

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

June 13, 2023

FROM

DON DAY, Director, Project and Facilities Management Department

SUBJECT

Award Design Build Agreement to Swinerton Builders Inc. for the Valley Communication Center Project in San Bernardino

RECOMMENDATION(S)

1. Adopt the Mitigated Negative Declaration for construction of the Valley Communication Center Project.
2. Adopt the Mitigation Monitoring and Reporting Program for the Valley Communication Center Project.
3. Approve the Valley Communication Center Project as defined in the Initial Study/Mitigated Negative Declaration.
4. Approve the use of \$2,981,367 of American Rescue Plan Act Recovery program funding for the Valley Communication Center Project.
5. Approve a budget increase to Capital Improvement Program Project No. 16-014, in the amount of \$2,981,367, for the Valley Communication Center Project budget, increasing the total project's budget from \$122,000,000 to \$124,981,367.
6. Approve Addendum No. 1, dated January 19, 2023, for the Valley Communication Center Project, which made the following changes and updates to the Bid Documents:
 - a. Announcement to Pre-Qualified Proposers.
 - b. Changes and updates to the Proposal Schedule.
 - c. Changes and updates to the Basis of Design Documents.
 - d. Changes and updates to the Room Design Criteria.
 - e. Changes and updates to the Site and Building Plans.
 - f. Changes and updates to the Proposal Packet.
 - g. Changes and updates to the Geotechnical Investigation.
 - h. Changes and updates to the Site Survey.
 - i. Responses to the Pre-Qualified Proposers' Request for Information.
7. Award a Design Build Services **Agreement No. 23-527** to Swinerton Builders Inc., including a non-standard term, in the amount of \$98,041,119, including \$3,258,356 for the selected Photovoltaic Alternate, as the design builder for the Valley Communication Center Project in San Bernardino.
8. Authorize the Director of the Project and Facilities Management Department to approve any necessary changes or additions in the work being performed under the Design Build Services Agreement, for a total not to exceed \$210,000, pursuant to Public Contract Code Section 20142.
9. Authorize the Director of the Project and Facilities Management Department to accept the work when 100% complete and execute and file the Notice of Completion.
10. Authorize the Auditor-Controller/Treasurer/Tax Collection to post the necessary budget adjustments as detailed in the Financial Impact section (Four votes required).

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11. Direct the Clerk of the Board of Supervisors to file the Notice of Determination, as required by the California Environmental Quality Act.
(Presenter: Don Day, Director, 387-5000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). Approval of the recommendation to adopt the Valley Communication Center Project's (Project) Mitigated Negative Declaration and filing/posting the Notice of Determination will have minimal financial impact. The Project (WBSE 10.10.0181) budget of \$124,981,367 will be primarily funded by the American Rescue Plan Act (ARPA) – Coronavirus Local Fiscal Recovery Fund (CLFRF). Sufficient appropriation and revenue are included as part of the Capital Improvement Program (CIP) budget to award this contract.

The following budget adjustments are necessary to increase the Project's budget:

Funding Center	Commitment Item/GL	Description	Action	Amount	WBSE
7700003100	54304030	Structures & Improvement to Structures	Increase	\$2,981,367	10.10.0181
7700003100	40509194	ARPA Recovery Fund Distribution	Increase	\$2,981,367	10.10.0181

The total Project budget of \$124,981,367 is comprised of the following components:

Description	Amount
Construction	\$90,338,827
700 KVA Photovoltaic (PV) System Add Alternate	\$3,598,710
Construction and Indirect Contingencies	\$8,454,030
Electronic Systems and Special Equipment	\$10,350,000
Furniture, Fixtures and Equipment	\$5,768,250
Department Moving Expenses and Utility Connections	\$425,000
Special Inspections, Environmental and Soil Testing	\$665,050
Project Management and Inspection Fees	\$1,287,000
Bridging Document and Construction Management Services	\$4,094,500
Total	\$124,981,367

BACKGROUND INFORMATION

San Bernardino County (County) will construct a new facility known as the Valley Communication Center, to be located at the southeast corner of Rialto Avenue and Lena Road in San Bernardino. The California Environmental Quality Act (CEQA) Guidelines require that an environmental document be prepared, circulated for public review and comment, and adopted by the Board of Supervisors (Board) prior to the Board's approval of the Project.

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The Project is proposed as a new three-story, Leadership in Energy and Environmental Design building certification design, 75,085 gross square foot building, 200-foot-tall communication tower on the 6.85-acre site that will include all associated onsite and offsite improvements. The completed Project will be the new mission-critical facility that must be operational 24 hours per day, 365 days per year, under extreme conditions, as the primary Emergency Operations Center and potentially a health agency in the San Bernardino Valley.

The building will be occupied by the Sheriff/Coroner/Public Administrator, Office of Emergency Services, San Bernardino County Fire Protection District, Consolidated Fire Agencies, Inland Counties Emergency Medical Agency, Innovation and Technology Department, and Project and Facilities Management (Facilities Division). The facility will be capable of self-support and self-sufficiency over an extended duration of time and act as a stand-alone facility in the event of a disaster. The desired operational model requires significant facility enhancements that include utility, base isolation, and technological system redundancies to facilitate continual operations. The contract award includes a \$3,258,356 alternate for a 700 KVA PV system via parking lot canopies and required infrastructure.

An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the Project and completed in compliance with CEQA. A Notice of Availability/Notice of Intent (NOA/NOI) to adopt the IS/MND was advertised on the County Environmental website and distributed to initiate a 20-day public comment period, which concluded on April 27, 2023. The IS/MND was also circulated through the State Clearinghouse on April 7, 2023 (State Clearinghouse No. 2023040172), as a matter of form, though no statewide or regional impacts are anticipated. No comment letters were received.

The Project and Facilities Management Department (PFMD) recommends adoption of the IS/MND and filing of the Notice of Determination with the Clerk of the Board. By adopting the MND pursuant to CEQA, the Board, in reliance on the IS/MND, is finding the Project will not have a significant effect on the environment after implementation of the mitigation measures identified in the IS/MND.

The Design Build Services Agreement contains the following non-standard term, which requires Board approval:

1. The Design Build Services Agreement contains a modified indemnity provision. Specifically, the indemnity for other than professional liability has been revised to delete the requirement that the design build entity must indemnify the County regardless of whether the claim, suit or demand is caused or alleged to be caused, in part, by an Indemnitee.
 - The standard County provision requires the design build entity to indemnify the County even if the third party, claim, suit or demand is caused or alleged to be caused, in part, by an Indemnitee, including the County.
 - Potential Impact: The design build entity will not be required to indemnify the County if the third-party claim, suit or demand is caused by the County's own negligence, with the result that the indemnity provision, governing issues other than design liability, is not as broad as the standard County provision.

PFMD recommends approval of the Design Build Agreement, including the non-standard term, to facilitate award of the Design Build Services Agreement to Swinerton Builders Inc., the design

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build entity determined to provide the best value to the County for design and construction of the Project in San Bernardino.

PROCUREMENT

On January 11, 2022 (Item No. 33), the Board authorized PFMD to utilize the design build project delivery method pursuant to Public Contract Code Section 22160 et seq., for delivery of the Project, and approved the release of the Request for Qualifications (RFQ) Package. The purpose of the RFQ was to solicit preliminary information from interested design build entities and have the selection committee, based on the criteria identified in the RFQ, identify the three design build entities best qualified to successfully execute the design and construction of the Project.

On March 14, 2022, PFMD received nine proposals in response to the RFQ Package from the following firms:

Contractor's Name	Location
Abbott Construction LLC	Pasadena, CA
Balfour Beatty Construction LLC	Riverside, CA
Bernards Bros., Inc.	San Fernando, CA
Harper Construction Company, Inc.	San Diego, CA
Macro-Z-Technology Company	Santa Ana, CA
Pinner Construction Company, Inc.	Anaheim, CA
Stronghold Engineering, Inc.	Perris, CA
Swinerton Builders, Inc.	Santa Ana, CA
Tilden-Coil Constructors, Inc.	Riverside, CA

A selection committee, which included representatives from PFMD, evaluated the proposals. The evaluation process resulted in the recommendation to qualify three design build firms, deemed best qualified to successfully execute the design and construction of the Project. The recommendation was based on the criteria identified in the Pre-Qualification Package, which included organizational history, safety record, relevant personnel and project experience. The three firms recommended to proceed to the next phase of the competitive process were:

- Harper Construction Company, Inc. (San Diego)
- Pinner Construction Company, (Anaheim)
- Swinerton Builders Inc., (Santa Ana)

On October 25, 2022 (Item No. 52), the Board authorized PFMD to release the Design Build Request for Proposal (RFP) Package to the three prequalified design build entities. The RFP provided the prequalified design build entities with additional proposal bridging documents, project requirements and expectations, allowing them to submit a Best and Final Proposal.

During the RFP process, PFMD issued Addendum No. 1, dated January 19, 2023, for the Project, which made the following changes and updates to the RFP:

- a. Announcement to Pre-Qualified Proposers.
- b. Changes and updates to the Proposal Schedule.
- c. Changes and updates to the Basis of Design Documents.
- d. Changes and updates to the Room Design Criteria.

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- e. Changes and updates to the Site and Building Plans.
- f. Changes and updates to the Proposal Packet.
- g. Changes and updates to the Geotechnical Investigation.
- h. Changes and updates to the Site Survey.
- i. Responses to the Pre-Qualified Proposers' Request for Information (RFI's).

On February 6, 2023, final RFP responses were received from the three prequalified design build entities. An evaluation committee consisting of representatives from PFMD conducted an evaluation to determine the selection of the successful design build entity based on the proposal that provided the best value to the County. The successful firm, Swinerton Builders Inc. of Santa Ana, California received the highest overall rating. On April 12, 2023, notice of award or letters of regret were sent, via the United States Postal Service, to the three prequalified design build entities. The RFP required any appeal to be filed within five working days of the receipt of notification. No appeals were received during or after the appeal period.

PFMD recommends the Board award the Design Build Services Agreement to Swinerton Builders Inc. as the best value to the County, for the Project.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Katherine Hardy, Deputy County Counsel, 387-5455) on May 26, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on June 5, 2023; Purchasing (Leo Gomez, Purchasing Manager, 387-2063) on May 26, 2023; Auditor-Controller/Treasurer/Tax Collector (Vanessa Doyle, Chief Deputy Controller, 382-3195) on June 5, 2023; Project and Facilities Management Department (Robert Gilliam, Chief of Project Management, 387-5000, and Jennifer Costa, Assistant Director, 387-5000) on May 26, 2023; American Rescue Plan Act (Joon Cho, Administrative Analyst, 387-5402) on May 25, 2023; Finance (Yael Verduzco, Principal Administrative Analyst, 387-5285) on May 30, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 30, 2023.

(SH: 771-1182)

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman

Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 13, 2023



cc: PFMD - Hughes w/agree w/CEQA & receipt
Contractor - c/o PFMD w/agree
File - w/agree w/CEQA & receipt w/flash drive
CCM 06/29/2023