section 3. Approval of Related Documents. The Board hereby approves each of the following agreements required to implement the Removal of a portion of the Leased Property under the Lease, and the execution and delivery of the Easements across the Leased Property and the Leased Property Easement, under the Original Lease, Original Site Lease and Original Assignment Agreement, in substantially the respective forms on file with the Clerk to the Board together with such additions thereto and changes therein as the Designated Officers (as defined below) or any one of them acting alone shall deem necessary, desirable or appropriate, the

execution of which by the County, or the Corporation where applicable, shall be conclusive evidence of the approval of any such additions and changes:

- (a) a First Amendment to the Site Lease, by and between the County, as lessor, and the Corporation, as lessee; and
- (b) a First Amendment to the Facility Lease, by and between the Corporation, as lessor, and the County, as lessee;
- (c) a First Amendment to the Assignment Agreement, by between the Corporation and the Trustee;
- (d) a Closing Certificate of the County which includes the following exhibits:

- Exhibit A – Description of the Removed Property;
- Exhibit B – Insurance Certificates;
- Exhibit C – Title Insurance Policy;
- Exhibit D – County Resolution; and
- Exhibit E – Opinion of Bond Counsel.

The Designated Officers, and each of them acting alone, are hereby authorized and directed to execute, and the Clerk to the Board is hereby authorized and directed to attest and affix the seal of the County to, the final form of such agreements for and in the name and on behalf of the County. The County hereby authorizes the delivery and performance of such agreements.

Section 4. Designated Officer, General Authorization. Any one of the County's Chief Executive Officer, Chief Financial Officer, Auditor and Controller, Treasurer-Tax Collector, Chief Deputy Treasurer, or his or her designee (each, a "Designated Officer"), and each of them acting alone or together, are hereby authorized and directed, for and in the name of and on behalf of the County, to take such actions, and to execute such agreements, documents, instruments, and certificates as may be necessary to effectuate the purposes of this Resolution.

Section 5. Ratification of Actions. All actions heretofore taken by any officers, employees or agents of the County with respect to the Removal of a portion of the Leased Property or the execution and delivery of the Easements and the Leased Property Easement, or in connection with or related to any of the agreements or documents referred to herein, are hereby approved, confirmed and ratified.

Section 6. Official Actions. The Designated Officers are hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the Removal of a portion of the Leased Property under the Original Lease, Original Site Lease, and Original Assignment Agreement and the execution and delivery of the Easements and the Leased Property Easement and the consummation and continuing administration of the transactions as described herein.

Section 7. Effective Date of Resolution. This resolution shall take effect immediately upon its adoption.

The foregoing Resolution introduced by Supervisor McGourty, seconded by Supervisor Williams, and carried this 9<sup>th</sup> day of February, 2021, 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: CARMEL J. ANGELO  
Clerk of the Board

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Deputy

*APPROVED AS TO FORM:*  
CHRISTIAN M. CURTIS  
County Counsel

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DAN GJERDE, 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: CARMEL J. ANGELO  
Clerk of the Board

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Deputy