

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/07/2017 by the following vote:

AYE: ☐
NO: ☐
ABSENT: ☐
ABSTAIN: ☐
RECUSE: ☐



Resolution No. 2017/44

Senate Bill 844 Resolution of the Board of Supervisors of the County of Contra Costa, supporting Sheriff David O. Livingston in the submittal of an application for state funding of the proposed West Contra Costa County Reentry, Treatment, and Housing (WRTH) Facility Project

WHEREAS, the Board of State and Community Corrections on behalf of the State of California has made available up to \$270 million in state lease-revenue bond financing for the acquisition, design and construction, including expansion or renovation, of adult local criminal justice facilities in California as authorized by Senate Bill 844 (SB 844), and

WHEREAS, on December 30, 2016, the Board of State and Community Corrections issued a Request for Proposals (RFP) to award and allocate financing to counties as authorized by SB 844, and

WHEREAS, counties with a general population of 200,000 and above are required to provide a minimum of 10 percent of the total project costs in matching contribution; and

WHEREAS, the County of Contra Costa is seeking an award of SB 844 financing in the amount of \$70 million for the West Contra Costa County Reentry, Treatment, and Housing facility project; and

WHEREAS, the goal of SB 844 is to improve local adult criminal justice housing with an emphasis on expanding program and treatment space to manage the adult offender population in order to enhance public safety throughout the state by providing increased access to appropriate programs and mental health treatment; and

WHEREAS, the West Contra Costa County Reentry, Treatment, and Housing facility project (the "Project") will improve adult criminal justice housing in Contra Costa County through the Project's emphasis on expanding program and treatment space, thereby promoting public safety and serving a critical state purpose; and

WHEREAS, Contra Costa County Sheriff David O. Livingston has requested that the Board of Supervisors authorize him to execute Contra Costa County's proposal for SB 844 financing in response to the RFP (the "Proposal") and submit it to the Board of State and Community Corrections.

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

1. Approves the West Contra Costa County Reentry, Treatment, and Housing facility project (the "Project"), approves the Proposal and authorizes Sheriff David O. Livingston to sign and submit the Proposal on behalf of the County of Contra Costa requesting funds in the amount of \$70,000,000.
2. The following funds have been identified as potentially available to satisfy the County's full cash match contribution to the Project of \$22,002,000: up to \$4.5 million from Sheriff's Plant Acquisition account (0111) and up to \$2.5 million from the 2011 Local Revenue Fund – Community Corrections account (AB 109) (0295/2982), and up to \$15,002,000 from County General Fund reserves.
3. In addition, the County has already paid, budgeted or identified \$3,796,000 in "in-kind" contributions towards the Project.
4. Assures that any County cash contribution matching funds for the Project will be derived exclusively from lawfully available funds of the County and will be compatible with the State's lease revenue bond financing.
5. Assures that the payment of any County cash contribution matching funds for the Project (i) will be within the power, legal right, and authority of the County; (ii) will be 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) will be available for authorization by necessary and appropriate action on the part of the governing body of the County.

6. Assures that the funds identified as the County's proposed cash contribution matching 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 funds identified as the County's proposed cash contribution matching 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.
7. Assures that when and if state financing is awarded for the Project within the SB 844 Financing Program, the funds identified as the proposed County match are available, subject to appropriation by the Board of Supervisors, for purposes of the Project. The County's readiness to proceed is evidenced in the County's Proposal.
8. Generally approves the form of the Project documents deemed necessary by the State Public Works Board to the Board of State and Community Corrections to effectuate the financing authorized by SB 844. The County Administrator, David J. Twa, or his designees, (collectively, the "Authorized Officers"), acting for and in the name of the County, is hereby authorized to execute, and the Clerk of the Board of Supervisors is hereby authorized to attest, 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 Board of State and Community Corrections or the State Public Works Board to effectuate the SB 844 Financing Program and as condition to the issuance of the Bonds and subject to review and approval as to form by County Counsel. 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.
9. Authorizes each of the Authorized Officers to execute these respective agreements at such time and in such manner as is necessary within the SB 844 Financing Program, and 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.
10. Designates Contra Costa County personnel to act in specific capacities, as follows: County Construction Administrator – Ramesh Kanzaria, PE, Manager of Capital Projects Division, Public Works Department; Project Financial Officer – Wanda Quever, Manager of Finance Division, Public Works Division; Project Contact Person – Capt. Thomas Chalk, Division Commander, Sheriff's Office.
11. Assures that the County of Contra Costa will adhere to state requirements and terms of the agreements between the County of Contra Costa, the Board of State and Community Corrections and the State Public Works Board in the expenditure of any state financing allocation and County's cash contribution matching funds.
12. Assures that the County of Contra Costa will fully and safely staff and operate the facility that is being constructed (consistent with Title 15, California Code of Regulations, Chapter 1, Subchapter 6, section 1756(j)(5)) within 90 days after project completion.
13. Assures that the County of Contra Costa 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 Board of State and Community Corrections, for so long as the State Public Works Board lease-revenue bonds secured by the financed project remain outstanding.
14. Attests to \$680,000 as the current fair market land value of the Project site, to the land not being under an existing operational facility, and to its actual on-site land value documentation being from an independent appraisal.
15. Certifies that the County is not and will not be leasing housing capacity in the Project to any other public or private entity for a period of 10 years beyond the completion date of the Project.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact: Capt. Thomas Chalk, (925)
313-2692**

ATTESTED: February 7, 2017

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: