

County Administrator

County Administration Building
651 Pine Street, 10th Floor
Martinez, California 94553-4068

John Sweeten
County Administrator

**Contra Costa
County**



Board of Supervisors

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1st District

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2nd District

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3rd District

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4th District

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5th District

MEMORANDUM

Date: March 22, 2001
To: Bidding General Contractors
From: *George Roemer*
George Roemer, County Construction Administrator
Subject: Family Law Center

Attached you will find a proposal regarding the new Family Law Center for consideration by the Contra Costa County Board of Supervisors. The Board will review this proposal at their regularly scheduled March 27, 2001 meeting.

The Board may adopt this proposal, reject it, or approve the proposal with modifications. Impacts of this proposal on the April 19, 2001 bid deadline are unknown.

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| Fax # | 925 [Redacted] | Fax # | | | |

cc: O'Brien Kreitzberg

925 766-5872

TO: Board of Supervisors
FROM: John Sweeten, County Administrator
DATE: March 21, 2001
SUBJECT: Family Law Center Project, 751 Pine Street, Martinez
Authorization No. 4033-4408; Project No. 0928-WH408B

RESOLUTION NO. 2001/_____

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION(S)

- A. RATIFY issuance of the bid addendum extending bid opening date to April 19, 2001 for the above project.
- B. For the reasons listed below, DIRECT the County Administrator or his designee (with assistance from County Counsel) to prepare, for the Board's consideration, an additional bid addendum requiring the negotiation of a project labor agreement on the terms described below.

FINANCIAL IMPACT

There is no anticipated impact to the General Fund. Bond proceeds of \$11.5 million have been set aside for this project. The debt service for these bonds is covered primarily from revenues generated from Courthouse Construction and Criminal Justice Construction Funds.

BACKGROUND/REASONS FOR RECOMMENDATIONS

On January 23, 2001, the Board approved plans and specifications for the Family Law Center and directed the solicitation of construction bids for the project. The project consists of a two-story steel frame structure, approximately 40,000 square feet in area, and is estimated to cost \$11.5 million. Pursuant to the Board's direction, the project was advertised, and bids originally were schedule to be submitted and opened on March 22, 2001.

On March 15, 2001, Addendum No. 2 was issued to extend the bid opening date to April 19, 2001. It is recommended that the Board ratify that bid addendum.

For the following reasons, it is desirable to require the negotiation of a project labor agreement for this project:

mgjc

CONTINUED ON ATTACHMENT: YES

SIGNATURE

RECOMMENDATION OF COUNTY ADMINISTRATOR
APPROVE

RECOMMENDATION OF BOARD COMMITTEE
OTHER

SIGNATURE(S):

ACTION OF BOARD ON

APPROVED AS RECOMMENDED

OTHER

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT _____)

AYES: _____ NOES: _____
ABSENT: _____ ABSTAIN: _____

Contact: George Roumer, (925) 334-1036
Orig. Dept.: County Administrator's Office
cc: County Counsel
Auditor/Controller
GSO Accounting - Terry Mann
Contra Costa Building & Construction Trades Council
O'Brien Kreitzberg (the CAD)

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED: JOHN SWEETEN, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR

BY _____, DEPUTY

BACKGROUND/REASONS FOR RECOMMENDATIONS (continued)

(a) It is estimated that this construction project will require 17 months and will involve numerous contractors and employees in different trades.

(b) Satisfactory performance will require a skilled and properly trained work force to construct the project because the project must be completed on time so that the court will be available to provide much-needed judicial services to the citizens of the County.

(c) Satisfactory performance will also require that construction proceed without the disruptions that can occur on long-term projects both from external labor relations problems and from the frictions that often arise when a large number of contractors and their employees work in close proximity to one another on a job site.

(d) In the private sector, project labor agreements have been used for years on large constructions projects to achieve satisfactory performance and the economic benefits that result from having a guaranteed source of skilled workers and from avoiding disruptions in work.

(e) The United States Supreme Court held in *Building & Construction Trades Council v. Associated Builders & Contractors of Mass./R.I., Inc.* (1993) 507 U.S. 218 (*Boston Harbor*), that public entities can enjoy the substantial benefits that project labor agreements can provide and the public entities may "choose a contractor based on that contractor's willingness to enter into a pre-hire [project labor] agreement." The validity of project labor agreements also has been upheld by the California Supreme Court in *Associated Builders & Contractors, Inc. v. San Francisco Airports Commission* (1999) 21 Cal.4th 352.

(f) In order to ensure satisfactory and timely completion of the project, it is necessary that County staff charged with the fiscal administration and responsibility for this construction project take all appropriate actions necessary to assure that this construction project will not exceed its budget in any manner because of the requirements of this resolution.

(g) Based upon testimony and materials previously received and matters otherwise known to the Board and its members, there is an urgent need to expeditiously construct this court facility.

In order to implement a project labor agreement for this project, it is recommended that the Board direct the County Administrator and project staff (with the assistance of the County Counsel's office) to prepare for the Board's further consideration a further bid addendum with substantially the following provisions:

(a) The apparent lowest responsible monetary bidder, as a condition of being awarded the contract, shall negotiate a project labor agreement with the Contra Costa Building and Construction Trades Council ("Council") so that the contractor and its subcontractors can utilize the hiring halls maintained by the Council's constituents and can utilize the Council and its constituents for resolving labor disputes during the term of the project. The project labor agreement shall be negotiated with the Council within 14 days after the bidder (general contractor) has been notified of its apparent status by the County;

(b) The project labor agreement shall cover all work on the project that is within the scope of the contract between the County and the general contractor and shall run for the duration of the project;

(c) The project labor agreement shall include provisions for the following:

(1) recognition of the Council and/or its affiliates as the exclusive bargaining agent(s) for all workers on the job so that the general contractor knows who to deal with regarding any labor matters that may arise during the course of construction;

(2) referral of workers from the hiring halls maintained by the constituents of the Council in order to ensure a reliable source of skilled workers for the project;

(3) a no-strike provision for the duration of the project and a final and binding grievance and arbitration procedure in order to prevent disruptions and delays of the project arising from internal/external labor relations disputes, including jurisdictional disputes.

(d) The general contractor shall require all of its subcontractors, as a condition of working on the project, to become parties to the project labor agreement.

(e)(1) In the event that the general contractor and the Council are unable to agree upon the terms of a project labor agreement within the time limits set forth in paragraph 4(a) above, they shall immediately proceed with arbitration of the matter in a timely fashion. The general contractor and Council shall schedule a hearing before the arbitrator which shall be held within 10 days. The primary arbitrator to be utilized will be specified in the bid addendum. The hearing shall be completed within a single day and if post-hearing briefs are requested by either party they shall be filed within 3 days of the hearing. The cost of the arbitrator and any court reporter shall be borne equally by the general contractor and the Council.

(2) The arbitrator shall decide the terms of the project labor agreement which shall include provisions as described in paragraphs (c) and (d) above. In deciding the other terms of the project labor agreement, the arbitrator shall select in toto either the last proposal made by the general contractor or the last proposal made by the Council.

(3) The arbitrator shall issue his written award within 7 days of the completion of the hearing and send copies of it to the general contractor, the Council, and the County. The arbitrator's decision shall be final and binding on the general contractor and the Council.

(4) If the general contractor refuses to proceed to interest arbitration or to be bound by the arbitrator's award, it will not be awarded the contract and the County may select a new general contractor. If the Council refuses to proceed to interest arbitration or to be bound by the arbitrator's award, the general contractor shall be excused from the requirement that it negotiate a project labor agreement with the Council in order to be considered for award of the project contract.

9:45 A.M.

SHORT DISCUSSION ITEMS - The Board will consider and take action on the following items:

SD.1 CONSIDER any Consent Items previously removed.

SD.2 ✓ CONSIDER ratifying the issuance of a bid addendum extending the bid opening date for the Family Law Center Project, 751 Pine Street, Martinez; and directing the issuance of a bid addendum requiring negotiation of a project labor agreement for the project. (George Roemer, County Administrator's Office)

SD.3 CONSIDER approving position adjustment request to add one Social Work Supervisor II position, six Social Casework Specialist I positions, one Senior Clerk position, three Social Service Program Assistant positions, and one Social Worker position in the Employment and Human Services Department. (John Cullen, Employment and Human Services Director)

SD.4 CONSIDER authorizing the Sheriff-Coroner, or designee, to request 800 Mhz frequencies on a provisional basis from the National Public Safety Planning and Advisory Committee, and directing the Sheriff-Coroner to work with the County Administrator's Office and the Department of Information Technology to identify funding options for installation of a regional, 800 Mhz, trunked, public safety communications system, if such a system is feasible. (George Roemer, County Administrator's Office) (Continued from March 20, 2001)

SD.5 CONSIDER proclaiming April 2001 as "Earthquake Preparedness Month" in Contra Costa County, directing the County Administrator in consultation with the Office of Emergency Services to report back to the Board within 45 days the status of earthquake preparedness activities, and referring to the Internal Operations Committee review of the County's Earthquake Preparedness Plan. (Supervisor DeSaulnier)

DELIBERATION ITEMS - The Board will consider and take action on the following items:

D.1 PUBLIC COMMENT. (3 Minutes/Speaker)

D.2 ✓ CONSIDER the following actions regarding the Juvenile Hall Addition Project, 202 Glacier Drive, Martinez: (1) award contract to the lowest responsible bidder (Arntz Builders), who has met the requirements of the County's Outreach Program, and overrule bid protest from the second bidder (McCarthy Building Cos., Inc.); or (2) reject all bids and direct rebidding of the project; and (3) other appropriate action. (George Roemer, County Administrator's Office)

Closed Session