



Legislation Text

File #: 2021-1213, **Version:** 1

To: Sonoma County Board of Supervisors
Department or Agency Name(s): General Services
Staff Name and Phone Number: Caroline Judy, 707-565-8058
Vote Requirement: Majority
Supervisory District(s): Countywide

Title:

Authorization of Lease, Financing, and Certain Related Agreements for Sheriff's Adult Detention Behavioral Health Housing Unit Project (2777 Ventura Avenue)

Recommended Action:

Adopt a Resolution to include the authorities and directives as follows, related to and necessary for the proposed Adult Detention Behavioral Health Housing Unit (ADBHHU):

- A) Authorize and delegate authority to the Director of General Services to negotiate, execute, and administer the following actions with the State of California (State), including with State's Department of Corrections and Rehabilitation (DCR), Board Of State And Community Corrections (BSCC) and or State Public Works Board (SPWB) , for the leasing, financing, construction, and operation of the proposed ADBHHU, as contemplated by and in furtherance of that certain Project Delivery and Construction Agreement, dated February 3, 2017, between County and DCR, BSCC, and SPWB:
 - i. The Ground Lease with the State, for the long-term lease of the County-owned ADBHHU site to the State;
 - ii. A Right of Entry license or agreement with the State, for County use, including long-term, of the ADBHHU site for project construction, operation, and other project-related needs;
 - iii. A Facility Sublease with the State, for County long-term lease of the ADBHHU site and the project facility; and
 - iv. Any and all other necessary and appropriate instruments and documents with the State related to the above-described Project Delivery and Construction Agreement and the project lease-financing and bonding transactions, including any amendments or supplements to any of the above-mentioned documents and instruments, in form approved by County Counsel.
- B) Authorize and direct County Counsel (Counsel), the County Chief Administrative Officer (CAO), the County Director of General Services (GSD), and the County of Sonoma Sheriff (Sheriff) to cooperate in obtaining eligibility for, and the issuance of, State lease revenue bond financing for purposes of the ADBHHU project.
- C) Authorize and direct the County CAO, Director of GSD and the Sheriff to execute all documents reasonably needed to accomplish such bond financing, including without limitation certificates, legal opinions or instruments as may be appropriate and reasonably requested by the State, in form approved by Counsel.

Executive Summary:

The County Board of Supervisors has previously authorized and the County has received preliminary approvals

needed from the State of California Department of Finance (DOF) to proceed with the funding and construction of the Adult Detention Behavioral Health Housing Unit (ADBHHU). The ADHBBU is planned as a 32,000 square foot, approximately 72-bed mental health detention facility attached to the Sheriff's Office Main Adult Detention Facility (MADF). The financing of the ADBHHU will occur through issuance of State lease-revenue bonds previously approved by the State and the Board of Supervisors under SB 863. As part of the funding of the ADBHHU, the County will execute a Ground Lease encumbering County lands in conjunction with the issuance of Bond financing for the ADBHHU project. County staff seek authority to execute the Ground Lease and other related project agreements with State's Department of Corrections and Rehabilitation (DCR), Board of State and Community Corrections (BSCC) and or State Public Works Board (SPWB), for the leasing, financing, construction, and operation of the ADBHHU. In preparation for the State Department of Finance review of the Ground Lease package, staff identified additional requirements needing Board of Supervisors authorization. Approval of the recommended actions will meet those requirements.

Construction of the ADBHHU will create important public benefits namely to enable the County to provide quality treatment for our inmates requiring mental health services. With the mental health treatment programs offered by the Sheriff's Office to the inmate population, the County is working towards the ultimate goal of improved behavioral health outcomes for the incarcerated and a significant reduction in recidivism.

Discussion:

In recognition of the increased need for inmate behavioral health services, the County in 2015 tentatively was allocated \$40 million in State of California justice facility construction funding (SB-863) for a new adult detention behavioral health housing unit. The project, entitled the Adult Detention Behavioral Health Housing Unit (ADBHHU) is planned to be a 32,000 square foot, 72-bed mental health detention facility attached to the Sheriff's Office Main Adult Detention Facility (MADF). The ADBHHU addresses the growing need for and improves the system of behavioral health treatment and care within the County's detention program.

SB 863 funds are derived from State issued lease-revenue bonds. Bonds only can issue after County grant of the Ground Lease and entry into associated agreements, including a facility sublease and right of entry, for project construction and operation, all of which are attachments to this Board Item. The Ground Lease agreement is security for the State's bond financing. The document used to finalize DOF's approval is the Ground Lease, which will encumber the property to the project and be used as a portion of the collateral for the State's Lease Revenue Bond financing. It will serve as collateral for the preconstruction financing provided by the State until the Facility Sublease document is in place, which will allow the use and occupancy of the facility by the County during the State's bond repayment process. Once the Ground Lease is signed and returned to DOF, the County will then be authorized to proceed with the project schedule.

At the May 25, 2021, Board meeting, the County completed a State DOF milestone requirement of reviewing and approving a 30 year operations plan and 30 year life cycle costs estimate. At said meeting and by adoption of said report, County staff presented the anticipated operating expenses for the new facility including Sheriff's staffing, behavioral health contract expenses, General Services staffing, maintenance, utilities, and capital expenses for the 30 year period, totaling \$427,705,081. See attached table for reference from the May 25, 2021 Board item. Following the May Board meeting, in further consultation with State representatives, staff identified additional milestone requirements that require explicit Board authorization. The recommended actions do not modify the scope, future expense, or property encumbered under the Ground Lease.

Construction of a new facility will increase the County's ability to provide quality mental health treatment for our incarcerated population, within a dedicated therapeutic environment. It provides the County with a secure, purpose-built mental health facility, rather than utilizing standard detention-only facilities. This allows for more comprehensive competency restoration programs. The new facility and programs represent a step toward reducing recidivism without any net-gain in the inmate population.

It is noted that at its Board Meeting on April 9, 2019 the BOS granted authority to execute the ground lease and delegated to the Director of General Services authority to execute and amend as necessary a Ground Lease with the State of California, consistent with the SB863 grant financing structure for the Adult Detention Behavioral Health Housing Unit. However, notwithstanding said approval and delegation, State DOF requires a formal resolution as to the Ground Lease, authorization for its approval, execution, and delivery, and authorization to carry out and consummate all transactions contemplated by the Ground Lease.

The creation of the ADBHHU enables the County to provide quality treatment for inmates requiring mental health services. In order to obtain needed financing for the ADBHHU, the State of California requires a thirty-year Ground Lease to serve as security for the related SB 863 bonding and revenue arrangements. Pursuant to the Ground Lease and related project instruments, the County will be granted a license to construct and operate the ADBHHU notwithstanding the Ground Lease, and ultimately the property will be subleased back to the County for long-term operation and maintenance of the project. The subject property is not required for any other County purposes and in fact, the Ground Lease enables County use and development of the property for this important public project and the inmate services that will be facilitated by it.

All the subject agreements are in furtherance of the project as contemplated and analyzed by your Board in 2015, when the ADBHHU project concept was reviewed and approved, application for State funding consistent with the conceptual project was authorized, and a Notice of Exemption under the California Environmental Quality Act (CEQA) was approved and directed to be filed for the project.

Staff have been working with the BSCC and Department of Finance to progress the Ground Lease package. In addition, staff have worked with the State Fire Marshall to review the proposed bridging design pursuant to County's request for a No Exceptions Memo. Staff have submitted a Legal Opinion letter to the State. Staff expect the Department of Finance to approve the Ground Lease in the first quarter 2022. Once the Ground Lease is approved then staff will be able to release the Request for Proposals to the pre-qualified bidders. Based upon current schedules Board approval of the design-build entity is anticipated to occur in late May or early June 2022 and the project will be complete in August 2024.

County staff recommend the Board authorize the execution of the Ground Lease and related documents to enable the issuance of bond financing to pay for the construction of the ADBHHU. The Ground Lease does encumber the property for approximately 30 years such that the State can use it as collateral for its own bond processes and is a requirement of SB 863 funding.

Strategic Plan:

This item directly supports the County's Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

Pillar: Healthy and Safe Communities

Goal: Goal 5: Continue to invest in public safety so that residents and visitors feel safe in our

community.

Objective: Objective 4: Expand detention alternatives with the goal of reducing the jail population, from pre-pandemic levels, by 15% at the end of 2022, while simultaneously reducing recidivism amongst the supervised offender population.

Prior Board Actions:

May 25, 2021: Acceptance of Staff report on estimated 30 Year Life Cycle Operational and Staffing Costs for the Sheriff's Adult Detention Behavioral Health Housing Unit.

January 26, 2021: Approval of Design-Build Entity Shortlist

April 9, 2019: Authorize the delegation of authority to the Director of General Services to execute and amend as necessary a Ground Lease with the State of California Department of Finance, consistent with the 30 year term of the SB863 grant financing for the Adult Detention Behavioral Health Housing Unit. Summary report Item #7.

July 10th, 2017: Adult Detention Behavioral Health Unit: Approval of Design-Build Entity Shortlist, Construction Bridging Documents, Project Labor Agreement and Request for Proposals.

January 10, 2017: Board authorization of Schematic Design Package and Design Build Request for Qualifications.

June 21, 2016: Board authorization of County application to the Board of State and Community Corrections formally establishing project.

March 15, 2016: Authorize Agreement for Bridging Architect and Construction Management Services for Behavioral Health Housing Project.

December 8, 2015: Adopt the Sonoma County Criminal Justice Master Plan, 2015 update.

August 18, 2015: Behavioral Health Housing Unit- Adopt Resolution authorizing SB-863 funding application.

July 21, 2015: Approve project for filing of California Environmental Quality Act Notice of Exemption.

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY 22-23 Projected	FY23-24 Projected
Budgeted Expenses	7,800,000	40,500,000	500,000
Additional Appropriation Requested			
Total Expenditures	7,800,000	40,500,000	500,000
Funding Sources			
General Fund/WA GF	600,000		
State/Federal		40,500,000	

Fees/Other	1,000,000		
Use of Fund Balance	6,200,000		
Contingencies			
Total Sources	7,800,000	40,500,000	500,000

Narrative Explanation of Fiscal Impacts:

There is no fiscal impact associated with this item. Prior Board actions approved the capital budget funds required for the current phase of the project, and accepted the award of the SB 863 funds. Note that annual staffing costs of approximately \$7.1 million are included in the most recent Fiscal Forecast presented today under a separate item.

Narrative Explanation of Staffing Impacts (If Required):

See staffing impacts described in the Summary Report dated May 25, 2021 Item #6, "Sheriff's Adult Detention Behavioral Health Housing Unit: Acceptance of 30 Year Life Cycle Operational and Staffing Costs" approved by the Board

Attachments:

- 1 - May 2021 Cost Estimates
- 2 - Ground Lease
- 3 - Facility Sublease
- 4 - Right of Entry for Construction and Operation
- 5 - Resolution

Related Items "On File" with the Clerk of the Board:

None