

1 [Grant Application - Sheriff's Department - Construction of Adult Local Criminal Justice
2 Facilities]

3 **Resolution authorizing the Sheriff's Department to submit a grant application to the**
4 **Board of State and Community Corrections, pursuant to California State Senate Bill**
5 **1022 (2012), for a proposed project to replace County Jail No. 3 and County Jail No. 4**
6 **and to seek funding preference for such application; declaring the availability and**
7 **adequacy of \$8,900,000 in cash contribution funds for the proposed project; and**
8 **conditionally approving the form and execution of associated grant financing and**
9 **construction documents.**

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11 WHEREAS, Under Senate Bill 1022, Chapter 42, Statutes of 2012 ("SB 1022"), the
12 State of California authorized the Board of State and Community Corrections ("BSCC"), the
13 California State Public Works Board ("SPWB"), and participating counties to acquire, design
14 and construct adult local criminal justice facilities approved by the BSCC; and

15 WHEREAS, SB 1022 authorized the SPWB to issue up to \$500,000,000 in revenue
16 bonds to finance the acquisition, design, renovate, and construction of approved adult local
17 criminal justice facilities; and

18 WHEREAS, On July 23, 2013, the BSCC issued a Request for Proposals for
19 Construction of Adult Local Criminal Justice Facilities ("SB 1022 RFP"), a copy of which is on
20 file with the Clerk of the Board of Supervisors in File No. 130973, and is incorporated herein
21 by reference; and

22 WHEREAS, In 1992, the City and County of San Francisco ("City") developed Seismic
23 Hazard Ratings for over 200 of its public buildings on a scale from one to four, with four
24 representing the most seismically deficient, and City's Hall of Justice building at 850 Bryant
25 Street ("HOJ") is a seismically deficient building that received a rating of three; and

1 WHEREAS, The HOJ contains County Jail #3 and County Jail #4, which have a
2 combined total of 905 (826 rated) bed facilities; and

3 WHEREAS, If the HOJ sustains significant damage due a major seismic event, the
4 estimated cost to relocate and transport inmates housed in County Jail #3 and County Jail #4
5 is estimated to be tens of millions of dollars, and replacing County Jail #3 and County Jail #4
6 has been a high priority of the City's Ten-Year Capital Plan since its inception in 2006; and

7 WHEREAS, The replacement of County Jail #3 and County Jail #4 with a new jail
8 facility adjacent to HOJ (the "Proposed Facility") is estimated to cost \$290,000,000, and if the
9 City receives a grant of SB 1022 funds for the Proposed Facility, the total cost to the City to
10 construct the Proposed Facility would be substantially offset by such awarded funds; and

11 WHEREAS, Applying for a grant of SB 1022 funds requires the City to submit an
12 Applicant's Agreement in substantially the form on file with the Clerk of the Board of
13 Supervisors in File No. 130973 ("Applicant's Agreement"), which is incorporated herein by
14 reference; and

15 WHEREAS, The City is qualified to receive up to \$80,000,000 of SB 1022 funds
16 through the SB 1022 RFP, which amount would require a matching City contribution of
17 \$8,900,000 ("City's Cash Contribution"); and

18 WHEREAS, Under budgets adopted by this Board of Supervisors for Fiscal Years 2012
19 through 2015, \$11,190,000 was appropriated to the City's Sheriff's Department through the
20 capital budget for replacement of County Jail #3 and County Jail #4, and the City's Cash
21 Contribution for any SB 1022 grant made through the SB 1022 RFP would be paid with such
22 appropriated funds; and

23 WHEREAS, The City would use the City's Cash Contribution to pay for preliminary
24 designs, studies, environmental review and analysis, and preliminary project management for
25 the Proposed Facility; and

1 WHEREAS, The City can seek a funding preference for a SB 1022 grant if its
2 submitted application includes a resolution that is adopted by this Board of Supervisors and
3 certifies City's Cash Contribution has been duly authorized and is lawfully available, and a
4 September 27, 2013, letter from the City's Controller that confirms such matters (Controller's
5 Findings) is on file with the Clerk of the Board of Supervisors in File No. 130973 and is
6 incorporated herein by reference; and

7 WHEREAS, The City can seek funding preference for a SB 1022 grant if its submitted
8 application includes a complete initial real estate due diligence package, and the Sheriff's
9 Department intends to submit such a package; and

10 WHEREAS, The City can seek a funding preference for a SB 1022 grant if its
11 submitted application includes a resolution that is adopted by this Board of Supervisors that
12 authorizes the execution of a Project Delivery and Construction Agreement, a BSCC Jail
13 Construction Agreement, a Ground Lease, a Right of Entry for Construction and Operation,
14 and a Facility Sublease in substantially the forms on file with the Clerk of the Board of
15 Supervisors in File No. 130973 (the "Grant Documents"), and the Grant Documents are
16 hereby declared to be a part of this resolution as if set forth fully herein; and,

17 WHEREAS, The SB 1022 RFP specifies that any county applying for a SB 1022 grant
18 must designate the construction administrator for the Proposed Facility, and City's
19 construction administrator for the Proposed Facility will be Jim Buker, Senior Architect for
20 City's Department of Public Works (DPW), Building Design & Construction (BDC) - Project
21 Management, or any other person designated by the Director of DPW; and

22 WHEREAS, The SB 1022 RFP specifies that any county applying for a SB 1022 grant
23 must designate the project contact person for the Proposed Facility, and City's project contact
24 persons for the Proposed Facility will be Jim Buker, Senior Architect for City's Department of
25 Public Works (DPW), Building Design & Construction (BDC) - Project Management, or any

1 other person designated by the Director of DPW, and Undersheriff Ellen Brin, Sheriff's
2 Department, or any other person designated by the City's Sheriff; and

3 WHEREAS, The SB 1022 RFP specifies that any county applying for a SB 1022 grant
4 must designate the financial officer for the Proposed Facility, and City's financial officers for
5 the Proposed Facility will be Bree Mawhorter, Chief Financial Officer of City's Sheriff's
6 Department, or any other person designated by the City's Sheriff, and Jim Buker, Senior
7 Architect for City's Department of Public Works (DPW), Building Design & Construction (BDC)
8 - Project Management, or any other person designated by the Director of DPW; and

9 WHEREAS, The City is required to, and will, undertake environmental review under the
10 California Environmental Quality Act of the Proposed Facility as its project components are
11 better defined, and will work with all interested parties, City staff, experts and the public to
12 develop a thorough environmental analysis that will inform the design, development and
13 operation of the Proposed Facility; and

14 WHEREAS, The City retains discretion to: (1) modify the Proposed Facility to mitigate
15 significant adverse environmental impacts; (2) select feasible alternatives that avoid
16 significant adverse impacts of the Proposed Facility; (3) implement specific measures to
17 mitigate the significant adverse environmental impacts of the Proposed Facility; (4) reject the
18 Proposed Facility as proposed if its economic and social benefits do not outweigh otherwise
19 unavoidable significant adverse impacts of the Proposed Facility; or (5) approve the Proposed
20 Facility upon a finding that the economic and social benefits of the Proposed Facility outweigh
21 otherwise unavoidable significant adverse impacts; now, therefore, be it

22 RESOLVED, The City is authorized to submit an application for an \$80,000,000 grant
23 of SB 1022 funds in response to the SB 1022 RFP and to seek funding preference for the
24 Proposed Facility within the SB 1022 financing program; and, be it

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1 FURTHER RESOLVED, The Director of DPW is authorized to execute and submit the
2 Applicant's Agreement to the BSCC; and, be it

3 FURTHER RESOLVED, If City is conditionally awarded a SB 1022 grant, the City's
4 Cash Contribution will be used to pay for preliminary designs, studies, environmental review
5 and analysis, and preliminary project management for the Proposed Facility; and, be it

6 FURTHER RESOLVED, That this Board of Supervisors hereby adopts the Controller's
7 Findings to represent, warrant and covenant as follows:

8 (1) The City's Cash Contribution will be derived exclusively from City's lawfully
9 available funds;

10 (2) Payment of the City's Cash Contribution to pay for the design or construction of the
11 Proposed Facility (i) is within the power, legal right, and authority of City, (ii) is legal and will
12 not conflict with or constitute on the part of the City a material violation of, a material breach
13 of, a material default under, or result in the creation or imposition of any lien, charge,
14 restriction, or encumbrance upon any property of the City under the provisions of any charter
15 instrument, bylaw, indenture, mortgage, deed of trust, pledge, note, lease, loan, installment
16 sale agreement, contract, or other material agreement or instrument to which the City is party
17 or by which the City or its properties or funds are otherwise subject or bound, decree, or
18 demand of any court or governmental agency or body having jurisdiction over the City or any
19 of its activities, properties or funds, and (iii) has been duly authorized by this Board of
20 Supervisors;

21 (3) Except as otherwise approved in advance by the BSCC, the City's Cash
22 Contribution and the Proposed Facility have not been and will not be (i) mortgaged, pledge, or
23 hypothecated by the City in any manner or for any purpose, (ii) the subject of a grant of a
24 security interest by the City, (iii) mortgaged, pledged or hypothecated for the benefit of the
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1 City or its creditors in any manner or for any purpose, or (iv) the subject of a grant of a
2 security interest in favor of the City or its creditors;

3 (4) The City shall not in any manner impair, impede or challenge the security, rights
4 and benefits of the owners of any lease-revenue bonds sold by the SPWB to finance the SB
5 1022 grant for the Proposed Facility (State Bonds) or the trustee for the State Bonds; and, be
6 it

7 FURTHER RESOLVED, If, following all required environmental review, this Board of
8 Supervisors elects to proceed with the Proposed Facility, the City will be authorized to
9 proceed with the Proposed Facility if City is awarded with an SB 1022 grant for the Proposed
10 Facility and the City accepts such grant, acquires the real property necessary for the
11 Proposed Facility, and obtains sufficient funding for the development and construction of the
12 Proposed Facility (the "Acceptance Conditions"); and, be it

13 FURTHER RESOLVED, The City is seeking funding preference for its SB 1022 grant
14 application associated with review of and authorization to execute the Grant Documents, and
15 this Board of Supervisors does hereby approve the form of the Grant Documents; and, be it

16 FURTHER RESOLVED, If this Board of Supervisors elects to proceed with the
17 Proposed Facility following all required environmental review and the Acceptance Conditions
18 are fully satisfied, the following persons (collectively, the "Authorized Officers"), will be
19 authorized to execute the Grant Documents as specified below for and in the name of the City
20 at such time and in such manner as is required for the awarded SB 1022 grant, modified as
21 may be necessary for a design-build project, with such additions thereto and changes therein
22 as are required by the BSCC or the SPWB to effectuate the financing program for the SB
23 1022 grant and as condition to the issuance of the Bonds, if the applicable Authorized
24 Officers, determine, in consultation with the City Attorney, such changes are in the best
25 interest of the City, do not materially increase the obligations or liabilities of the City, are

1 necessary or advisable to effectuate the purposes of the Grant Documents or this Resolution,
2 and are in compliance with all applicable laws, including the City's Charter, and approval of
3 such changes shall be conclusively evidenced by the execution and delivery thereof by the
4 applicable Authorized Officers, with (i) City's Director of Property or his or her designee, acting
5 alone, authorized to sign the Ground Lease, (ii) City's Director of Property or his or her
6 designee, and City's Sheriff or his or her designee, acting together, authorized to sign the
7 Right of Entry for Construction and Operation and the Facilities Sublease on behalf of the
8 City, (iii) City's Controller or his or her designee, City's Sheriff or his or her designee, and the
9 Director of DPW or his or her designee, acting together, authorized to sign the BSCC Jail
10 Construction Agreement, and (iv) City's Controller or his or her designee, and City's Sheriff or
11 his or her designee, acting together and with the recommendation of the Director of DPW or
12 his or her designee, authorized to sign the Project Delivery and Construction Agreement;
13 and, be it

14 FURTHER RESOLVED, That if the City is awarded a grant of SB 1022 funds, the City
15 elects to proceed with the Proposed Facility and the Acceptance Conditions are fully satisfied,
16 the City shall (i) adhere to state requirements and terms of agreement between the City, the
17 BSCC, and the SPWB in the expenditure of such grant and the City's Cash Contribution, and
18 (ii) safely staff and operate the Proposed Facility, should it be constructed, within 90 days
19 after substantial completion of construction of the Proposed Facility, and (iii) not lease housing
20 capacity in the Proposed Facility to any other public or private entity for a period of ten years
21 beyond the completion of construction of the Proposed Facility.

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