

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

3 **Resolution authorizing the Sheriff's Department to submit a funding application to the**
4 **Board of State and Community Corrections pursuant to California State Senate Bill 863**
5 **(2014) for a proposed project to replace County Jail No. 3 and County Jail No. 4;**
6 **outlining the cash contribution funds for the proposed project; conditionally approving**
7 **the form and execution of associated financing and construction documents; and**
8 **adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting**
9 **Program.**

10

11 WHEREAS, Under Senate Bill 863, Chapter 37, Statutes of 2015 ("SB 863"), the State
12 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 863 authorized the SPWB to issue up to \$500,000,000 in lease
16 revenue bonds to finance the acquisition, design, renovate, and construction of approved
17 adult local criminal justice facilities; and

18 WHEREAS, On June 10, 2015, the BSCC issued a Request for Proposals for
19 Construction of Adult Local Criminal Justice Facilities ("SB 863 RFP"), a copy of which is on
20 file with the Clerk of the Board of Supervisors in File No. 150701, and is incorporated herein
21 by reference; and

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

1 WHEREAS, The HOJ contains County Jail No. 3 and County Jail No. 4, which have a
2 combined total of 905 (826 rated) bed facilities; and

3 WHEREAS, If the HOJ sustains significant damage due to a major seismic event, the
4 estimated cost to relocate and transport inmates housed in County Jail No. 3 and County Jail
5 No. 4 is estimated to be tens of millions of dollars, and replacing County Jail No. 3 and County
6 Jail No. 4 has been a high priority of the County's Ten-Year Capital Plan since its inception in
7 2006; and

8 WHEREAS, This Board of Supervisors adopted a FYs 2014-2023 Ten-Year Capital
9 Plan on April 21, 2015, showing that the County could fully fund a replacement jail facility in
10 an amount equal to \$278,000,000 with General Fund supported certificates of participation;
11 and

12 WHEREAS, The replacement of County Jail No. 3 and County Jail No. 4 with a new jail
13 facility adjacent to HOJ (the "Proposed Facility") is currently estimated to cost \$240,000,000,
14 and if the County receives financing of SB 863 funds for the Proposed Facility, the total cost to
15 the County to construct the Proposed Facility would be substantially offset by such awarded
16 funds; and

17 WHEREAS, Applying for the SB 863 funds requires the County to submit an
18 Applicant's Agreement in substantially the form on file with the Clerk of the Board of
19 Supervisors in File No. 150701 ("Applicant's Agreement"), which is incorporated herein by
20 reference; and

21 WHEREAS, The County is qualified to receive up to \$80,000,000 of SB 863 funds
22 through the SB 863 RFP, which amount would require a matching County contribution of
23 \$24,000,000 ("County's Cash Contribution"); and

24 WHEREAS, Under budgets adopted by this Board of Supervisors for Fiscal Years 2012
25 through 2015, \$10,190,000 was appropriated to the County's Sheriff's Department through the

1 capital budget for replacement of County Jail No. 3 and County Jail No. 4, which amount
2 could be used towards County's Cash Contribution; and

3 WHEREAS, If the County receives a conditional intent to award SB 863 financing for
4 the Proposed Facility (a "Notice of Funding Intent"), City staff will submit legislation authorizing
5 the use of \$13,810,000 of commercial paper for the Proposed Facility to this Board of
6 Supervisors for consideration within 30 days of receiving the Notice of Funding Intent from the
7 BSCC; and

8 WHEREAS, The submitted application for SB 863 financing must include a resolution
9 that is adopted by this Board of Supervisors that provides assurance that County's Cash
10 Contribution will be lawfully available for the Proposed Facility, and a July 7, 2015 letter from
11 the County's Controller confirms \$10,190,000 has been appropriated for the Proposed Facility
12 and is duly authorized and lawfully available, which letter is on file with the Clerk of the Board
13 of Supervisors in File No. 150701 and is incorporated herein by reference; and

14 WHEREAS, The submitted application for SB 863 financing must include a resolution
15 that is adopted by this Board of Supervisors that authorizes the execution of a Project Delivery
16 and Construction Agreement, a BSCC Jail Construction Agreement, and a Right of Entry for
17 Construction and Operation (collectively, "Construction Documents"), and a Ground Lease,
18 Facility Lease, and a Facility Sublease (collectively, the "Financing Documents"), which are
19 substantially the forms on file with the Clerk of the Board of Supervisors in File No. 150701,
20 and the Construction Documents and the Financing Documents are hereby declared to be a
21 part of this resolution as if set forth fully herein; and

22 WHEREAS, The SB 863 RFP specifies that any county applying for SB 863 financing
23 must designate the construction administrator for the Proposed Facility, and County's
24 construction administrator for the Proposed Facility will be Jumoke Akin-Taylor, Project
25

1 Manager for San Francisco Public Works (SFPW), Building Design & Construction (BDC) -
2 Project Management, or any other person designated by the Director of SFPW; and

3 WHEREAS, The SB 863 RFP specifies that any county applying for SB 863 financing
4 must designate the financial officer for the Proposed Facility, and County's financial officers
5 for the Proposed Facility will be Bree Mawhorter, Chief Financial Officer of County's Sheriff's
6 Department, or any other person designated by the County's Sheriff, and Jumoke Akin-Taylor,
7 Project Manager for San Francisco Public Works (SFPW), Building Design & Construction
8 (BDC) - Project Management, or any other person designated by the Director of SFPW; and

9 WHEREAS, The SB 863 RFP specifies that any county applying for SB 863 financing
10 must designate the project contact person for the Proposed Facility, and County's project
11 contact persons for the Proposed Facility will be Jumoke Akin-Taylor, Project Manager for
12 SFPW, Building Design & Construction (BDC) - Project Management, or any other person
13 designated by the Director of SFPW, and Bree Mawhorter, Sheriff's Department, or any other
14 person designated by the County's Sheriff; and

15 WHEREAS, The submitted application for SB 863 financing must include a resolution
16 adopted by this Board of Supervisors that provides assurance the County will fully and safely
17 staff and operate the Proposed Facility within 90 days after completion of construction; and

18 WHEREAS, The SB 863 RFP specifies that any county applying for SB 863 financing
19 must have fee ownership or a long-term lease of the real property required for the Proposed
20 Facility within 90 days of receiving a Notice of Funding Intent from the BSCC, and such real
21 property is currently owned by third parties (the "Acquisition Parcels"); and

22 WHEREAS, The Planning Department prepared a Draft Initial Study/Mitigated Negative
23 Declaration ("IS/MND") for the Proposed Facility and published it for public review on May 13,
24 2015; and

25

1 WHEREAS, The Draft IS/MND was available for public comment until June 3, 2015;

2 and

3 WHEREAS, On June 25, 2015, the Planning Commission reviewed and considered the
4 Final Mitigated Negative Declaration (“FMND”) and found that the contents of said report and
5 the procedures through which the FMND was prepared, publicized, and reviewed complied
6 with the California Environmental Quality Act (California Public Resources Code, Sections
7 21000, et seq.) (“CEQA”), 14 California Code of Regulations, Sections 15000, et seq. (the
8 “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code (“Chapter 31”):

9 and

10 WHEREAS, The Planning Commission found the FMND was adequate, accurate and
11 objective, reflected the independent analysis and judgment of the Department of City Planning
12 and the Planning Commission, and that the summary of comments and responses contained
13 no significant revisions to the Preliminary IS/MND, and approved the FMND for the Proposed
14 Facility in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

15 WHEREAS, The Planning Department, Jonas Ionin, is the custodian of records,
16 located in File No. 2014.0198E, at 1650 Mission Street, Fourth Floor, San Francisco,
17 California; and

18 WHEREAS, Planning Department staff prepared a Mitigation Monitoring and Reporting
19 program (“MMRP”), which material was made available to the public and this Board of
20 Supervisors for this Board’s review, consideration and action; and

21 WHEREAS, This Board of Supervisors held a public hearing on the FMND on July 10,
22 2015, and upheld and affirmed the FMND and found that the FMND was adequate, accurate
23 and objective, reflected the independent analysis and judgment of the City, and that the
24 summary of comments and responses contained no significant revisions to the Preliminary
25 IS/MND, and approved the FMND for the Proposed Facility in compliance with CEQA, the

1 CEQA Guidelines and Chapter 31 in Board of Supervisors Motion No. ____; now therefore
2 be it

3 RESOLVED, That this Board of Supervisors has reviewed and considered the FMND
4 and the record as a whole, finds that the FMND is adequate for its use as the decision-making
5 body for the Proposed Facility, that there is no substantial evidence that the Proposed Facility
6 will have a significant effect on the environment with the adoption of the mitigation measures
7 contained in the MMRP to avoid potentially significant environmental effects associated with
8 the Proposed Facility, and hereby adopts the FMND; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby adopts the MMRP
10 attached hereto as Exhibit A and incorporated herein as part of this Resolution by this
11 reference thereto and commits to all required mitigation measures identified in the FMND and
12 contained in the MMRP; and, be it

13 FURTHER RESOLVED, The County is authorized to submit an application for
14 \$80,000,000 of SB 863 funds in response to the SB 863 RFP; and, be it

15 FURTHER RESOLVED, The Director of SFPW is authorized to execute and submit the
16 Applicant's Agreement to the BSCC; and, be it

17 FURTHER RESOLVED, That within the 30 day period following County's receipt of the
18 Notice of Funding Intent from BSCC, City staff shall submit legislation authorizing the
19 appropriation of \$13,810,000 of commercial paper to fund the remainder of County's Cash
20 Contribution to this Board of Supervisors for consideration; and, be it

21 FURTHER RESOLVED, The County's Cash Contribution shall be compatible with the
22 lease revenue financing that funds the SB 863 funds awarded to County for the Proposed
23 Facility; and, be it

24 FURTHER RESOLVED, The County will be authorized to proceed with the Proposed
25 Facility if County is awarded and accepts the SB 863 financing for the Proposed Facility, the

1 County acquires the Acquisition Parcels and obtains sufficient funding for the development
2 and construction of the Proposed Facility, and this Board of Supervisors approves the contract
3 for the design of the Proposed Facility and the contract for the construction of the Proposed
4 Facility (the "Acceptance Conditions"); and, be it

5 FURTHER RESOLVED, This Board of Supervisors does hereby approve the form of
6 the Construction Documents and the Financing Documents, as may be modified by mutual
7 agreement of County and BSCC to allow a portion of the Proposed Facility to be encumbered
8 with the Financing Documents for the SB 863 funds awarded for the Proposed Facility and a
9 portion of the Proposed Facility to be encumbered with the financing documents related to the
10 issuance of County's General Fund certificates of participation for the Proposed Facility; and,
11 be it

12 FURTHER RESOLVED, If the Acceptance Conditions are fully satisfied, the following
13 persons (collectively, the "Authorized Officers"), will be authorized to execute the Construction
14 Documents and the Financing Documents as specified below for and in the name of the
15 County at such time and in such manner as is required for the awarded SB 863 financing,
16 modified as may be necessary for a design-build project, with such additions thereto and
17 changes therein as are required by the BSCC or the SPWB to effectuate the financing
18 program for the SB 863 financing and as condition to the issuance of the Bonds, if the
19 applicable Authorized Officers, determine, in consultation with the County's City Attorney,
20 such changes are in the best interest of the County, do not materially increase the obligations
21 or liabilities of the County, are necessary or advisable to effectuate the purposes of the
22 Construction Documents, the Financing Documents or this Resolution, and are in compliance
23 with all applicable laws, including the County's Charter, and approval of such changes shall
24 be conclusively evidenced by the execution and delivery thereof by the applicable Authorized
25 Officers, with (i) County's Director of Property or his or her designee, acting alone, authorized

1 to sign the Financing Documents, (ii) County’s Director of Property or his or her designee,
2 authorized to sign the Right of Entry for Construction and Operation and the Facilities
3 Sublease on behalf of the County, (iii) County’s Controller or his or her designee, County’s
4 Sheriff or his or her designee, and the Director of SFPW or his or her designee, acting
5 together, authorized to sign the BSCC Jail Construction Agreement, and (iv) County’s
6 Controller or his or her designee, and County’s Sheriff or his or her designee, acting together
7 and with the recommendation of the Director of SFPW or his or her designee, authorized to
8 sign the Project Delivery and Construction Agreement; and, be it

9 FURTHER RESOLVED, That if the County is awarded financing of SB 863 funds and
10 the Acceptance Conditions are fully satisfied, the County shall (i) adhere to state requirements
11 and terms of agreement between the County, the BSCC, and the SPWB in the expenditure of
12 such financing and the County’s Cash Contribution, and (ii) safely staff and operate the
13 Proposed Facility, should it be constructed, within 90 days after substantial completion of
14 construction of the Proposed Facility, and (iii) for so long as the SPWB lease-revenue bonds
15 secured by the Financing Documents remain outstanding, not dispose of, modify the use of,
16 or change the terms of the real property title or other interest in the site needed to construct
17 the Proposed Facility, or lease housing capacity in the Proposed Facility subject to the
18 Financing Documents to any other public or private entity without permission and instructions
19 for such action from the BSCC for a period of ten years beyond the completion of construction
20 of the Proposed Facility.

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1 RECOMMENDED BY:

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Mohammed Nuru, Director of Public Works

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