



Monterey County

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Board Order

Upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Adopted Resolution 13-332 and Resolution 13-333:

- a. Authorizing 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 \$22.8 million;
- b. Approving the necessary 10% minimum matching funds in the amount of \$4.0 million; and,
- c. Authorizing the Sheriff to sign and execute the RFP and submit it to the Board of State and Community Corrections (BSCC) for financing.

PASSED AND ADOPTED on this 22nd day of October 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on October 22, 2013.

Dated: October 23, 2013
File Number: 13-1107

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

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

Resolution No. 13-332

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 \$22.8 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 \$22.8 million;
- B. Approves the necessary 10% minimum matching funds in the amount of \$3.7 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.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried this 22nd day of October 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on October 22, 2013.

Dated: October 22, 2013
File Number: File ID 13-1107

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

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

Resolution No.: 13-333

A Resolution Affirming Support for)
the Application for SB 1022 financing,)
with Funding Preference, for the construction)
of adult local criminal justice facilities.....)

This Resolution is made with reference to the following facts:

1. In companion Resolution No. 13-322 this Board authorized the submission and execution of a Request for Proposals (RFP) to the Board of State and Community Corrections for financing as authorized by Senate Bill 1022 for the construction of adult local criminal justice facilities for additional mental health bed capacity and programming for inmates at the Monterey County Jail, pursuant to Senate Bill 1022.
2. The County is seeking funding preference for Senate Bill 1022 financing in the amount of \$22.8 million, and has authorized the Monterey County Sheriff-Coroner Scott Miller to apply for said funding,
3. The Board has authorized the Chief Administrative Officer and other County officials and employees to take actions in pursuit of Senate Bill 1022 funding on a preferential basis.
4. This Board has previously authorized the execution of a Project Delivery and Construction Agreement, Board of State and Community Corrections Jail Construction Agreement, Ground Lease, Right of Entry for Construction and Operation, and a Facility Sublease, in conformance with the requirements of Assembly Bill 900 for the construction of a jail housing addition (AB 900 grant agreements).

NOW, THEREFORE, BE IT RESOLVED by the Monterey County Board of Supervisors as follows:

1. The foregoing recitals are true and correct.
2. The Board of Supervisors affirms its support for the application for Senate Bill 1022 funding on a preferential basis and directs staff to pursue funding in accordance with all applicable laws and regulations, including the California Environmental Quality Act (CEQA).
3. If and when the State makes a conditional award of funds to the County, staff will return to the Board to accept the grant and grant conditions, and to authorize any other necessary approvals or actions required of the County.

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4. The County will review the Senate Bill agreements to ensure that they are consistent with County's existing obligations under the jail housing addition grant (AB 900 grant agreements).

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried this 22nd day of October 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on October 22, 2013.

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