



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: March 17, 2020
Placement: Departmental
Estimated Time: 30 minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: General Services: Janette D. Pell, Director (805) 560-1011
Contact Info: Skip Grey, Assistant Director (805) 568-3083
Lynne Dible, Assistant Director (805) 568-2678
SUBJECT: Northern Branch Jail Construction Costs, Contingencies and Funding Requirements; Third District

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Receive an update from staff on the progress and construction costs of the Northern Branch Jail (NBJ) AB900 Phase II Project;
- b) Approve the attached budget revision to increase appropriations within the general fund and authorize funding in the amount of \$5,000,000 from the NBJ Operating Fund to address the anticipated funding requirements this fiscal year for the Northern Branch Jail project;
- c) Re-authorize the General Services Director or designee to approve additional change orders to the County's contract with SJ Amoroso Construction Company Inc. (BC16215) for a contingency amount up to \$5,000,000 for the construction of the AB900 Phase II Northern Branch Jail Project Bid Package 1 (BP-1) for a total project authorization of \$10,405,727; and,
- d) 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

On January 15, 2013, the Board of Supervisors approved the Jail Construction Agreement with the Board of State and Community Corrections (BSCC) for the Northern Branch Jail (NBJ) AB900 Phase II project to provide \$80 million towards the cost of the project. In June 2016, the Board of Supervisors approved the current budget of \$110,857,243, to be offset with \$80.0 million that is reimbursable from the State. Due to various issues, project delays, and unanticipated change orders, the final total costs of the project are now estimated to increase from the original amount of \$110.8 million to a total ranging between \$119.0 million and \$121.0 million, which is an increase of \$8.2 million to \$10.2 million or 7% to 9% increase in overall project costs.

In May 2013, the County and Rosser International, Inc. ("Rosser") entered into a Professional Services Agreement for Rosser to provide architectural, engineering and related professional design services for the Northern Branch Jail Project. In June 2019, Rosser informed the County that it was going out of business, stopped working on the project, and ceased all performance of its contracted duties for the Northern Branch Jail Project. In July 2019, the County filed cost recovery litigation against Rosser, to recover or mitigate the added project costs that Rosser caused the County. We expect that, through payments by Rosser and/or through the professional liability insurance policies that the Professional Services Agreement required Rosser to obtain, that the County ultimately will recover or mitigate the County's added costs that were caused by Rosser, but that cost recovery will not occur before Fiscal Year 2020-21.

To approve the additional project funding and address the estimated additional project costs, there is an immediate need to augment the project contingency by \$5.0 million this fiscal year. The additional project funding needed beyond this amount will be addressed in the upcoming FY 2020-21 budget process. The CEO's office recommends that the source of these funds come from the accumulated NBJ Operating Fund, which is currently projecting a year-end balance of \$16.2 million.

History and Background:

In 2008, Santa Barbara County secured a conditional award from the State of California under the AB 900 Local Jail Construction Funding Program (Phase I). That conditional award would have reimbursed the County up to \$56.295 million toward construction of the Northern Branch Jail. The Phase 1 reimbursement was limited to 75% of eligible expenses for construction of a 304 bed facility. The County would have had to fund the remainder of the cost of property acquisition and construction. At that time, the County's capital match share for that facility was estimated at \$23,892,960.

On October 7, 2011, the Corrections Standards Authority (CSA) of CDCR announced Phase II to the AB 900 Jail Construction Financing Program. This program provided for the opportunity to increase the percentage of the project that is paid out of State conditional awards from 75% in Phase I funding, to

90% in Phase II. The Sheriff and CEO submitted an interest statement to apply for AB 900 Phase II conditional award which increased the number of beds from 304 in Phase I to 376 beds in Phase II. The County was then invited to apply for Phase II funding by the CSA. The County subsequently relinquished its previous \$56.295 million AB 900 Phase I conditional award in order to apply for a Phase II conditional award of \$80 million. The County was granted the Phase II reward as noted in the summary section above.

In April 2016, bids for construction of the Northern Branch Jail complex and site improvements, were opened. The bids for both bid packages significantly exceeded the engineer's estimates, and in turn the amounts budgeted within the overall approved project budget. The lowest bid received for the primary construction contract was nearly 17% above the engineer's estimate. This resulted in a need to increase the overall project budget from \$96.1 million to \$110.8 million, which is the budget amount approved by the Board of Supervisors on June 21, 2016.

The original anticipated completion date for the Northern Branch Jail construction project was September 2018. The Project has experienced several delays for various reasons, which have resulted in numerous change orders and contract extensions. The current estimated substantial completion date is June 2020 with occupancy by September 2020. The project is approximately 98% complete.

In June 2019, Rosser International, Inc., the principal Architectural and Engineering design consultant for the project, ceased operations and left the job before the end of their contract. The County amended its contract with Kitchell CEM, Inc., the firm providing construction management and related professional services to also deliver the remaining services that would have been provided by Rosser through the completion of the project. The contract for additional services with Kitchell was approved by the Board on July 16, 2019. Accordingly, there have been delays and added costs as a result of Rosser leaving the project. These delays will require the extension of several current contracts for services including construction management, inspections and other project related costs.

The project has experienced numerous delays to the construction progress including: a subcontractor refusing to execute a subcontract with SJ Amoroso Construction Company Inc. (SJA) after it was awarded, inclement weather impacting critical path construction sequencing, contractor's coordination of the work, material procurement delays and design changes necessitated by either design errors and omissions or regulatory agency compliance, etc. As a result, to date, the County has awarded SJA a 175-day time extension. This was needed to address delays attributable to errors and omissions included in the Project's plans and specifications.

Required regulatory agency changes have also cost time and money as items that were originally approved by those agencies before construction started, were subsequently changed or modified by the agencies and mandated changes had to occur or the County will not be able to occupy the facility. Examples of the regulatory agency compliance driven changes include a change order to add smoke dampers throughout the building as required by the California State Fire Marshal's subsequent review during construction. During the construction, the California Board of State and Community Corrections (BSCC) mandated that the County make glazing changes in inmate areas of the facility, and changes to the inmate shower doors to reduce ligature risk. Additionally, the contractor has had some challenges in maintaining consistent progress. These revisions and changes have impacted the project budget and schedule.

SJA continues to submit multiple change order requests. At this time, \$5.1 million of change orders have been finalized and approved. Of note, the County has requested minimal owner directive changes, which is 3% or \$457,845 of the overall project issued and pending potential change orders.

The approved project budget is currently \$110,857,243. The County has spent approximately \$108.0 million to date and received 95% of the \$80.0 million in AB900 funds from the State.

Fiscal and Facilities Impacts:

Budgeted: No. Budget Revision 0006817 is attached and includes necessary funding for the projected additional expenses through June 30, 2020.

Fiscal Analysis:

Project Status Update	Original	Current	As of June 30, 2020	Change as of June 30, 2020
Contingency & Other Additional Costs	\$ 4,031,582	\$ 6,031,582	\$ 11,031,582	\$ 5,000,000
Total Project Cost	\$110,857,249	\$110,857,249	\$115,857,249	\$ 5,000,000
Contingency % of Total ¹	3.64%	5.44%	9.52%	4.08%
Substantial Completion date	September 2018	March 31, 2020	May 31, 2020	

¹ Contingency percentages are typically budgeted at 5% to 10% of project costs.

Special Instructions:

None

Attachments:

1 - Budget Journal Entry - 0006817

Authored by:

Skip Grey, Assistant Director, General Services