



Legislation Details (With Board Report)

File #: A 13-158 **Name:** BSCCJC Jail Housing Addition Construction Agmt
Type: BoS Agreement **Status:** Passed
File created: 6/28/2013 **In control:** Board of Supervisors
On agenda: 7/9/2013 **Final action:** 7/9/2013

Title:

- a. Accept and authorize the Chair of the Board of Supervisors to execute the County of Monterey Jail Housing Addition, Establish Project Scope, Cost, and Schedule, Project Number: 8819;
- b. Approve and authorize the Chair of the Board of Supervisors to execute a Project Delivery and Construction Agreement AB 900 Jail Financing Program with the State Public Works Board of the State of California, the Department of Corrections and Rehabilitation of the State of California, and the Board of State and Community Corrections of the State of California (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II;
- c. Approve and authorize the Chair of the Board of Supervisors to execute a Board of State and Community Corrections Jail Construction Agreement with the Board of State and Community Corrections (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II; and
- d. Adopt and authorize the Chair of the Board of Supervisors to execute a Certificate of the County of Monterey Accompanying Match Funding for the Monterey County Jail Housing Addition Project for Monterey County's "Cash and In-kind Match of \$4,032,778.00.
- e. Designate the County of Monterey Resource Management Agency Assistant Director of Public Works, Resource Management Agency Finance Manager III, and Monterey County Sheriff Deputy Chief to serve as the contact persons between the County of Monterey and the Board of State and Community Corrections for the duration of the contract.

Sponsors: Public Works / RMA

Indexes:

Code sections:

Attachments: 1. Project Budget, 2. Establish Project Scope, Cost, and Schedule, 3. Exhibit 1 Monterey County Jail Housing Addition AB 900 Project, 4. Exhibit 2 Flow Chart, 5. Exhibit 3 Certificate of Accompanying Match Funding for the Jail Project, 6. Exhibit 4 BSCC Jail Construction Agreement, 7. Exhibit 5 Project Delivery Construction Agreement AB900 Jail Financing Program, 8. Location Map, 9. Completed Board Order, 10. Fully Executed Exhibit 5 (Agreement)

Date	Ver.	Action By	Action	Result
7/9/2013	1	Board of Supervisors	approved	

- a. Accept and authorize the Chair of the Board of Supervisors to execute the County of Monterey Jail Housing Addition, *Establish Project Scope, Cost, and Schedule*, Project Number: 8819;
- b. Approve and authorize the Chair of the Board of Supervisors to execute a Project Delivery and Construction Agreement AB 900 Jail Financing Program with the State Public Works Board of the State of California, the Department of Corrections and Rehabilitation of the State of California, and the Board of State and Community Corrections of the State of California (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II;
- c. Approve and authorize the Chair of the Board of Supervisors to execute a Board of State and Community Corrections Jail Construction Agreement with the Board of State and Community Corrections (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II; and
- d. Adopt and authorize the Chair of the Board of Supervisors to execute a Certificate of the County of Monterey

Accompanying Match Funding for the Monterey County Jail Housing Addition Project for Monterey County's "Cash and In-kind Match of \$4,032,778.00.

e. Designate the County of Monterey Resource Management Agency Assistant Director of Public Works, Resource Management Agency Finance Manager III, and Monterey County Sheriff Deputy Chief to serve as the contact persons between the County of Monterey and the Board of State and Community Corrections for the duration of the contract.

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Accept and authorize the Chair of the Board of Supervisors to execute the County of Monterey Jail Housing Addition, *Establish Project Scope, Cost, and Schedule*, Project Number: 8819;
- b. Approve and authorize the Chair of the Board of Supervisors to execute a Project Delivery and Construction Agreement AB 900 Jail Financing Program with the State Public Works Board of the State of California, the Department of Corrections and Rehabilitation of the State of California, and the Board of State and Community Corrections of the State of California (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II;
- c. Approve and authorize the Chair of the Board of Supervisors to execute a Board of State and Community Corrections Jail Construction Agreement with the Board of State and Community Corrections (in substantially the form attached), to allow the Jail Housing Addition project to proceed under the terms of AB 900 Jail Financing Program Phase II; and
- d. Adopt and authorize the Chair of the Board of Supervisors to execute a Certificate of the County of Monterey Accompanying Match Funding for the Monterey County Jail Housing Addition Project for Monterey County's "Cash and In-kind Match of \$4,032,778.00.
- e. Designate the County of Monterey Resource Management Agency Assistant Director of Public Works, Resource Management Agency Finance Manager III, and Monterey County Sheriff Deputy Chief to serve as the contact persons between the County of Monterey and the Board of State and Community Corrections for the duration of the contract.

SUMMARY/DISCUSSION:

The Board is requested to accept the Jail Housing Addition Report, *Establish Project Scope, Cost, and Schedule*, approve two Agreements with the affected State agencies, and approve one Certificate of Accompanying Match Funding necessary to proceed with the Jail Housing Addition Project. On September 13, 2013, Monterey County's Jail Housing Addition Project is scheduled before the State Public Works Board for approval of Scope, Cost, and Schedule (Project Establishment), and direction to proceed with Schematic Design. The recommended actions complete two required steps needed to establish Project Scope, Cost, and Schedule with the State Public Works Board.

On August 9, 2012, the County submitted to the Board of State and Community Corrections (BSCC) an Amended Application consistent with the new conditional award to revise the project's scope. On August 28, 2012, the Board of Supervisors authorized a Jail expansion of 288 medium-security beds with essential administrative and support space improvements as well as directed staff to begin the process of public outreach, environmental clearance, design, and preparation of construction documents for the expansion project. On September 18, 2012, the BSCC approved a conditional award of \$36,295,000 toward a \$40,327,778 expansion of the County's Adult Jail. In addition, the BSCC Board confirmed the project's scope changes per the County's amended application. Acceptance of the County's Amended Application and revised scope triggered a series of specific milestone activities the County needs to comply with to maintain the conditional award.

In summary, AB 900 makes the Jail Housing Addition feasible from up to \$7.3 Billion in lease revenue bonds that the State is authorized to issue and up to \$350 Million that the State may appropriate in general funds. The

State will repay the bonds. Consistent with the action taken by the Board of Supervisors on June 11, 2013, the County's debt manager is in the process of substituting of leased 2007 Certificate of Participation Properties. This step will be required prior to the County providing a "free and clear" jail site and if for reasons beyond the control of the County, the Credit and Portfolio Risk Management representatives at Ambac do not allow the substitution securities the County will be at risk for complying with terms of the grant. In addition, the County is providing approximately \$4 Million in matching funds and in-kind services. The County is also providing collateral in the form of the "free and clear site," as improved with the new jail facilities. The County's risk is essentially this collateral. The County would lose this collateral only if the State defaults in payment of the bonds and the collateral is necessary to pay outstanding bonds. The County would be liable to repay any funds advanced by the State in the event that the County breaches the project agreements.

The Jail Housing Addition Report, *Establish Project Scope, Cost, and Schedule*, is the culmination of seven months collaboration with the Sheriff's Department in developing the needs and concepts for the new Jail Housing Addition. The Schedule includes the Architectural Program Statement, conceptual site plans and conceptual floor plans defining the placement and size of the housing units.

The Certificate and two Agreements are more particularly explained in Exhibit 1, Monterey County Jail Housing Addition (AB 900 Project). The State requires that the County approve and/or enter into a number of project documents and agreements to finalize conditions of project funding approval outlined in Exhibit 2, Flow Chart. In order for the County to comply with the milestone set by the State for Project Establishment, the Board must approve and adopt a Certificate of Matching Funds (Exhibit 3), and approve and authorize the Chair of the Board to enter into a Board of State & Community Corrections Jail Construction Agreement (BSCCCA) (Exhibit 4) and a Project Delivery & Construction Agreement (PDCA) (Exhibit 5).

The Office of the County Counsel has conferred with attorneys for the State CDCR and BSCC to clarify certain provisions of the project documents, including the indemnity clause and repayment provisions. Attorneys for the State have clarified in the attached revised BSCCCA that the State will not seek reimbursement of funds advanced to County by the State, if the State fails to issue lease revenue bonds through no fault of the County.

The State award to the County is conditional on further State approval. Also, the County is entitled to withdraw from the AB 900 program up until the time that construction bids are awarded. (See Exhibits 3 and 4 describing the PDCA and BSCCCA.) Therefore, Board approval of the attached Agreements and Certificate does not irrevocably commit the County to construct the Jail Housing Addition. Final project approval is contingent on the completion and eventual Board certification of the environmental impact report that is underway.

The BSCCCA requires the Board to designate the contact persons to serve as the County's representatives to coordinate and transmit information relative to the contract.

OTHER AGENCY INVOLVEMENT:

The Resource Management Agency - Public Works, Sheriff Department and Office of the County Counsel are working jointly with BSCC to meet all State-mandated milestones to maintain the conditional award and move forward to the Project Design phase. The proposed board actions were presented for support to the Capital Improvement Committee and Budget Committee at their June meetings, respectively.

FINANCING:

To date, the Project has been funded from the approximately \$4,032,778 matching funds General Fund appropriation for the Jail Expansion. These funds are drawn from the existing Fund 404 balance. At this time, staff is unable to quantify what the operating impact will be as the design has not been finalized. Fiscal and

Operational impacts will be determined once final design is approved and available.

Prepared by: Paul H. Greenway, P.E., Assistant Director of Public Works, (831) 755-4807

Approved by:

Robert K. Murdoch, P.E., Director of Public Works

Benny J. Young, RMA Director

Dated: June 28, 2013

Attachments: Project Budget; Jail Housing Addition Establish Project Scope, Cost, and Schedule Project Number 8819; Exhibit 1 Monterey County Jail Housing Addition Pre-design Report (AB 900 Project); Exhibit 2 Flow Chart; Exhibit 3 Certificate of the County Accompanying Match Funding for the Jail Project; Exhibit 4 Board of State and Community Corrections Jail Construction Agreement; Exhibit 5 Project Delivery and Construction Agreement AB 900 Jail Financing Program; Location Map (Attachments on file with the Clerk of the Board)