



Board Agenda Item 56

DATE: May 25, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Second Amendment to Agreement with Kitchell Capital Expenditure Managers, Inc.,
Construction Management

RECOMMENDED ACTION(S):

Approve and authorize Chairman to execute the Second Amendment to Agreement No. 14-736 with Kitchell CEM, Inc., for construction management services for the West Annex Jail, currently under construction, effective upon execution with no change in the term expiration date of December 31, 2022, and increasing the maximum extra services allocation by an additional \$1,039,532 to \$2,695,666, which will increase the total maximum compensation amount to \$6,419,518.

The recommended action will increase the maximum amount of extra services compensation to \$2,695,666 in order to accommodate an extension to the currently estimated schedule for completion of the West Annex Jail (WAJ) construction, and provide adequate compensation for constructability reviews, inspection services, project and construction management through project completion. The WAJ is located in District 3, and the impact is countywide.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the contract will lack sufficient funding to pay for construction management consultant services throughout the remainder of the construction and post-construction phases of the WAJ project.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. Sufficient appropriations are included in Department of Public Works and Planning West Annex Jail Orgs 8845 (State SB 1022), 8846 (Leasehold Improvements), and 8847 (Central Plant) FY 2020-21 Adopted Budget. Expenditures for Kitchell for FY 2020-21 is currently, \$646,831. The approval of the recommended action will increase the Kitchell contract by \$1,039,532, bringing the total of the contract to \$6,419,518. Construction management services are eligible for State Reimbursement SB 1022 grant funds at a rate of ninety percent (90%); and are matched with a portion from County funding, at a rate of ten percent (10%). The Department may submit a budget request for the proposed FY 2021-22 if the overall project budget is exceeded.

DISCUSSION:

On December 16, 2014, the Board approved consultant agreement #14-736 with Kitchell CEM, Inc. (Kitchell), to provide construction and project management services for the WAJ project, from conceptual

design through project completion and post-construction phases.

Agreement #14-736 was amended on August 4, 2020, increasing the extra services allocation by \$579,739, to provide construction management staff for an additional 29-week extension of the construction schedule, through January 18, 2021.

Ongoing construction of the WAJ has extended past the originally scheduled completion date and some additional delays in construction of the project have arisen since that prior amendment was approved.

The most difficult issue has been the inability to obtain final approval from the Office of State Fire Marshal ("OSFM") of the plans regarding the fire/smoke control systems. Although the plans for the smoke control system initially were approved by the OFSM back in 2017, that approval was retracted in 2020 together with OFSM's issuance of "review comments." Over the past several months, Department staff, Kitchell and DLR Group (the design consultant), have engaged with OFSM in an effort to address its concerns regarding those plans, several of which remain pending. If the ultimate resolution of OSFM's remaining issues were to require a significant redesign of the system, it is likely that would necessitate reconstruction work by the construction contractor (Bernards), which in turn could extend by several months the estimated construction completion date.

Based on the foregoing, there is considerable uncertainty in attempting to forecast with any reasonable degree of accuracy the date for completion of construction. While it remains conceivable that the Certificate of Occupancy could be issued by September 1, 2021, it is at least equally possible that, as noted above, the alternative scenario could extend that date by several months to approximately February 1, 2022.

The recommended action would increase the maximum extra services compensation by 1,039,532, to \$2,695,666, an amount staff expects to be sufficient to cover the continued provision of services by Kitchell through the construction phase of the project. The increase of \$1,039,532 to the maximum Extra Services allocation is the estimated amount needed to cover an additional 52 weeks of construction management services (from January 19, 2021 through January 18, 2022), based upon the "average per week fee" of \$19,991 listed in Exhibit F-1 to the proposed Second Amendment. The actual amount of compensation paid, however, will continue to be governed by the invoices submitted by Kitchell based on the rates listed in Exhibit A (and subject to any adjustments in the interim pursuant to Paragraph V.A.2) of the original Agreement.

As of the date of preparation of this Agenda Item, project completion currently stands at approximately 80%, with both the roof system and the interior masonry being approximately 99% complete. However, if significant revisions to the design of the fire/smoke control system are required in order to obtain final OSFM approval of the plans, it could necessitate reconstruction of work previously completed and delay project completion, as detailed above.

Kitchell will continue to provide quality project management communication and responsiveness to the County. The construction management services provided by Kitchell on the project to date have minimized the construction delays to the extent reasonably possible, and those services will continue to be needed until Bernards has fully performed its construction contract and the Notice of Completion has been filed.

REFERENCE MATERIAL:

BAI #50, August 4, 2020
BAI #48, December 16, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Second Amendment to Agreement with Kitchell CEM, Inc.

CAO ANALYST:

Ron Alexander