

RESOLUTION NO. 2017 - _____

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SHASTA
RESTATING AUTHORIZATION OF THE APPLICATION FOR THE
CONSTRUCTION OF AN ADULT LOCAL CRIMINAL JUSTICE FACILITY
PURSUANT TO THE STATE OF CALIFORNIA (STATE) SENATE BILL (SB) 1022
(CHAPTER 42, STATUTES OF 2012), RESTATING THE APPOINTMENT OF THE
SHASTA COUNTY EXECUTIVE OFFICER AS THE PERSON AUTHORIZED TO
SIGN THE STATE CONSTRUCTION FINANCING PROGRAM APPLICATION,
APPOINTING THE COUNTY PROJECT CONSTRUCTION ADMINISTRATOR, THE
PROJECT FINANCIAL OFFICER AND THE PROJECT CONTACT PERSON,
PROVIDING FUNDING PREFERENCE CRITERION ASSURANCE, AND OTHER
ASSURANCES REQUIRED BY THE STATE**

WHEREAS, Shasta County has validated need for adult rehabilitation programming, services, treatment, and detention beds and is in need of a facility with adequate rehabilitative program space; and

WHEREAS, on February 5, 2013, the Board of Supervisors of the County of Shasta approved and authorized the Shasta County Sheriff's Office to submit a SB 1022 funding proposal to build an adult rehabilitation facility, designated signature authority to the County Executive Officer to sign the funding proposal, and any related documents necessary for the submission of the funding proposal, approved a contract with Nichols Melburg and Rossetto to provide programming and architectural services to the County, and approved funding in the amount of \$88,500 for staff and consultant work necessary to prepare the funding proposal; and

WHEREAS, the need for a 64-bed Type III adult medium-security and rehabilitation facility along with the necessary support and rehabilitative program spaces has been identified by a Title 15 and Title 24 needs assessment updated in September 2013; and

WHEREAS, on June 2, 2015 the Board of Supervisors adopted a Mitigated Negative Declaration after a duly noticed Public Hearing and public meeting held on December 4, 2014 regarding the County's SB 1022 project; and

WHEREAS, the County of Shasta (the "County") is seeking funding preference for its proposed project within the State of California (State) Adult Local Criminal Justice Facilities Construction Financing Program (the "SB 1022 Financing Program").

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of County does hereby represent, warrant and covenant as follows:

1) *Lawfully Available Funds.* The County cash contribution funds, as described in the documentation accompanying the County's SB 1022 Financing Program Proposal Form, have been derived exclusively from lawfully available funds of the County.

2) *County Cash Contribution Funds Are Legal and Authorized.* The payment of the County cash contribution funds for the proposed adult local criminal justice facility project (the "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.

3) *No Prior Pledge.* The County cash contribution funds and the 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 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.

4) *Authorization to Proceed with the Project.* The Project proposed in the County’s SB 1022 Financing Program proposal is authorized to proceed in its entirety when and if state financing is awarded for the Project within the SB 1022 Financing Program.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the County is seeking funding preference for submittal of the complete initial real estate due diligence package.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the County is seeking funding preference associated with review of and authorization to execute the Project Documents required within the SB 1022 Financing Program. As such, the Board of Supervisors of County does hereby approve the form of the Project Delivery and Construction Agreement, the Board of State and Community Corrections Jail Construction Agreement, the Ground Lease, the Right of Entry for Construction and Operation, and the Facility Sublease. Each of the County Executive Officer, or his designees, (collectively, the “Authorized Officers”), acting alone, is hereby authorized for and in the name of the County to execute, and the Clerk to the Board of Supervisors is authorized to attest as applicable, the Project Delivery and Construction Agreement, the Board of State and Community Corrections Jail Construction Agreement, the Ground Lease, the Right of Entry for Construction and Operation, and the Facility Sublease, in substantially the form hereby approved, with such additions thereto and changes therein as are required by the BSCC or the State Public Works Board to effectuate the SB 1022 Financing Program and as condition to the issuance of the Bonds. Approval of such changes shall be conclusively evidenced by the execution and delivery thereof by any one of the Authorized Officers each of whom, acting alone, is authorized to approve such changes. Each of the Authorized Officers is authorized to execute these respective agreements at such time and in such manner as is necessary within the SB 1022 Financing Program. Each of the Authorized Officers is further authorized to execute, acknowledge and deliver any and all documents required to consummate the transactions contemplated by the Project Delivery and Construction Agreement, the Board of State and Community Corrections Jail Construction Agreement, the Ground Lease, the Right of Entry for Construction and Operation, and the Facility Sublease.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby designates signature authority to the County Executive Officer, or his designee, and authorizes the County Executive Officer, or his designee, County Counsel, the Sheriff-Coroner, and the County Public Works Director to negotiate, and the County Executive Officer, or his designee, to execute and sign on behalf of the County in substantially the same form (including retroactive), the Project Delivery and Construction Agreement (PDCA), and related Exhibit documents (including retroactive) to the PDCA: Exhibit A – Project Scope, Cost and Schedule Description; Exhibit B – Form of Ground Lease; Exhibit C – Form of Right of Entry for Construction and Operation; Exhibit D – Form of Facility Sublease; Exhibit E-1 – Description of the Participating County Funding Cash Contribution; Exhibit E-2 – Description of the Participating County Funding In-kind (Soft) Match; and Exhibit C in the Ground Lease (Form of Easement Agreement for Grants of Access, Utilities and Repairs) as applicable; and

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby designates signature authority to the County Executive Officer to execute and sign on behalf of the County the Applicant's Agreement (page two of Proposal Form) and submit the County's proposal for funding.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby designates signature authority to the County Executive Officer, or his designee, to execute and sign on behalf of the County, any amendments to the PDCA and/or PDCA Exhibits (including retroactive), any amendments to the Board of State and Community Corrections (BSCC) Jail Construction Agreement (including retroactive), any other Project Documents (including retroactive), the Ground Lease (including retroactive) including Exhibit C to the Ground Lease (the Easement Agreement)(including retroactive) as applicable, and any amendments (including retroactive) to any Project Documents and that any Project Document amendment signed by the County Executive Officer, or his designee, shall be binding on the County only if signed or certified in form reasonably acceptable to the BSCC.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby designates and appoints the following County employees pursuant to the State's funding requirements:

- Pat Minturn, Director, Shasta County Public Works Department, as the County Construction Administrator;
- Elaine Grossman, Senior Administrative Analyst, Shasta County Administrative Office, as the Project Financial Officer; and
- Neil McAuliffe, Supervising Engineer, Shasta County Public Works Department, as the Project Contact Person.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby assures that State that the County will adhere to State requirements and terms of the agreements between the County, the BSCC and the State Public Works Board (SPWB) in the expenditure of any State financing allocation and County contribution funds.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby assures the State that the County will safely staff and operate the facility that is being constructed (consistent with Title 15, California Code of Regulations) within ninety (90) days after project completion.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby certifies that it is not and will not be leasing housing capacity in this SB 1022 financed adult local criminal justice facility to any other public or private entity for a period of 10 years beyond the completion date of the adult local criminal justice facility unless otherwise authorized to do so by the State, BSCC, SPWB and/or then applicable State agency or department.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby assures the State that the County has project site control through either fee simple ownership of the site or comparable long-term possession of the site, and right of access to the project sufficient to assure undisturbed use and possession of the site, and will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site of facility subject to construction, or lease the facility for operation to other entities, without permission and instructions from the BSCC.

NOW THEREFORE BE IT FURTHER RESOLVED, the Board of Supervisors of the County of Shasta hereby attests to \$360,800 as the current fair market land value for the proposed new or expanded facility site.

NOW THEREFORE BE IT FURTHER RESOLVED, that this resolution shall take precedence over Resolution No. 2013-110.

IN WITNESS WHEREOF, the undersigned duly authorized representative of the Participating County has executed and delivered this Resolution to the State on the date set forth below.

DULY PASSED AND ADOPTED this _____ day of _____, 2017, by the Board of Supervisors of the County of Shasta, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

DAVID KEHOE, CHAIRMAN
Board of Supervisors
County of Shasta, State of California

ATTEST:
LAWRENCE G. LEES
Clerk of the Board of Supervisors

By _____
Deputy