



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: General Services
Department No.: 063
For Agenda Of: June 2, 2015
Placement: Departmental
Estimated Tme: 30 minutes
Continued Item: Yes
If Yes, date from: April 21, 2015
Vote Required: Majority

TO: Board of Supervisors
FROM: General Services Matthew P. Pontes, Director (805) 560-1011
Contact Info: Greg Chanis, Assistant Director (805) 568-3096
SUBJECT: Northern Branch Jail Project: Receive Update, AB 900 Phase II: Adopt Approval of Ground Lease and Right of Entry Resolution, Adopt OCIP Resolution, Permission to Bid; Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management, Sheriff

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Receive an update from General Services and Sheriff's Office on the status of the Northern Branch Jail AB900 Phase II and SB1022 Project;
- b) Adopt a resolution approving and authorizing the Chair, or designee, to execute, in substantially the following form, the:
 - a. Ground Lease ([http://www.bscc.ca.gov/downloads/Form_of_Ground_Lease_\(12-13-13\).pdf](http://www.bscc.ca.gov/downloads/Form_of_Ground_Lease_(12-13-13).pdf)); and
 - b. Right of Entry for Construction and Operation ([http://www.bscc.ca.gov/downloads/Form_of_Right_of_Entry_\(12-13-13\).pdf](http://www.bscc.ca.gov/downloads/Form_of_Right_of_Entry_(12-13-13).pdf));
- c) Adopt a resolution authorizing use of an Owner Controlled Insurance Program (OCIP) for the Northern Branch Jail AB900 Phase II Project, certifying that an OCIP meets the requirements of Government Code § 4420, and authorizing the County Executive Officer, or designee, to execute a memorandum of understanding and other documents necessary to implement an OCIP;
- d) Pursuant to Public Contract Code § 20125, authorize the Director of General Services to advertise for construction bids for the Northern Branch Jail AB900 Phase II Project based on the project description below, including Bid Package A for the Jail construction and site improvements, and Bid Package B for the offsite utility and associated improvements, after final approval by the State in conformance with the terms of the AB900 Phase II financing program;

- e) Provide staff a goal for percentage of local participation on the AB900 Phase II construction project; and
- f) After considering the Final Subsequent Environmental Impact Report (SEIR), State Clearinghouse No. 2007111099, that the Board of Supervisors certified on March 11, 2008, the December 6, 2011 SEIR addendum, and the October 8, 2013 SEIR addendum, determine pursuant to 14 CCR §15162(a) that no subsequent EIR or Negative Declaration is required for this project because: i) No substantial changes are proposed in the project which require major revisions of the 2008 Final Subsequent EIR; ii) No substantial changes have occurred with respect to the circumstances under which the project is undertaken which require major revisions of the 2008 Final Subsequent EIR; and iii) No new information of substantial importance concerning the project's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the Final Subsequent EIR was certified in 2008, has been received.

Summary Text:

Design of the Northern Branch Jail AB900 Phase II Project is substantially complete. To date, the 100% construction document (CD) review for plan check and other County compliance has been completed, and reviews are underway with State agencies including the State Fire Marshal (SFM), California Department of Corrections and Rehabilitation (CDCR), Board of State and Community Corrections (BSCC), and Department of Finance (DOF). At this time, and in preparation for execution of the documents, the State is requiring County to approve as to form the Ground Lease and Right of Entry agreements which were referenced within the State agreements approved and executed by the Board on January 15, 2013, and re-executed on May 14, 2013.

Traditionally, County projects are bid with insurance criteria prospective contractors must abide by, including providing evidence of coverage at their expense. On large scale construction projects such as the Northern Branch Jail Project, an Owner's Controlled Insurance Program (OCIP) may be beneficial, potentially saving the project money while ensuring adequate coverages are in place to better protect the County. Recommendation D is to adopt a resolution implementing an OCIP on the Northern Branch Jail AB900 Phase II Project.

Counties are prohibited from bidding AB900 projects prior to State approval and authorization to bid. As a precursor to that approval and as required by the State, staff recommends the Board authorize the Director of General Services to bid the project, pending final State approvals, on the basis of the project description provided below.

Background:

The Northern Branch Jail Project has been planned for more than twenty years, with the goals of reducing jail crowding, limiting the continued early release of persons convicted of crimes, and to replace aging existing jail facilities.

On December 6, 2011, the Board authorized the Sheriff to submit an application to the BSCC for a Conditional Award under the AB 900 Phase II financing program, to pay for up to 90% of approved costs to construct a 376 bed facility. The award was limited to a maximum \$80 million (Ref. 11-00849). Santa Barbara County was successful in the award process, with the Board subsequently taking all necessary actions to continue the planning and design of the facility.

Project Description

The proposed facility will be located on a portion of a larger 50 acre County owned parcel at the corner of Betteravia Rd. and Black Rd. near Santa Maria. The proposed facility, to be constructed primarily of concrete and steel, will be approximately 134,000 ft² in size and provide for 376 beds distributed over

multiple housing units. The building will house male and female inmates in a mix of both maximum and medium security housing units. Included in the bed total is a 32 bed medical/mental health services area able to provide a wide variety of health services to the inmate population. Staff has now completed design of the project in accordance with guidance provided by the Board. Each component of the proposed facility has been carefully planned and sized in accordance with the minimum County Space Standards and State Correctional standards for detention facilities. The CD Phase is complete and the plans have been presented to the appropriate agencies for review. The final design fulfills all of the criteria identified in the AB900 grant proposal, is within the approved budget and currently remains on schedule.

Action Item b: Adopt a Resolution Approving the Ground Lease and Right of Entry for Construction and Operation and Authorizing the Chair to Execute the Documents.

In May of 2013, the Board approved, and authorized the Chair to execute the Project Delivery and Construction Agreement (PDCA) with the State Public Works Board (SPWB), CDCR, and BSCC, thereby allowing the project to proceed under the terms of AB900 Phase II. Within the PDCA, the County agreed to lease the site to the CDCR in substantially the form of Ground Lease attached to the PDCA as Exhibit B, and the CDCR agreed, concurrent with the Ground Lease, to authorize the County to enter the site for the purposes of constructing the jail in substantially the form of Right of Entry for Construction and Operation attached to the PDCA as Exhibit C.

At this time, in preparation for approval of the final ground lease, the State is requiring the County approve the aforementioned Ground Lease and Right of Entry for Construction and Operation as to form, and authorize the Chair to execute the documents when they are finalized. The proposed Ground Lease will cover only the portion of the site associated with the AB900 Phase II jail facility and related infrastructure funded by the AB900 Phase II financing program. This includes the detention basin, recycled water reservoir, fire access road, parking, etc. A draft map of the site, showing the proposed boundaries of the Ground Lease, is included with this Board Letter as **Attachment B**.

Action Item c: Adopt a resolution authorizing use of an Owner Controlled Insurance Program (OCIP) for the Northern Branch Jail AB900 Phase II Project, certifying that an OCIP meets the requirements of Government Code § 4420, and authorizing the County Executive Officer, or designee, to execute a memorandum of understanding and other documents necessary to implement an OCIP.

OCIP's, also known as "wrap-ups", are widely used on public and private sector construction projects and capital improvement programs in the United States because OCIP's offer cost savings, better coverage, more control, and higher policy limits than a traditional insurance program.

Through an OCIP, the owner of a construction project provides general liability, builders risk and workers compensation insurance for all involved parties, with limited exceptions, from the owner/developer to the general contractor and all subcontractors and sub-tier subcontractors for the project's duration. This structure minimizes the cross complaints and legal costs that are very common in construction litigation.

Government Code section 4420 allows the County to enter into an OCIP for a construction renovation program for which the total costs exceed \$50 million, if the County certifies that the program meets all of the following conditions:

- (1) Prospective bidders, including contractors and subcontractors, meet minimum occupational safety and health qualifications established to bid on the project.
- (2) The use of an OCIP will minimize the expenditure of public funds on the project in conjunction with the exercise of appropriate risk management.
- (3) The program maintains completed operation coverage for a term for which the Insurance Commissioner has determined that coverage is reasonably commercially available, but in no event less than three years.
- (4) Bid specifications clearly specify for all bidders the insurance coverage provided under the program and minimum safety requirements that must be met.
- (5) The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor or subcontractor believes is necessary to protect from any liability arising out of the contract.
- (6) The program does not include surety insurance.

The proposed OCIP meets all of the criteria in Government Code § 4420. The proposed OCIP will provide general liability; workers compensation and builders risk coverage for the project and all contractors, subcontractors, etc., with limited exceptions. The County's insurance broker estimates a potential cost savings of 0.32 – 1.32 percent for using OCIP for the AB900 Phase II project, in addition to providing other administrative and coverage benefits.

Insurance carriers rarely offer OCIP programs for projects below \$100 million in construction value; however in 2013, the California State Association of Counties (CSAC)-Excess Insurance Authority established a new program for large construction projects under the \$100 million threshold. This now makes it possible for the County to participate in an OCIP program for the AB900 Project

Action Item d: Authorize the Director of General Services to advertise for construction bids for the Northern Branch Jail AB900 Phase II Project, including Bid Package A for the Jail construction and site improvements, and Bid Package B for the offsite utility and associated improvements, after final review and approval by the State in conformance with the terms of the AB900 Phase II financing program.

Design of the Northern Branch Jail AB900 Phase II Project is substantially complete, the bidding documents have been prepared and submitted to the State for review and approval in accordance with the requirements of AB900 Phase II grant. On January 14, 2015, General Services began a prequalification process to identify prime contractors qualified to bid on and construct the AB900 Phase II portion of the Northern Branch Jail Project. Utilizing the California Department of Industrial Relations (DIR) prequalification template, Staff, the County's Construction Management firm and Architect/Engineers tailored the questionnaire to focus on criteria specific to the qualifications being sought for the Northern Branch Jail Project. These qualifications included: experience successfully constructing similar projects, financial solvency, ability to bond for a project of the scale of the Northern Branch Jail and provision of trade references. Eleven firms returned questionnaires, with nine completing the process and successfully prequalifying for the bidding phase.

In order to attain the milestones reported to the State within the AB900 Phase II agreements, the County must remain prepared to bid the project upon review and approval by State agencies, which is currently in progress. The State reports it will not approve and authorize the project proceeding to the bidding phase until the Board of Supervisors authorizes the General Services Director to bid the project. The current construction estimates are subject to escalation should any delays impact the project schedule. The project bid documents will be comprised of 2 bid packages:

- **Bid Package A- On-Site Work.** Estimated construction value of \$62.2M (not including escalation or contingency). This bid package encompasses sitework, onsite utilities, and construction of the 376 bed Jail facility. The Jail Facility consists of an approximately 134,000 sq. ft. detention facility including a central plant, warehouse areas, all associated site work, utilities, access roads, drives, fencing and parking areas. The facility contains administrative areas and inmate housing clusters classified as one story structures with upper mezzanine tiers. Bidding on this package will be limited to the 9 contractors who successfully completed the pre-qualification process described above.
- **Bid Package B- Off-Site Work.** Estimated contract value of \$2.25M (not including escalation or contingency). This bid package is for construction of off-site utilities to serve the site including: an extension of potable water service, recycled water, and sewer along Black Road to service connection points south of the project, as well as street improvements associated with the project. Bidding on this package will be open to all licensed responsible contractors who are qualified and able to submit a responsive bid.

Action item e: Provide staff a goal for percentage of local participation on the AB900 Phase II construction project.

On April 14, 2014, the Board received and filed the Local Vendor and Labor Outreach Plan (LVOP) prepared by the Construction Management firm, Kitchell CEM, Inc.(Kitchell). The LVOP provided data for the local region, projected likely levels of participation for the project, and made recommendations intended to increase local participation for the Northern Branch Jail Project. The project management team has been working to implement measures, to the extent feasible within the approved project budget and in accordance with California Public Contracts Code, to encourage increased local participation on the project. In accordance with the report's recommendations, General Services, in conjunction with Kitchell, developed an outreach plan which communicated the scope, bidding and construction schedule to the local market to project visibility. The conferences and events have been well attended, and the database of local firms interested in bidding on the project continues to grow. The team also implemented strategies to encourage local vendor participation and utilization of local labor into design elements and project bidding approaches. The steel cells included in the scope of work, for instance, will be assembled and outfitted onsite as opposed to being completely prefabricated offsite. The construction documents are assembled in 2 separate bid packages; an onsite building construction package of a scale and technical nature requiring prequalification, along with a smaller utility infrastructure package for the Black Road improvements, which is of a scale optimal for local contractors. In both cases, General Services will be implementing a "good faith effort" based approach towards further enhancing local participation as recommended by Kitchell.

The case study provided by Kitchell in the LVOP looked at several recent local construction projects and examined local participation based on a projects percentage of total contract value awarded to firms

from Santa Barbara, Ventura and San Luis Obispo counties. Based on the case study results, we can expect approximately 10% participation from Santa Barbara County vendors on a contract value basis without a formal outreach process in place. Because the Northern Branch Jail project is more than double the size of the Allan Hancock projects used in this case study, it's reasonable to expect fewer Santa Barbara County vendors to qualify for a project of this magnitude. In addition, the Northern Branch Jail will contain specialized systems fabricated and installed by specialized, national-scope vendors. These systems include detention grade doors & frames, detention hardware and security electronics. Even typical systems such as mechanical, plumbing and electrical will have specialized elements, which may be uncommon to the recently built facilities included in the case study.

Local participation can also be measured on a different basis, such as percentage of workforce from the local area. The challenge with this method is collecting and validating the data. Whereas contract value measurement is accommodated through processes and data already in place, measurement on a workforce basis would require an additional administrative process, and associated cost, which are not currently included in the project budget. Today we are asking the Board to provide staff direction in establishing the metrics for measuring local participation and setting realistic goals for the level of local participation on the AB 900 Phase II project.

In addition to the measures staff is implementing to maximize local participation on the AB 900 Phase II project, the Auditor Controller is assisting General Services with including procedures and forms within the bidding documents which will maximize sales taxes collected by the County on materials and goods procured outside of Santa Barbara County on behalf of the project.

Action item g: Findings Related to the Environmental Impact Report

Staff has not taken any actions that substantially change the project related to the Environmental Impact Report. The listed action is an affirmation by the Board that the project has not changed substantially and does not require a subsequent Environmental Impact Report or Negative Declaration.

Key Contract Risks

Pursuant to Government Code section 830.6, Plans and Specifications will be presented for Board approval at the time of award of the construction contract(s). It is important to note the County retains the right and ability to cancel the project up until the point the Board of Supervisors awards a construction contract for the project. Approval of the recommendations today will allow the State DOF to complete their review and approve the project. Following approval by the State, General Services will solicit bids for the construction of the Northern Branch Jail AB900 Phase II Project and return to your Board in for a discussion of the bid results and potential award of construction contract(s).

Fiscal and Facilities Impacts:

Budgeted: Yes, however, the County is solely responsible for any and all costs, expenses and fees in excess of the maximum State financing.

Fiscal Analysis:

BSCC "BUDGET SUMMARY TABLE"

LINE ITEM	STATE REIMBURSED	CASH MATCH	IN-KIND MATCH	TOTAL	County Overmatch Eligible	County Overmatch Ineligible
1 Construction	\$68,981,999	\$3,596,203		\$72,578,203	\$701,080	40,000
2 Additional Eligible Costs	\$3,622,000	\$603,881		\$4,225,881	\$920	
3 Architectural	\$5,101,000	\$101,000		\$5,202,000	\$373,613	\$122,750
4 Construction Management	\$2,295,000	\$328,585		\$2,623,585	\$593,881	\$76,500
5 CEQA		\$383,000		\$383,000	\$0	
6 Audit			\$20,000	\$20,000		
7 Site Acquisition			\$602,000	\$602,000	\$10,000	\$4,481,315
8 Needs Assessment			\$70,000	\$70,000		
9 County Administration			\$2,988,309	\$2,988,309		\$95,205
10 Transition Planning			\$200,000	\$200,000	\$700,000	\$11,300
11 Real Estate Due Diligence			\$11,938	\$11,938		
TOTAL AB900-ELIGIBLE PROJECT COST	\$80,000,000	\$5,012,670	\$3,892,247	\$88,904,916	\$2,379,494	\$4,827,070
PERCENT OF TOTAL	90.0%	5.6%	4.4%	100.0%		

County Overmatch - Eligible \$2.379M
 County Overmatch - Ineligible \$4.827M
 Total Project Cost \$96.1M

General Services continues to work with the State in ensuring the project fulfills the AB900 grant criteria, including the County’s responsibilities in meeting the cash match/ in-kind match percentages to remain eligible for the State’s \$80M conditional award. In addition, General Services will continue maintaining overmatch, ineligible match, construction estimates, and all soft costs within the approved \$96.1M total project budget. Upon receipt of bids, General Services will work with the State in revising the above categorical cost items as necessary, and will present to the Board the final pre-construction project budget reflecting the proposed award, construction contingencies, expenses to date, and projections for completion.

Staffing Impacts:

N/A

Special Instructions:

Request the Chair of the Board sign 2 original resolutions (4 total), and the Clerk of the Board return one of each signed original resolution to Celeste Manolas along with a certified copy of each of the resolutions and minute order.

Attachments:

- A. Ground Lease, Right of Entry Resolution
- B. Map of proposed site area for Ground Lease and Right of Entry
- C. Owners Controlled Insurance Program Resolution
- D. Memorandum of Understanding Master Rolling Owner Controlled Insurance Program
- E. Northern Branch Jail Site Plan

Authored by:

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