



## Legislation Text

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**File #:** 2019-0197, **Version:** 1

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**To:** Sonoma County Board of Supervisors

**Department or Agency Name(s):** General Services, Sheriff's Office

**Staff Name and Phone Number:** Bruce Oveson, 707-565-3665

**Vote Requirement:** Majority

**Supervisorial District(s):** All

### **Title:**

Adult Detention Behavioral Health Housing Unit Project Ground Lease Authorization

### **Recommended Actions:**

Authorize the delegation of authority to the Director of General Services to execute and amend as necessary a Ground Lease with the State of California Department of Finance, consistent with the 30 year term of the SB863 grant financing for the Adult Detention Behavioral Health Housing Unit.

### **Executive Summary:**

The Criminal Justice Master Plan initially adopted by the Board of Supervisors in 2009 and then updated in 2014, led to the County's successful application for funding under SB 863 for a 72 bed Adult Behavioral Health Unit. In 2015, the County of Sonoma received a \$40 million award in State funding from the California Board of State and Community Corrections to construct a new \$48.8 million Adult Detention Behavioral Health Housing facility. The building will constitute a 32,000 square foot, 72-bed acute mental health detention facility attached to the Main Adult Detention Facility. Scheduled for occupancy in the spring of 2021, this groundbreaking facility will enable the County to provide quality treatment for our inmates requiring mental health services. With the mental health treatment programs offered by the Sheriff's Office to the inmate population, the County is working towards the ultimate goal of improved behavioral health outcomes for the incarcerated and a significant reduction in recidivism.

SB 863 funds are derived from State issued lease-revenue bonds. The County is required to contribute matching funds of \$6.2 million, and must fulfill specific requirements for Project Establishment, Real Estate Due Diligence, environmental determinations and mitigation measures, design, construction, staffing, operations and repair, regulations and other applicable terms and conditions. The County has a responsibility to perform, to construct the project within the agreed upon timelines and within the budget. Prior Board actions authorized the use of Tobacco Securitization Funds for the County's match then authorized the replacement of those funds with General Fund dollars, awarded the Bridging architect and construction management services, approved the submittal documents for the Project Establishment, authorized the schematic design package, and the issuance of a Request for Qualifications for a Design Build entity. The

project team has completed and met the requirements of the Board of State and Community Corrections Project Establishment criteria, finalized the Real Estate Due Diligence phase, and has prequalified design build teams for the proposal phase and final selection of the construction team. The next step requires entering into a Ground Lease with the State of California Department of Finance, which will allow the County to seek reimbursement for the project and authorize the final selection process for the construction team, and issuance of the Notice to Proceed for project construction.

The project schedule was impacted by the October 2017 fires and challenges working through real estate due diligence items. It is unknown, at this time, what the State's requirements will be for processing the Ground Lease documentation and the length of time necessary to do so. In an effort to maximize scheduling opportunities we are requesting the Director of General Services to be granted delegated signature authority to sign the Ground Lease with the State of California upon successfully completing the Department of Finance requirements to secure the State issued lease-revenue bonds. This has the potential to save the project an additional two months and accelerate project completion.

## **Discussion:**

### **Background**

The County's Criminal Justice System Master Plan was adopted by the Board of Supervisors in 2009 and then updated in 2015 following the statewide process of Criminal Justice Realignment. In the 2014-15 State budget \$500 million in lease revenue bonds were authorized through Senate Bill 863 to address local jail construction and programming needs associated with Realignment. In August 2015, the Board authorized the County Administrator's Office, along with support from Criminal Justice system partners and the General Services Department to submit an application for SB 863 funding to support the provision of services to inmates. Simultaneously, the Board's 'Stepping Up Initiative' focused on efforts to divert or otherwise reduce the number of people with mental illness from entering into the county jail system. In November 2016, Sonoma County was conditionally awarded \$40 million from SB 863 funds to augment its criminal justice facilities through the creation of a \$48.8 million Adult Behavioral Health Housing Unit. On December 8, 2015 the Board authorized staff to progress several strategies including the use of the SB 863 funding to provide additional treatment space for inmates with acute mental illness.

In March, June and November 2016 the Board authorized General Services to execute consulting agreements, to approve the Project Submittal package, and to adopt budget resolutions to replace \$6.2 million in Tobacco Securitization funds originally authorized in August of 2015 for the Behavioral Health Housing Unit with General Fund dollars previously authorized for the Courthouse Connector Project. In February 2017, the Board approved the schematic design package and authorized General Services to issue a Request for Qualifications for the Design Build package pending the State Department of Finance Project Establishment.

The County of Sonoma Sheriff's Office, with project management provided by the General Services Department's Capital Projects Team, have designed the Adult Detention Behavioral Health Housing Unit as

described in the County's application for SB 863 Lease Revenue Bond program. The County received the formal Notice of Award and authorization to proceed from the Board of State Community Corrections (BSCC) in November 2016 and began in earnest by quickly selecting the Construction Management and Bridging Design Team in January 2017. It was recognized that with the sixty month projected State schedule, construction cost escalation would cut deeply in to the available construction funds. The project team developed an aggressive forty month project schedule in an attempt to mitigate these pressures.

The Board of State Community Corrections (BSCC) manages the SB 863 program between the State's agencies and each County with active projects. The BSCC assists the County with milestone completions required by the State Department of General Services (DGS), the State of California Department of Finance (DOF), and the Office of the State Fire Marshall (SFM). Each of the State's departments have unique processes and procedures and work independently from each other. This has proven particularly time consuming as the departments do not complete their portions of the project simultaneously and, therefore, wait for one department to finalize before another begins at each major milestone.

### **Project Milestones**

The major milestones and associated documents required in the SB 863 program include: the Project Establishment Agreement, Real Estate Due Diligence Letter, Ground Lease Agreement, and Use and Occupancy Lease Agreement. In June 2016, this Board approved the County's application to the BSCC for Project Establishment. The Real Estate Due Diligence Letter, which is the final reporting document from DGS is complete and moving to DOF for inclusion with the Ground Lease Agreement phase. The Ground Lease Agreement requires approval of the County Board of Supervisors. The Ground Lease Agreement is security for the State's bond financing. A Use Agreement and a new Facility Sublease Agreement will be required by DOF after the completion of construction and during the period of occupancy.

The County was in the review and corrections process with DGS for the Real Estate Due Diligence documents when the October 2017 wildfires hit, stopping all forward progress. The fires and subsequent recovery and resiliency efforts profoundly impacted our efforts at the time. The property available for the project was heavily encumbered with property exclusions and unresolved historical property and easement lines. The team was working through the successful resolution of thirty-four exceptions to the County's title on the property with the assistance of real estate legal counsel, title companies, civil and survey consultants, and the City of Santa Rosa planning and engineering departments. After the events in October 2017, all of those resources were redirected to the recovery efforts. A step that typically would take the City a few months to complete has lasted fourteen months, with the final corrections provided to the DGS in December 2018. We have received confirmation the Real Estate Due Diligence (REDD) letter is final and being forwarded to the DOF and we are beginning the Ground Lease Agreement phase.

### **Ground Lease Agreement**

The document used to finalize DOF's approval is the Ground Lease Agreement, which will encumber the

property to the project and be used as a portion of the collateral for the State's Lease Revenue Bond financing. It will serve as collateral for the preconstruction financing provided by the State until the Facility Sublease document is in place, which will allow the use and occupancy of the facility during the State's bond repayment process. Once the Ground Lease is signed and returned to DOF, the County will then be authorized to proceed with the project Schedule.

The DOF approval within this phase is crucial on two points. First, the approval by DOF at this point will allow the County to begin the reimbursement process for our ongoing expenses. Accumulated expenses have been covered to date with the County's \$6.2 million matching funds, without access to the State's funding support. Approval by the DOF will now allow the County to invoice the State for ongoing expenses.

Second, the approval will include authorization to proceed with the Request for Proposal phase of the design-build selection process. The County has already prequalified design-build teams, but has been stalled by the State's approval processes. Authorization will allow the County to award the contract to the winning design-build proposal.

### **Current Effort**

The project team is actively pursuing all available avenues to reduce the schedule impacts on the project incurred as a result of the October 2017 wildfires. The process and procedures required by the State is also a challenge in maintaining the desired occupancy schedule. While the State has been proactively identifying the various milestones, they have not been able to effectively communicate what the County is required to provide or all of the steps necessary to meet each of the milestone standards.

The Sheriff's Office and General Services are concerned that the preparation for and completion of the Ground Lease Agreement will extend the project schedule by several more months as the State process becomes clearer and the additional steps are known. Therefore, staff is requesting delegated authority to execute the Ground Lease Agreement immediately following its finalization with the State. County Counsel has reviewed the State's template Ground Lease document and found it to be acceptable. We anticipate descriptive attachments to explain and identify the meets and bounds of the property will be necessary for the final documentation. County Counsel approval of the final form of the Ground Lease will be required before execution. It is anticipated that the approval by your Board to authorize delegated signature authority for this document will save the project at least two months towards final occupancy. Entering into the Ground Lease does not incur debt for the County, per discussions with ACTTC and County Counsel. However, the Ground Lease does encumber the property such that the State can use it as collateral for its own bond processes and is a requirement of SB 863 funding.

### **Prior Board Actions:**

**February 7, 2017:** Accept report updating the Board on efforts since adopting the Stepping Up Resolution and demonstrating the Board's commitment to reducing the number of people with mental illness in our jail.

**February 7, 2017:** Adult Detention Behavioral Health Unit: Schematic Design Package and Design-Build Request for Qualifications

**January 10, 2017:** Board authorization of Schematic Design Package and Design Build Request for Qualifications.

**November 15, 2016:** Adopt Resolution adjusting FY 16/17 budget to move \$6.2 million in Tobacco Securitization funds from the Behavioral Health Housing Unit to the Courthouse Connector Project, and moving \$6.2 million of General Fund from the Courthouse Connector Project to the Behavioral Health Housing Unit project to facilitate the State project establishment approval process for the Behavioral Health Housing Unit.

**June 21, 2016:** Board authorization of County application to the Board of State and Community Corrections formally establishing project.

**March 15, 2016:** Authorize Agreement for Bridging Architect and Construction Management Services for Behavioral Health Housing Unit Project.

January 12, 2016: Adopt Resolution for Stepping Up Initiative

**December 8, 2015:** Adopt the Sonoma County Criminal Justice Master Plan, 2015 update.

**August 18, 2015:** Behavioral Health Housing Unit- Adopt Resolution authorizing SB863 funding application.

**July 22, 2015:** Approve project for filing of California Environmental Quality Act Notice of Exemption.

## FISCAL SUMMARY

Expenditures	FY 18-19 Adopted	FY19-20 Projected	FY 20-21 Projected
Budgeted Expenses	550,000	16,000,000	17,200,000
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>550,000</b>	<b>16,000,000</b>	<b>17,200,000</b>
<b>Funding Sources</b>			
General Fund/WA			
State/Federal		15,000,000	16,000,000
Fees/Other			
Use of Fund Balance	550,000	1,000,000	1,000,000
Contingencies			
<b>Total Sources</b>	<b>550,000</b>	<b>16,000,000</b>	<b>17,200,000</b>

## Narrative Explanation of Fiscal Impacts:

The recommended action has no fiscal impact as the ground lease has a zero dollar value. As background, the overall project costs are estimated at \$48.8 million. This includes architectural design and engineering,

construction costs, construction and project management, fees, development of the needs assessment, transition planning, administration and auditing costs. The sources of funds for the total project budget as identified when the grant was submitted included: State funding of \$40 million, land value of \$1 million (in-kind), staff costs included in annual operating budgets of \$1.6 million, and the \$6.2 million in General Fund match allocated to the project in FY 15/16. The use of \$6,200,000 General Fund dollars were identified as matching funds for the development of the Project and to meet requirements for the SB 863 financing. The land value associated with this Lease Agreement milestone was estimated at \$1 million in the grant application, and is an in-kind match. The contribution of the land, which is free of County issued encumbrances, is a value to the project as it is already County owned and does not require purchasing, and is identified above under the category "Fees/Other". In the table above General Service's project management staff time and project expenses are allocated across the three fiscal years and is included within the General fund match. The attribution of these components of the budget were all accepted as part of the grant award, and previously approved by the Board of Supervisors in FY 15/16 when the application was submitted and in subsequent Board items.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A - I Step)	Additions (number)	Deletions (number)

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

Attachment A: Ground Lease Template

**Related Items "On File" with the Clerk of the Board:**

None