

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

December 3, 2024

FROM

DON DAY, Director, Project and Facilities Management Department

SHARON NEVINS, Director, Department of Aging and Adult Services

GEORGINA YOSHIOKA, Director, Department of Behavioral Health

CARRIE HARMON, Director, Community Development and Housing Department

SUBJECT

Environmental Documents and Award Design Build Agreement for the Pacific Village Campus Development Project

RECOMMENDATION(S)

1. Adopt the Initial Study/Mitigated Negative Declaration for construction of the Pacific Village Campus Development Project, which includes the Department of Aging and Adult Services Pacific Village Platinum Campus Project, Department of Behavioral Health Pacific Village Substance Use Disorder Program Project, and Community Development and Housing Department Pacific Village Campus Expansion.
2. Adopt the Mitigation Monitoring and Reporting Program for the Pacific Village Campus Development Project.
3. Approve the Pacific Village Campus Development Project, as defined in the Initial Study/Mitigated Negative Declaration.
4. Approve the use of \$16,067,349 of American Rescue Plan Act Recovery program funding for the Pacific Village Campus Development Project.
5. Approve a budget increase to Capital Improvement Program Project No. 24-037, in the amount of \$4,317,147, for the Department of Aging and Adult Services Pacific Village Platinum Campus Project budget, increasing the total project's budget from \$16,174,120 to \$20,491,267.
6. Approve a budget increase to Capital Improvement Program Project No. 23-069, in the amount of \$3,734,008, for the Department of Behavioral Health Pacific Village Substance Use Disorder Program Project budget, increasing the total project's budget from \$13,997,492 to \$17,731,500.
7. Approve a budget increase to Capital Improvement Program Project No. 24-154, in the amount of \$3,128,621, for the Community Development and Housing Department Pacific Village Campus Expansion budget, increasing the total project's budget from \$11,721,046 to \$14,849,667.
8. Approve the following addenda to the bid documents for the Pacific Village Campus Development Project:
 - a. Addendum No. 1 dated July 25, 2024, responses to Pre-Qualified Proposers' Requests for Information.
 - b. Addendum No. 2 dated July 26, 2024, changes and updates to the Furniture, Fixtures, and Equipment.
 - c. Addendum No. 3 dated July 26, 2024, add Alternate for exterior painting of all existing buildings.
 - d. Addendum No. 4 dated July 26, 2024, changes and updates to the Site's Mitigation Efforts.
 - e. Addendum No. 5 dated July 25, 2024, changes and updates to the Project's Commissioning.

- f. Addendum No. 6 dated July 26, 2024, changes and updates to the Proposal Schedule.
 - g. Addendum No. 7 dated July 25, 2024, changes and updates to the Proposers' Final Interviews Dates.
 - h. Addendum No. 8 dated July 26, 2024, changes and updates to Value Engineering Options.
 - i. Addendum No. 9 dated July 26, 2024, changes and updates to Base Isolation Items.
 - j. Addendum No. 10 dated July 25, 2024, changes and updates to the Request for Proposal Due Date.
 - k. Addendum No. 11 dated July 29, 2024, changes and updates to Exhibit A and Exhibit B.
9. Award a Design Build Services Agreement, [including non-standard terms](#), to W.E. O'Neil Construction Co. of California, for the amount of \$47,205,837, as the design builder for the Pacific Village Campus Development Project in the City of San Bernardino.
 10. 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.
 11. 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.
 12. Authorize the Auditor-Controller/Treasurer/Tax Collector to post the necessary budget adjustments as detailed in the Financial Impact section (Four votes required).
 13. Direct the Project and Facilities Management Department to file the Notice of Determination in accordance with the California Environmental Quality Act Guidelines.
- (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.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Department of Aging and Adult Services (DAAS) Pacific Village Platinum Campus Project (PC Project) (WBSE 10.10.1533) increase of \$4,317,147, will increase the total funding to \$20,491,267. This includes \$5,712,372 from the American Rescue Plan Act (ARPA) and \$14,778,895 from the Community Care Expansion Grant.

The Department of Behavioral Health (DBH) Pacific Village Substance Use Disorder Program (SUD Project) (WBSE 10.10.1380) increase of \$3,734,008, will increase the total funding to \$17,731,500. This includes \$7,226,356 from ARPA, and the difference of \$10,505,144 will be supported by the department, if awarded the State Bond Behavioral Health Continuum Infrastructure Program (BHCIP) grant funds. DBH is presenting a companion item to apply for the BHCIP grant. If the BHCIP is not awarded, existing DBH revenue sources will be used, such as Opioid Settlement Funds or Realignment funds.

The Community Development and Housing Department (CDH) Pacific Village Campus Expansion Project (PVE Project) (WBSE 10.10.1671) increase of \$3,128,621, will increase the total funding to \$14,849,667. This increase includes \$3,128,621 from ARPA, \$3,408,550 from Homeless Housing Assistance and Prevention (HHAP) Grants Round 4, \$4,744,769 from HHAP Grants Round 5, \$3,223,773 from the Housing and Homelessness Incentive Program, and \$343,954 from the Permanent Local Housing Allocation Program.

The following budget adjustments for 2024-25 are necessary to increase the Pacific Village Campus Development Projects (Project) budget:

Funding Center	Commitment Item	Description	Action	Amount	WBSE
7700003100	54304030	Structure & Improvement to Structure	Increase	\$3,128,621	10.10.1671
7700003100	40909975	Operating Transfers In	Increase	\$3,128,621	10.10.1671
7700003100	54304030	Structure & Improvement to Structure	Increase	\$3,734,008	10.10.1380
7700003100	40909975	Operating Transfers In	Increase	\$3,734,008	10.10.1380
7700003100	54304030	Structure & Improvement to Structure	Increase	\$4,317,147	10.10.1533
7700003100	40909975	Operating Transfers In	Increase	\$4,317,147	10.10.1533

The total budget for the Project is \$53,072,434, which includes \$20,491,267 from the DAAS PC Project, \$17,731,500 from the DBH SUD Project, and \$14,849,667 from the CDH PVE Project. The DAAS PC Project costs are as follows:

Description	Amount
Design/Engineering/Environmental Services	\$1,985,556
Construction Costs	\$15,456,147
Construction Contingency	\$1,250,628
Project Administration and Management	\$1,166,185
Information Technology Infrastructure	\$322,078
Other Costs (Construction related)	\$310,673
Total Project Budget	\$20,491,267

The DBH SUD Project costs are as follows:

Description	Amount
Design/Engineering/Environmental Services	\$1,641,244
Construction Costs	\$13,325,456
Construction Contingency	\$1,039,712
Project Administration and Management	\$1,135,714
Information Technology Infrastructure	\$278,701
Other Costs (Construction related)	\$310,673
Total Project Budget	\$17,731,500

The CDH PVE Project costs are as follows:

Description	Amount
Design/Engineering/Environmental Services	\$1,375,079
Construction Costs	\$11,133,986
Construction Contingency	\$868,002
Project Administration and Management	\$928,522
Information Technology Infrastructure	\$233,405
Other Costs (Construction related)	\$310,673

Total Project Budget	\$14,849,667
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BACKGROUND INFORMATION

The County is expanding County-owned property known as the Pacific Village Campus, located at 2626 Pacific Street in the City of San Bernardino, to create a model campus that will offer housing and social services to county residents who are experiencing or are at risk of homelessness. Unlike traditional homeless projects or large-scale congregate shelters, this development will include an array of housing interventions designed to address the root causes of homelessness and provide a viable pathway to independent living and permanent housing.

The County created an interim housing project by purchasing the 6.82-acre Pacific Village Campus site and 20 residential trailers, for \$3,400,000, utilizing Homekey Round 1 funds. The purchase of the property included six existing permanent buildings, one three-bedroom, two-bathroom home, two apartments, an administration building, a dining hall with a kitchen, former church facilities, and centralized parking. The Pacific Village Phase I project opened in March 2021 and created 28 individual living spaces to house homeless individuals impacted by the COVID-19 pandemic.

The Pacific Village Campus will be part of the approximate \$53,000,000 multi-use collective partnership between DAAS, DBH, CDH and third-party management providers to increase access to a safe home environment and resources for overall wellness and self-sufficiency. Each department will use designated funding sources for its respective portions of the campus. The Pacific Village Campus will contain communal areas for individuals and pets throughout the grounds such as a laundry facility, sitting areas, shaded spaces, and pet relief areas.

The DAAS PC Project will expand the existing Pacific Village Campus housing complex into a full-service continuum of care campus to promote community health and housing options to the most vulnerable residents within the county. The DAAS PC Project will address gaps in continuum of care for people with behavioral health conditions and will meet the needs of vulnerable populations with the greatest barriers, including older adults, adults with disabilities, and people experiencing homelessness. This will include constructing 30 Permanent Supportive Housing (PSH) units with communal exterior common areas. The DAAS PC Project will also convert the former church facilities into a 32 bed Recuperative Care Center (RCC) and remodel the existing cafeteria to support the RCC.

The DBH SUD Project will create a comprehensive 13,148 square foot residential treatment facility that will provide services to individuals with severe mental health illness and/or substance use disorders. This facility will provide effective, efficient, and culturally based services to find solutions to challenges by facilitating individuals' ability to function within their families and communities. This facility will be a 24-hour residential facility with 16 beds for individuals needing mental health and/or substance use disorder treatment and services. Services will include withdrawal management and residential treatment.

The CDH PVE Project will create 28 permanent units and common areas. The property currently has 28 Homekey interim housing beds (consisting of 20 travel trailers and eight units of interim housing). The project includes 27 one-bedroom units and one two-bedroom unit. The 20 travel trailers will be decommissioned upon completion of construction and the residents will be transitioned into the new units.

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the Project and completed in compliance with the California Environmental Quality Act (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 30-day public comment period, which

concluded on September 17, 2024. The IS/MND was also circulated through the State Clearinghouse on August 26, 2024 (State Clearinghouse No. 2024081001), 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 in accordance with the CEQA Guidelines. By adopting the MND pursuant to CEQA, the Board of Supervisors (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.

This Project is consistent with the County Administrative Office approved Capital Improvement Project No. 24-037, 23-069, and 24-154.

The contract with W.E. O'Neil Construction Co. of California was negotiated by the parties and includes the following non-standard contract terms:

1. The County is required to indemnify W.E. O'Neil Construction Co. of California against any and all actions, causes of action, claims, demands, asserted rights, liability, costs and expenses, including without limitation, legal fees and expenses, founded or unfounded ("Claims"), whether said Claims are for personal injuries, property damages, or otherwise, arising out of, related to, or connected in any way with, in whole or in part, Design-Builder's or any subconsultants' performance of design services under the contract if the County elects to utilize W.E. O'Neil Construction Co. of California's designs without using W.E. O'Neil Construction Co. of California for the actual construction work.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: By agreeing to indemnify W.E. O'Neil Construction Co. of California, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against W.E. O'Neil Construction Co. of California without such limitations and the County could be responsible to defend and reimburse W.E. O'Neil Construction Co. of California for costs, expenses, and damages, which could exceed the total Agreement amount.

2. W.E. O'Neil Construction Co. of California's maximum liability to the County is limited to the fee paid by the County to W.E. O'Neil Construction Co. of California for design services if the County elects to utilize W.E. O'Neil Construction Co. of California and not use them for construction of the project.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess.

PFMD recommends the Board award the Design Build Services Agreement, including non-standard terms, to W.E. O'Neil Construction Co. of California, as it is the best value to the County, for the Project.

PROCUREMENT

On December 5, 2023 (Item No. 41), the Board authorized PFMD to utilize the design-build project delivery method pursuant to Public Contract Code section 22160 et. seq., for the delivery of the projects, and approved the Design-Build Pre-Qualification Package for design-build contractors to provide design and construction services for the projects. The purpose of the Pre-Qualification

Package was to solicit preliminary information from interested design-build contractors in order to identify three finalists.

On January 19, 2024, PFMD received six proposal packages in response to the Design-Build Pre-Qualification Package request from the following firms:

Contractor	Location
Abbott Construction LLC	Pasadena, CA
Kemp Bros. Construction, Inc.	Santa Fe Springs, CA
Morillo Construction Inc.	Pasadena, CA
SOLPAC Construction Inc., dba Soltek Pacific Construction Company	San Diego, CA
Swinerton Builders	Pasadena, CA
W.E. O'Neil Construction Co. of California	Ontario, CA

A team of representatives from PFMD (Selection Committee) evaluated the proposers' packages. The evaluation process narrowed the field down to five proposer teams that were interviewed, resulting in the recommendation for three who were deemed best qualified to successfully execute the design and construction of the three projects based on the criteria identified in the Pre-Qualification Package, which included organizational history, safety record, relevant personnel, and project experience. The three following firms were recommended to proceed to the next phase of the competitive process:

- Abott Construction LLC (Pasadena)
- Swinerton Builders (Pasadena)
- W.E. O'Neil Construction Co. of California (Ontario)

On May 21, 2024 (Item No. 59), 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 responses to requests for information, project requirements, and expectations, allowing them to submit a Best and Final Proposal.

During the RFP process, PFMD issued Addenda Nos. 1-11, dated between July 25, 2024, and July 30, 2024, for the Project, which made the following changes and updates to the RFP:

1. Responses to Pre-Qualified Proposers' Requests for Information.
2. Changes and updates to the Furniture, Fixtures, and Equipment.
3. Changes and updates to the Site's Existing Paint.
4. Changes and updates to the Site's Mitigation Efforts.
5. Changes and updates to the Project's Commissioning.
6. Changes and updates to the Proposal Schedule.
7. Changes and updates to the Proposers' Final Interviews Dates.
8. Changes and updates to Value Engineering Options.
9. Changes and updates to Base Isolation Items.
10. Changes and updates to the Request for Proposal Due Date.
11. Exhibits A and B referred to from Addendum 1.

On August 8, 2024, final RFP responses were received from the three prequalified design build entities. The Selection Committee conducted an evaluation to determine the successful design build entity based on the proposal that provided the best value to the County. Abbott Construction received the highest overall rating and on September 11, 2024, the notice of award or letters of regret were sent via the United States Postal Service to the three prequalified design build entities.

Following issuance of the notice of award, Abbott Construction and PFMD conducted several meetings to negotiate the scope and cost of their proposal. While Abbott Construction was the highest scored proposer, their price proposal far exceeded the budget, due in part to design deviations from the bridging documents. When the two parties were unable to reach an agreement concerning the costs after multiple discussions, the County exercised its rights, under the RFP, to discontinue negotiations and on October 4, 2024, issued Abbott Construction a notice of intent to rescind award.

The County then began negotiations with the second highest-rated proposer, W.E. O'Neil Construction Co. of California. The RFP required any appeal of the notice of award or letters of regret to be filed within five working days of the receipt of notification. No appeals were received during or after the appeal period as to the letters of regret for Abbott Construction or Swinerton Builders.

~~The contract with W.E. O'Neil Construction Co. of California was negotiated by the parties and includes the following non-standard contract terms:~~

~~1. The County is required to indemnify W.E. O'Neil Construction Co. of California against any and all actions, causes of action, claims, demands, asserted rights, liability, costs and expenses, including without limitation, legal fees and expenses, founded or unfounded ("Claims"), whether said Claims are for personal injuries, property damages, or otherwise, arising out of, related to, or connected in any way with, in whole or in part, Design Builder's or any subconsultants' performance of design services under the contract if the County elects to utilize W.E. O'Neil Construction Co. of California's designs without using W.E. O'Neil Construction Co. of California for the actual construction work.~~

~~• The County standard contract does not include any indemnification or defense by the County of a contractor.~~

~~• Potential Impact: By agreeing to indemnify W.E. O'Neil Construction Co. of California, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against W.E. O'Neil Construction Co. of California without such limitations and the County could be responsible to defend and reimburse W.E. O'Neil Construction Co. of California for costs, expenses, and damages, which could exceed the total Agreement amount.~~

~~2. W.E. O'Neil Construction Co. of California's maximum liability to the County is limited to the fee paid by the County to W.E. O'Neil Construction Co. of California for design services if the County elects to utilize W.E. O'Neil Construction Co. of California and not use them for construction of the project.~~

~~• The County standard contract does not include a limitation of liability.~~

~~• Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess.~~

~~3. W.E. O'Neil Construction Co. of California's insurance policies exclude bodily injury or property damage that occurs after the project has been completed and put to its intended use by the County.~~

~~• The County standard insurance requirement does not contain this exclusion.~~

~~• Potential Impact: County could be liable for injuries to person or property after the project is completed and the Pacific Village Campus begins operation.~~

~~PFMD recommends the Board award the Design Build Services Agreement to W.E. O'Neil Construction Co. of California as the best value to the County, for the Project.~~

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Daniel Pasek, Deputy County Counsel, 387-5455) on ~~November 26~~[December 2](#), 2024; Aging and Adult Services (Sharon Nevins, Director, 891-3917) on November 26, 2024; Behavioral Health (Georgina Yoshioka, Director, 252-5142) on November 26, 2024; Community Development and Housing (Carrie Harmon, Director, 382-3983) on November 26, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on ~~November 26~~[December 2](#), 2024; Purchasing (Leo Gomez, Purchasing Manager, 387-2063) on November 22, 2024; Auditor-Controller/Treasurer/Tax Collector (Charlene Huang, Auditor Controller Manager, 382-7022) on November 26, 2024; Project and Facilities Management (Rob Gilliam, Chief of Project Management, 387-5000) on November 26, 2024; Finance (Guy Martinez, ARPA Compliance Officer, 387-5428, and Yael Verduzco, Principal Administrative Analyst, 387-5285) on November 26, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on November 26, 2024.

(GR: 501-2899)