

**CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY (“Authority”)**

**Investment in Mental Health Wellness Grant Program (“IMHWGP”)**

**Resolution No. MH 2015-03B (Third Funding Round)**

**County of Mendocino**

**October 7, 2019**

**PURPOSE OF THE REQUEST:**

Authority staff is requesting the Authority set a cure period of 30 calendar days for Resolution Number MH 2015-03 (third funding round), effective October 8, 2019 and ending on November 7, 2019, for the County of Mendocino (the “County”) to cure an event of default.

**ISSUE:**

The County was unable to meet its milestone condition to secure sufficient funding necessary to complete its Crisis Residential Treatment (“CRT”) Project by September 30, 2019 due to delays in releasing the Request for Proposal/Request for Qualifications (“RFP/RFQ”) and finalizing the awards in order to determine a feasible CRT project, using Measure B<sup>1</sup> funds. The winning bidder of the RFP/RFQ process is expected to be announced, and its contract approved by the County’s Board of Supervisors, sometime between late October and early November 2019 at which time a CRT project will be selected and evidence of feasibility can be shared with Authority staff.

With the County’s failure to meet the milestone condition of securing sufficient funding, the County is currently in default of its Grant Agreement. Section 6.2 of the Grant Agreement requires the Authority to provide the County written notice of the default and provide the County an opportunity to cure the default, which shall not be less than 30 calendar days. If the County is unable to secure sufficient funding on or before the last day of the cure period, the Authority will require forfeiture of grant funds. The Authority’s Executive Director has not been delegated the power to set a cure period for grantees to correct events of default, and therefore, must be set by the Authority board.

Attached for reference are Exhibit 1: Timeline of Events (provides a brief summary of events that have led up to the issue mentioned above) and Exhibit 2: Supplemental Background (provides a detailed narrative of each event).

**RECOMMENDATION:**

Staff recommends the Authority approve Resolution Number MH 2015-03B to set a cure period of 30 calendar days, effective October 8, 2019 and ending on November 7, 2019 for the County of Mendocino to comply with its missed milestone condition to secure sufficient funding necessary to complete a CRT Project.

---

<sup>1</sup> Measure B, which was passed in Mendocino County on November 7, 2017, raised the County’s sales tax rate to help fund the construction of psychiatric and behavioral health facilities, operation costs, and services to treat mental illness and addiction for the first five years.

## **EXHIBIT 1 TIMELINE OF EVENTS**

### **1. Initial Grant Award**

Approved: June 25, 2015

Award amount not to exceed \$500,000 for a 10-bed CRT facility.

Resolution and Grant Period Expiration Date: June 30, 2016

### **2. First Amendment – Extension of Resolution and Grant Period**

Approved: April 28, 2016

County requested a one year extension due to staff turnover and difficulty obtaining service provider along with a number of other counties.

Authority approved extension of resolution and grant period expiration date to June 30, 2017.

### **3. Second Amendment - Extension of Resolution and Grant Period**

Approved: March 23, 2017

County requested second extension to add service provider to project description.

Authority approved extension of resolution and grant period expiration date to April 30, 2018 with the following milestone conditions:

1. Evidence of being in escrow by August 31, 2017.
2. CRT must be operational by May 31, 2018.

### **4. Third Amendment – Extension of Resolution and Grant Period**

Heard on: April 26, 2018

County requested third extension due to delays in securing sufficient funding, but was tabled to the May 24, 2018 Authority meeting until the County provide the Authority with sufficient evidence to back up request.

Approved: May 24, 2018

Authority approved extension of resolution and grant period expiration date to June 30, 2021 with the following amended milestone conditions:

1. Securing of sufficient funds by July 31, 2019.
2. Start of construction or renovation by November 30, 2019.
3. CRT must be operational by May 31, 2021.

### **5. Authority Board Update**

Heard on: February 28, 2019

County had not secured funding, but would pursue Measure B funding to leverage CHFFA grant.

### **6. Delegated Milestone Extension and Update**

Requested: July 17, 2019

County provided Authority staff an update on events and requested a 60 calendar day extension to meet the milestone to secure funding assuring Authority staff that they would meet within 60 calendar days.

Executive Director authorized a 60 calendar day milestone extension, under a delegation resolution, to secure funding by September 30, 2019.

### **7. Authority Board Update**

September 26, 2019

Authority requested additional meeting to set cure period for missed milestone.

## **EXHIBIT 2**

### **SUPPLEMENTAL BACKGROUND**

#### **1. Initial Grant Award**

On June 25, 2015, the Authority approved a Final Allocation for a grant for the County in an amount not to exceed \$500,000 to implement a new 10-bed Crisis Residential Treatment (“CRT”) facility. The County mentioned that it does not have a CRT facility and that it expected to begin providing CRT services within one year following award of grant funds. The County planned to purchase and renovate real property; purchase furnishings, equipment, and information technology; and finance three months of start-up costs. The resolution was set to expire June 30, 2016.

#### **2. First Amendment – Extension to Resolution and Grant Period**

During the April 28, 2016 Authority meeting, the County requested a one year extension to the resolution expiration date and grant period end date.

The County experienced staff turnover, thereby causing delay in the grant agreement execution. Additionally, the site that the County originally identified for its CRT program, through its non-profit service provider, was too large and required too many renovations to meet the needs of the CRT project, and the non-profit service provider was not going to continue its contract with the County beyond the fiscal year.

The County worked closely with another potential non-profit service provider, which submitted an alternate proposal for the CRT project and identified several potential sites. The County planned to acquire property by the end of July 2016 and open the CRT for services at the beginning of 2017.

The Authority approved an extension to the resolution expiration date and grant period end date, set to expire June 30, 2017.

#### **3. Second Amendment – Extension to Resolution and Grant Period**

During the March 23, 2017 Authority meeting, the County requested a second extension as well as a revision of the CRT project description to allow its non-profit service provider, Redwood Community Services (“RCS”), to purchase and hold title to real property using grant funds.

The County had been unable to obtain a timely approval from the County’s Board of Supervisors to purchase property, which caused prospective properties to continue to fall through. Therefore, the County decided it would be a better option for RCS to purchase property.

The Authority approved an extension of the grant period and resolution expiration date to May 31, 2018 and revised the CRT project description to allow RCS to purchase and renovate real property with the conditions that the County must meet the following three milestone deadlines:

1. The County shall provide evidence of being in escrow to Authority staff by August 31, 2017.

2. The County may receive advancement of funds if the County submits evidence acceptable to Authority staff that the CRT is on track to be operational on or before May 31, 2018, as well as meet other disbursement requirements under the program regulations.
3. All grant disbursement requests and required supporting documentation must be submitted to the Authority no later than April 30, 2018.

**4. Third Amendment – Extension to Resolution and Grant Period**

At the April 26, 2018 Authority meeting, the County requested that the Authority approve a third amendment to its resolution to amend the milestones and extend the resolution and grant period expiration date from May 31, 2018 to June 30, 2021.

The County was not going to be able meet the second and third milestones of providing evidence of being in escrow or submitting evidence that the CRT would be operational before May 31, 2018, because of delays. The delays were a result of RCS being unable to secure leveraged funding needed to complete the development of the CRT project, though RCS had been in communication with the Measure B commissioners with the intent of requesting funds to fill remaining funding gaps.

Authority staff recommended the Authority approve a third amendment to the County's resolution to amend the milestone conditions and extend the resolution and grant period expiration date to June 30, 2021. As a condition of approval, the County was required to provide an update to the Authority board no later than February 2019, detailing the progress of funding for completion of the CRT project, and the County had to meet the following amended milestone conditions:

1. The County must provide evidence acceptable to Authority staff demonstrating (a) the securing of sufficient funds to complete the CRT project on or before July 31, 2019, (b) the start of construction or renovation on or before November 30, 2019, and (c) the CRT shall be operational on or before May 31, 2021.
2. Funds shall not be disbursed if the County is unable to provide evidence acceptable to Authority staff that the CRT is on track to be operational on or before May 31, 2021.
3. The County must submit all grant disbursement requests, including required supporting documentation, to the Authority no later than May 31, 2021.

The Authority tabled the County's request for a third amendment to its resolution to the May 24, 2018 meeting, as the Authority concluded they would like to see documentation such as a business plan, a pro-forma operating budget, timelines, and sources and uses of funds prior to coming before the Authority again seeking approval of an extension and amended milestone conditions.

At the May 24, 2018 Authority meeting, the County returned with its request that the Authority approve a third amendment to the County's resolution with the same conditions as presented at the April 26, 2018 Authority meeting. The County provided project and operating budgets, and a timeline as requested by the Authority.

The Authority approved an extension of the grant period and resolution expiration date to June 30, 2019 with the same milestone conditions as outlined during the April 26, 2018 Authority meeting.

#### **5. Authority Board Update**

At the February 28, 2019 Authority Meeting, the County provided an update and acknowledged that funding had not been secured for the CRT project. The County reported that it worked closely with RCS to secure the funds necessary for the completion of the CRT project, which included applying for Community Development Block Grants (“CDBGs”) and a USDA loan; however, neither funding option ultimately came through. The County mentioned that on February 5, 2019, the County’s Board of Supervisors voted unanimously to utilize Measure B funds to direct the County’s Health and Human Services Agency to go through an RFP/RFQ process for a CRT facility, Crisis Stabilization Unit, and Psychiatric Health Facility. The County stated that RCS was waiting for the opening of the RFP/RFQ, at which time it would submit a proposal. The County also mentioned that it was aware that it may have to forfeit grant funds if it is unable to meet the milestones and project deadlines.

#### **6. Delegated Milestone Extension and Update**

In July 2019, the County informed Authority staff that the Measure B Committee advised the County that, because Measure B is funded through a public source, the property used for the Measure B project will need to be owned by the County. Therefore, RCS will no longer be a designated grantee. The County indicated that it still planned to use CHFFA funding in conjunction with Measure B funds to complete the CRT project selected through the RFP/RFQ process.

In addition, the County requested a 60-day milestone extension to secure funding, and in its request, the County gave assurances that they would be able to meet the new milestone date, because they anticipated the Measure B RFP/RFQ would be awarded during the September 25, 2019 County Board of Supervisors meeting. The Executive Director approved the request and extended the milestone date to September 30, 2019, per the delegated authority, for the securing of sufficient funds necessary to complete the CRT project.

#### **7. Authority Board Update**

During the September 26, 2019 Authority meeting, Authority staff reported that the County had submitted a request to extend the resolution and grant period expiration date and amend the CRT project description. However, there was not sufficient support to bring an action item before the Authority at that time. Additionally, Authority staff reported that because the County was expected to miss its milestone conditions to secure funding and start construction, the County would be in default of its grant agreement and that Authority staff would be bringing an action item to the Authority board at a future board meeting with a recommendation to either: (1) set a cure period to meet both missed milestones or (2) approve a fourth amendment to the County’s resolution if the County provided enough evidence to support an extension request and for Authority staff to determine that the CRT project is still feasible within the IMHWGP end date.

The Authority requested an additional Authority meeting on October 7, 2019 in order to vote on setting a cure period for the County sooner than later.

## **RESOLUTION NO. MH 2015-03B**

### **RESOLUTION OF THE CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY APPROVING A CURE PERIOD FOR THE COUNTY OF MENDOCINO'S EVENT OF DEFAULT**

WHEREAS, on June 25, 2015, the California Health Facilities Financing Authority ("Authority") approved Resolution No. MH 2015-03 that awarded to County of Mendocino ("Grantee") a grant in an amount not to exceed \$500,000 for the eligible project, consisting of no more than \$500,000 for crisis residential treatment capital costs;

WHEREAS, on May 24, 2018, the Authority approved a third amendment to extend the resolution and grant period expiration date (the date to complete and operate the project) with the condition that the Grantee must meet milestone deadlines: Grantee shall provide evidence acceptable to Authority staff demonstrating (a) the securing of sufficient funds by July 31, 2019 necessary to complete the Project, (b) the start of construction or renovation by November 30, 2019, and (c) the Project shall be operational by May 31, 2021. Funds shall not be disbursed if Grantee is unable to provide evidence acceptable to Authority staff that the Project is on track to be operational on or before May 31, 2021, as well as meet other disbursement requirements under Program regulations. Grantee must submit all disbursement requests, including required supporting documentation to the Authority no later than May 31, 2021;

WHEREAS, the Executive Director of the Authority granted Grantee's request to extend the first milestone of the securing of sufficient funds necessary to complete the crisis residential treatment project to September 30, 2019; and

WHEREAS, Grantee did not meet the first milestone of securing sufficient funds necessary to complete the crisis residential treatment project by September 30, 2019.

NOW, THEREFORE, BE IT RESOLVED by the California Health Facilities Financing Authority as follows:

Section 1. The Authority hereby sets a cure period of 30 days, effective October 8, 2019 and ending November 7, 2019, to cure an event of default. If Grantee is unable to secure sufficient funds on or before the last day of the cure period, the Authority will require forfeiture of grant funds.

Section 2. The Executive Director or Deputy Executive Director of the Authority is hereby authorized and directed to do any and all things and to execute and deliver any and all documents which the Executive Director or Deputy Executive Director deems necessary or advisable in order to effectuate the purposes of this Resolution and the transactions contemplated hereby.

Section 3. This Resolution expires November 7, 2019.

Date Approved: \_\_\_\_\_