


Memorandum



Date: October 6, 2014

To: Honorable Steve Lavagnino, Chair, and
Members of the Board of Supervisors

From: Mona Miyasato, County Executive Officer 
Matt Pontes, General Services Director
Scott McGolpin, Public Works Director

Subject: Update - Northern Branch Jail – Pilot Project Stabilization Agreement, Agenda Item #4

On October 7, your Board is scheduled to decide whether to approve actions necessary to adopt a Pilot Project Stabilization Agreement (“PSA”) for the AB 900 component of the Northern Branch Jail project (“Project”), or instead of adopting the PSA, use the County’s existing Joint Local Labor Compliance Program.

This memo provides updated information that was received after the filing of the Board letter.

Signatures were Not Obtained from All Unions

At the Board’s direction, staff has developed a balanced PSA unique to Santa Barbara County through negotiations with the Tri-Counties Building and Trades Council (TCBT) and significant input of local stakeholders. The result is an agreement that was approved by the Tri-Counties Building and Trades Council and all but one of the unions they represent and are eligible to refer labor to the Project.

In order to minimize the risk of strikes and labor unrest on the project, the proposed PSA requires signatures from unions for all trades and crafts likely to construct the AB900 component of the Northern Branch Jail. To provide the unions with a strong incentive for all of them to sign the PSA before the October 7th Board meeting, staff included a PSA term that required all trades affiliated with the Tri-Counties Building and Trades Council sign the agreement by October 1, 2014.

General Services reports that mid-afternoon on October 3rd, Tri-Counties Building and Construction Trades Council reported that they could not deliver signatures for all unions that the PSA requires them to warrant as eligible to work on the Project, since Operating Engineers Local Union refused to sign. The Operating Engineers’ work is very significant to the project, since it covers heavy equipment, grading, cranes and excavation.

The impact of an incomplete PSA, or one that is not signed by all unions, is that it weakens the “strike proofing” value of the PSA. It is also impractical because it causes further uncertainty for potential bidders, which may reduce competition and thereby raise Project costs. In addition, it may cause further unraveling of the PSA, if unions that already signed the PSA now understand a significant trade has refused to sign the agreement.

Need for Re-signature

As stated above, the Operating Engineers refused to sign, and another union failed to sign by the PSA's stated deadline of October 1, but subsequently signed on October 2. This means that the PSA would not be enforceable if the Board adopted it on October 7th before changing or removing the PSA's October 1st deadline and then having all unions re-sign the PSA. Staff has revised the draft PSA to delete the expired October 1st deadline, and is prepared to present it for re-signature by all of the unions likely to represent work on the Project should the Board wish to move forward with the PSA. This assumes that TCBT believes they can deliver all of the trades' signatures.

Timing Considerations and Actions for October 7

Delay past October 14th of the decision to adopt or not adopt a PSA would harm the project schedule, placing timely completion of the Project at risk.

If the Board still wants to adopt a PSA for the AB 900 project staff recommends that the Board take the following actions on October 7:

- Receive and file a report on the status of negotiations, which is Recommended Action "A" on the Board Agenda Letter;
- Receive evidence that a PSA furthers a legitimate government interest of preventing costly project delays which would place at risk the Project's \$80 million of State funding, which is part of Recommended Action "B" on the Board Agenda Letter;
- Provide conceptual approval of the PSA, as drafted and presented in the Board packet;
- Continue the item to October 14th for final action, after the present October 1st deadline is removed from the PSA and all unions re-sign that updated PSA.

This last action would require that TCBT obtain the approval of the remaining union (Operating Engineers) and secure re-signatures from the other unions in time for the October 14, 2014 meeting. For the Board and public to have complete information by then, signatures preferably would be obtained by Thursday, October 9 when the Board letter is filed for public review, but no later than October 13th.

Should the signatures not be obtained by this deadline, the Board on October 14, 2014 could take the following actions:

- Approve the incomplete PSA with the concerns described and less than absolute strike proofing; or
- Instead, use the existing Joint Local Labor Compliance Program for the Project; or
- Use the existing Joint Local Labor Compliance Program for the Project and direct staff to consider potential future projects for a pilot PSA, should circumstances change in the future, and bring those potential projects forward at the appropriate time.