

**MOTION BY SUPERVISORS HILDA L. SOLIS
AND SHEILA KUEHL**

August 13, 2019

Cancellation of Design-Build Contract with McCarthy Building Companies, Inc.

On February 12, 2019, the LA County Board of Supervisors (Board) authorized the Department of Public Works (DPW) to finalize negotiations and execute the Design-Build contract with McCarthy Builders, Inc. (McCarthy) for the Mental Health Treatment Center (MHTC). At the same time, the Board directed the Departments of Health Services and Mental Health (Health Departments), in coordination with the Chief Executive Office (CEO) and in consultation with the Sheriff’s Department (Sheriff), to work with the Design-Build team within the first 90 days of the 12 month validation period to develop a design for the MHTC that is informed by all of the leading research and information on mental health challenges experienced by those that come most in contact with law enforcement. The Board also directed that the design must support a treatment-first approach with the goal of diversion to community-based mental health treatment wherever possible. Moreover, the Board asked that the Health Departments and CEO include in the report-back options to right-size the scale and scope of the MHTC.

Subsequently, DPW finalized and executed the Design-Build contract with McCarthy on March 28, 2019, and issued the Notice to Proceed to McCarthy on April 4, 2019, starting the one-year validation process. DPW, CEO, the Sheriff’s Department, the Health Departments, and McCarthy then worked collaboratively during the beginning of the validation process to better refine the “care-first” elements of the project.

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Simultaneously, the Health Departments and the Office of Diversion and Reentry (ODR), in consultation with the CEO, developed options that respond to the Board's directives on the MHTC.

On August 7, 2019, the CEO submitted her memorandum, entitled "Report Back On Developing A Care-First Treatment Model For New Mental Health Treatment Center" (CEO Report), in response to this Board's directions. Attachment A to the CEO Report is a memorandum from the Health Departments, describing three options for right-sizing the MHTC project (Health Departments Report). The Health Departments Report discusses the numerous factors the Health Departments considered, many of which are still being further developed. These factors include demographics, trends in criminal justice, changes in treatment modalities, capacity limitations in the State Hospital system, and the impact of diversion programs. The ongoing analysis includes a study of the jail mental health population to determine the share of existing inmates who could be diverted from the jail currently being conducted by the RAND Corporation, which has been commissioned by the Office of Diversion and Reentry (ODR) in response to this Board's August 2018 Board motion. This study will analyze various data points to estimate the percentage of inmates that can be safely diverted to community-based treatment from current County custody settings, as determined by justice and clinical partners. The RAND study will not be available until approximately March 2020.

Given that the results of the RAND study and other studies currently ongoing are crucial for this Board to make the best decision on the right-sizing and configuration of the MHTC, the CEO Report and the Health Departments Report clearly demonstrate the imprudence of proceeding forward with the design and construction of the original scope of the MHTC when it is clear that, at the very least, the design will need to substantially change once all of the facts are known. Therefore, it makes better sense not to further proceed with the current design-build contract with McCarthy.

WE, THEREFORE, MOVE that the Board of Supervisors:

1. For the convenience of the County, terminate the entire Design-Build Agreement (Contract) with McCarthy Building Companies, Inc. (McCarthy) for the design and construction of the Mental Health Treatment Center, and direct the Director of Public Works or his designee, to give written notice of the termination to McCarthy in accordance with Article 18.2 of the Contract General Conditions;

2. Authorize and direct the Director of Public Works or his designee, in consultation with the Chief Executive Office, to: (a) take any actions needed to effectuate the Contract termination in accordance with Article 18.2 of the Contract General Conditions, including, but not limited to, negotiating and making final payment to McCarthy for all Termination Costs as full and final resolution of McCarthy's monetary claims under the Contract, provided that final payment to McCarthy does not, in the opinion of both the Director of Public Works and CEO, in consultation with County Counsel, exceed the amount to which McCarthy is reasonably entitled for the work performed during the Validation Period of the Contract; and (b) report back to the Board upon fully implementing the termination and final payment to McCarthy, or at such earlier time as the Director of Public Works may deem appropriate; and

3. Find that the foregoing actions are not subject to the California Environmental Quality Act ("CEQA") because they are activities that are excluded from the definition of a project by Section 21065 of the Public Resources Code and Section 15378(b) of the State CEQA Guidelines.

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