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## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors

**FROM:** Helene Franchi for Watt, Nancy - County Executive Officer  
County Executive Office

**REPORT BY:** Liz Habkirk, PRINCIPAL MANAGEMENT ANALYST - 253-4826

**SUBJECT:** Approval of Resolution and Budget Transfer Supporting the County's SB 1022 application

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### **RECOMMENDATION**

County Executive Officer, Director of Corrections and Chief Probation Officer recommend the following actions related to the County's application to the Board of State Community Corrections for the SB 1022 financing to fund a Staff Secure Facility at the proposed new jail site:

1. Approval of Budget Transfer No. CEO002 increasing appropriations in the General Fund Capital Improvement Projects budget with offsetting revenue from the Accumulated Capital Outlay Fund in the amount of \$913,000 to serve as the County's required matching funds for the project (4/5 vote required); and
2. Based on the Board's consideration of an option agreement for the new jail site either:
  - a. Adoption of Resolution 1 authorizing the submittal of a SB 1022 application in the amount of \$14,985,000, satisfying the requirements for meeting application criterion: Preference Criterion 1 (Adequate County Contribution Funds), Preference Criterion 2 (Real Estate Due Diligence), and Preference Criterion 4 (Authorization of Project Documents), and authorizing execution of the necessary application documents by the Director of Corrections; or
  - b. Adoption of Resolution 2 authorizing the submittal of a SB 1022 application in the amount of \$14,985,000, satisfying the requirements for meeting application criterion: Preference Criterion 1 (Adequate County Contribution Funds) and Preference Criterion 4 (Authorization of Project Documents), and authorizing execution of the necessary application documents by the Director of Corrections.

### **EXECUTIVE SUMMARY**

The Board of State Community Corrections (BSCC) has issued a Request for Proposals (RFP) to establish conditional awards and allocate financing as authorized by Senate Bill (SB) 1022 for the construction of adult local

criminal justice facilities. Napa County qualifies for the funding as a "Small County" and can submit a proposal for a project costing up to \$20 million. The County Executive Officer, Director of Corrections, and the Chief Probation Officer recommend submitting a proposal for the Staff Secure Facility portion of the planned new jail project. Today's recommended action will authorize the funding necessary for match of the State financing, and approve a resolution authorizing staff to apply for the funding, and establishing the County's intent to meet all requirements of Preference Criterion 1 (Adequate County Contribution Funds), Preference Criterion 2 (Real Estate Due Diligence), and Preference Criterion 4 (Authorization of Project Documents).

### **PROCEDURAL REQUIREMENTS**

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the recommended Budget Transfer and one of the two proposed resolutions.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	Staff recommends that the Board approve \$913,000 in Accumulated Capital Outlay funding to be used for the amount required for the County's 5% match and the additional non-allowable expenses per the requirements of the funding. Staff also recommends the use of currently budgeted funds within the Capital Improvement Fund - Jail Replacement Project (\$32,000) and General Fund - Central Services (\$35,000) as a portion of the match required by the State.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The item is discretionary in that there is no requirement to apply for state funds, however the Board of Supervisors and the Community Corrections Partnership has supported the establishment of a Staff Secure Facility and this grant could result in 95% of the facility being funded by the State.
Is the general fund affected?	No
Future fiscal impact:	Award of the State financing will require the County to put forward funding that will later be reimbursed by the State. Appropriations in the SB 1022 Program will be budgeted accordingly in future years.
Consequences if not approved:	The County will not be able to apply for SB 1022 funding and would need to postpone construction of the facility until funding for the full jail project can be identified.
Additional Information:	

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of

Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

The Board of State Community Corrections (BSCC) has issued a Request for Proposals (RFP) to establish conditional awardees and allocate financing as authorized by Senate Bill (SB) 1022 for the construction of local adult criminal justice facilities. SB 1022 follows similar programs that were established under the Public Safety Offender Rehabilitation Act of 2007 commonly known as AB 900 which authorized up to \$1.2 billion (in two phases) for lease-revenue bond financing for county jail facilities. Like AB 900, SB 1022 authorizes state lease-revenue bond financing for acquisition, design, and construction of the approved facilities. Unlike AB 900 however, SB 1022 requires that applicants judiciously consider programming needs to manage the offender population. Programming was not a required component of the AB 900 funding which emphasized the addition of jail bed space. The legislation specifies that funding consideration shall be given to counties that are seeking to replace existing compacted, outdated, or unsafe housing capacity. Additionally, funding preference is given to counties seeking to renovate existing or build new facilities that provide adequate space for the provision of treatment and rehabilitation services.

The State has divided the funding into three pools: large, medium, and small counties. With a population of under 200,000, Napa County qualifies for the funding as a "Small County". The small county pool of funding totals \$100 million, and counties can submit applications for funding of up to \$20 million. Staff recommends that the County submit an application for a 72-bed Staff Secure Facility to be located on the proposed site for the new jail and estimates the cost of the new facility to be \$15 million.

Earlier this year the Board of Supervisors and the Community Corrections Partnership supported the establishment of a Staff Secure Facility to serve as an alternative to the main secure jail. The Staff Secure Facility (BSCC Type IV) will provide an environment that fosters cognitive behavioral change and allow individuals to build a foundation for transition back into the community. Inmates who are nearing the end of their sentences, and who meet the classification requirements, would be "stepped-down" into the Staff Secure Facility where they would continue to receive time-served credits towards their sentences. Instead of a traditional correctional setting, the Staff Secure Facility will contain four 18-person dormitories. While in the facility, residents would be assigned to case managers who would work with them to develop individual plans that address their specific criminogenic needs and prepares them for life outside of confinement. Individuals would be required to participate in employment readiness training, access job search assistance, and could participate based on their needs in evidence based cognitive behavioral groups such as anger management, parenting classes, life skills, criminal thinking and low level substance abuse treatment. To help them prepare for re-entry into the community, residents of the Staff Secure Facility may be allowed, based on their individual case plans, to leave the facility for approved purposes such as job interviews, doctors appointments, access to social services, attendance at classes, or to go to their place of employment. Unauthorized leave of the facility could result in arrest for escape of a correctional facility, and the individual would be returned to the jail to face new charges.

The State's RFP has outlined that funding preference shall be given to the counties that are most prepared to proceed successfully with the financing in a timely manner which is reflected in the four preference criterion:

1. Commitment of adequate County contribution funds. (Mandatory)
2. Initial real estate due diligence and site assurance. (Optional)
3. Documentation evidencing CEQA compliance has been completed. (Optional)
4. Review of and authorization to execute the financing program documents. (Optional)

Applications will be considered first by the number of criterion that they satisfy and then reviewed for adequacy in

meeting a minimum score on the weighted factors discussed below. The resolution under consideration today will allow the County to submit an application that satisfies Preference Criterion 1, 2, and 4. It should be noted that the BSCC provided potential applicants with the required resolution language for the Board's consideration as a part of its application instructions.

Today's action approving Budget Transfer No. CEO002 and approval of the resolution will authorize the designation of the cash match of \$980,000 while the application will outline appropriate in-kind resources that can be counted toward the County's 5% match and cover the costs of the non-allowable expenses per the funding requirements, thus satisfying Preference Criterion 1.

In an earlier action today, your Board considered the option agreement for the property at 2300 Napa-Vallejo Highway (APN #046-370-021). Approval of that item would result in gaining site assurance of the property for purposes of the SB 1022 application, and staff has prepared the necessary real estate due diligence documentation that will satisfy Preference Criterion 2. As this preference criterion is not mandatory, staff has included two resolutions for consideration. Resolution No. 1 includes the language necessary to satisfy Preference Criterion 2. Should your Board not approve the option agreement, staff would recommend adopting Resolution No. 2 which strikes the Preference Criterion 2 language from the recommended resolution under consideration.

Finally, staff recommends the approval of the form of the project documents required within the SB 1022 financing program. The SB 1022 financing program will be administered by the BSCC, with project approval and administrative oversight provided by the State Public Works Board (SPWB) and the California Department of Finance. The lease-revenue bond financing mechanism is a form of long-term borrowing in which the debt obligation is secured by a revenue stream produced by the project. Lease-revenue bonds requires the SPWB to hold an irrevocable leasehold interest of the criminal justice facility during the term of the lease-revenue bonds (approximately 25 years after the bonds are sold). The SPWB will lease the facility to BSCC, who will in turn sublease the facility to the participating county for their use and operation in the care of county offenders. Essentially The project documents include a Project Delivery and Construction Agreement, the BSCC Jail Construction Agreement, the Ground Lease, the Right of Entry for Construction and Operation, and the Facility Sublease. Copies of the relevant project documents were made available to your Board and public copies are available with the Clerk of the Board's office. Staff in the Department of Public Works and the Office of County Counsel have reviewed the documents as to form and recommend approval of this preference criterion. Although the lease-revenue bond mechanism requires the County to allow SPWB to hold an irrevocable lease on the building for approximately 25 years, the County has identified an immediate need for the facility and will be able to satisfy the main requirement of the lease - that the facility be in operation within 90 days of final construction. The Community Corrections Partnership has already recommended approval of the use of Realignment funds for the operation of such a facility which is estimated to be \$2.2 million annually. The two primary benefits of establishing a step-down facility will be the: 1) possible addition of some needed correctional facility beds, though the number of medium custody beds vacated by transfer to the Staff Secure Facility will be limited, and 2) the implementation of a robust re-entry and program focused curriculum will create a true continuum of evidence-based programs and custody options that will help the County achieve its goal of reducing recidivism and maintaining public safety.

Although an Environmental Impact Report (EIR) is underway for the project and the Public Comment period on the draft EIR closed September 30, 2013, the County cannot qualify for Preference Criterion 3; therefore no language is included in the proposed resolution that speaks to that criterion. However, the application narrative will describe the substantial progress made in complying with CEQA. If awarded the funding, the County will need to meet outlined timelines for satisfying CEQA compliance. Based on the current status of the EIR, staff believes it is within the County's ability to meet those timelines.

After reviewing applications for satisfaction of the four criterion, the BSCC will rate weighted factors which include project need, scope of work, offender management and programming, administrative work plan and budget review.

With the Board's authorization today, staff will finalize the application form and narrative that cover these elements. Staff has also prepared a Needs Assessment, required for the application, that substantially covers the existing facility operations and plans for how the new Staff Secure Facility will operate.

Applications are due to the State by October 24, 2013. The BSCC has estimated that conditional awards will be made at their Board meeting in January 2014. Should the County be awarded the funding, staff will return to the Board of Supervisors as appropriate for any further required approvals and updates.

### **SUPPORTING DOCUMENTS**

A . Resolution 1

B . Resolution 2

CEO Recommendation: Approve

Reviewed By: Liz Habkirk