

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____

WHEREAS, the Board of State and Community Corrections (BSCC) on behalf of the State of California has made available up to \$500 million in financing to design and construct new, or renovate existing, housing units, support buildings, programming space, and any necessary ancillary improvements at adult criminal local justice facilities in order to add capacity and to provide medical, dental, and mental health treatment or housing to inmates through Senate Bill 1022 (SB 1022); and,

WHEREAS, on July 23, 2013, the Board of State and Community Corrections on behalf of the State of California issued a Request for Proposals (RFP) to establish conditional awardees and allocate financing as authorized by SB 1022 for the construction of adult local criminal justice facilities; and,

WHEREAS, all counties applying for SB 1022 financing must include a Board of Supervisors' resolution with required criteria in order for the counties to seek funding preference; and,

WHEREAS, for medium-sized counties, such as Monterey County, \$40.0 million has been established as the maximum grant request; and,

WHEREAS, Monterey County is seeking funding preference for SB 1022 financing in the amount of \$40.0 million; and,

WHEREAS, Monterey County Sheriff-Coroner Scott Miller has requested that the Board of Supervisors authorize that the RFP be executed and submitted to the BSCC to apply for financing for additional mental health bed capacity and programming for inmates at the Monterey County Jail pursuant to Senate Bill 1022.

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of Monterey County hereby:

A. Authorizes the Sheriff's Office to proceed and apply for the SB 1022 (Adult Local Criminal Justice Facility Construction Program) Request for Proposal Project (RFP) funding in the amount of \$40.0 million;

B. Approves the necessary 10% minimum matching funds in the amount of \$4.0 million;

C. Authorizes the Sheriff to sign and execute the RFP and submit it to the Board of State and Community Corrections (BSCC) for financing;

D. Assures that Monterey County (the County) is seeking funding preference for its proposed project within the Adult Local Criminal Justice Facilities Construction Financing Program (the SB 1022 Financing Program). As such, the Board of Supervisors of Monterey 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.

E. Assures that the County is seeking funding preference for submittal of the complete initial real estate due diligence package.

F. Assures that 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 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.

G. Authorizes each of the Chair of the Board of Supervisors, the County Administrative Officer, and the Resource Management Agency Director, or their designees (collectively, the "Authorized Officers"), acting alone, for and in the name of the County to execute, and the Clerk to the Board of Supervisors is 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 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.

H. Authorizes each of the Authorized Officers 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.

I. Designates County staff members to act in specific capacities, as follows: County Construction Administrator - Robert Murdoch, Director of Public Works; Project Financial Officer – Shawne Ellerbee – Finance Manager; Project Contact Person – Jim Bass, Sheriff’s Commander, Custody Operations Bureau.

J. Assures that the County will adhere to state requirements and terms of the agreements between Monterey County, the California Board of State and Community Corrections and the State Public Works Board in the expenditure of any state financing allocation and County contribution funds.

K. Assures that the County will safely staff and operate the facility that is being constructed, consistent with Title 15 and 24, California Code of Regulations (CCR), within ninety (90) days after project completion.

L. Certifies that the County 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.

M. Assures that the County has project site control through fee simple ownership 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.

N. Attests that \$2,151,346 is the current fair market land value of the 2.9 acre site, and has been identified as a portion of the County’s in-kind match for the proposed construction.

O. Assures that the County has provided authorization to proceed with the proposed project in its entirety if a conditional award of state financing is received.