



SUPPLEMENTAL

COUNCL AGENDA: 12-18-07

ITEM: 8.1

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Robert Davis
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: 12-04-07

Approved

Date

12/5/07

COUNCIL DISTRICT: Citywide

SUBJECT: REPORT ON BIDS AND APPROPRIATION ACTIONS FOR THE SOUTH SAN JOSÉ POLICE SUBSTATION PROJECT

REASON FOR SUPPLEMENTAL

To provide additional information obtained after bids were opened.

RECOMMENDATION

- a. Report on bids and award of contract for the South San José Police Substation project to the low bidder, S.J. Amoroso, to include the base bid and none of the Add Alternates in the amount of \$59,997,000 and the approval of a contingency in the amount of \$2,710,000.
- b. Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):
 1. Increase the South San José Police Substation appropriation by \$5,416,000;
 2. Decrease the Reserve: East San José Community Policing Center by \$1,677,000;
 3. Decrease the Reserve: South San José Community Policing Center by \$1,739,000;
 4. Decrease the Contingency Reserve by \$500,000; and
 5. Decrease the Ending Fund Balance by \$1,500,000.
- c. Adoption of a resolution authorizing the expenditure of Construction Tax and Property Conveyance Tax funds currently allocated for "Service Yards" purposes for the South San José Police Substation project pursuant to Municipal Code 4.55.300.

- d. Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes (Fund 395):
 1. Establish a Transfer to the General Fund for the South San José Police Substation project in the amount of \$400,000; and
 2. Decrease the Ending Fund Balance by \$400,000.

- e. Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund (Fund 001):
 1. Increase the estimate for Other Revenue by \$2,329,250;
 2. Increase the estimate for Transfers and Reimbursements by \$400,000;
 3. Establish an appropriation to the Police Department for the South San José Police Substation in the amount of \$4,996,976; and
 4. Decrease the Earmarked Reserve for Future Capital Projects (FF&E) by \$2,267,726.

- f. Adoption of the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):
 1. Increase the estimate for Earned Revenue by \$70,750; and
 2. Increase the Ending Fund Balance by \$70,750.

- g. Approval of an ordinance amending Chapter 22.08 of Title 22 of the San José Municipal Code to provide that the City Council at its discretion may adjust the Public Art allocation for capital projects outside the annual capital budget approval, and direction to the City Manager to prepare a recommendation to the City Council in conjunction with the 2007-2008 Mid-Year Budget Review report, that the General Fund Future Capital Projects (FF&E) Reserve be partially replenished by reallocating, in the Neighborhood Security Bond Fund, Public Art – Police Bond Projects funding to the South San José Police Substation project in the amount of \$1,100,000.

EXECUTIVE SUMMARY

On November 8th, three bids were received for the South San José Police Substation, the lowest of which exceeded the engineer's estimate by over 15%. Staff recommends that Council augment the project budget by \$10.4 million, funded through the reallocation of Police Community Policing Center reserves (\$3.4 million), surplus property sale proceeds (\$2.3 million), the General Fund Future Capital Projects (FF&E) Reserve (\$2.3 million), Public Safety Bond Contingency Reserves and Ending Fund Balance (\$2.0 million), and the Service Yards Construction and Conveyance Tax Fund (\$400,000). Staff further recommends that the Earmarked Reserve for Future Capital Projects (FF&E) Reserve be partially replenished during the Mid-Year Budget process with funding currently appropriated for Public Art—Police Bond Projects in the amount of \$1,100,000, subject to the adoption of an ordinance amending the City's Art in Public Places Ordinance in Chapter 22.08 of the San Jose Municipal Code. In addition, staff recommends that the City Council award the base bid project, without additive

alternates, to the low bidder S.J. Amoroso Construction Co. In making this recommendation, staff is considering that the high bids received are due to regional market conditions that cannot be mitigated through scope reductions and re-bidding without significant sacrifices to the functionality and sustainability of the project. Lastly, in order to allocate surplus property sale proceeds (Corte De Rosa and Camden Avenue), appropriation actions to return the original purchase price (\$70,750) to the Parks District 10 Construction and Conveyance Tax Fund, as advised by the City Attorney's Office, is recommended.

BACKGROUND

A memorandum dated October 29, 2007 was forwarded to City Council for the November 20, 2007 Council meeting. Consideration for that memorandum has been deferred to the December 18, 2007 Council meeting. The purpose of this supplemental memorandum is to provide additional information obtained after the bid opening.

ANALYSIS

Three of the prequalified contractors did not submit bids resulting in three bids being opened on November 8, 2007 with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Add Alternate 1, 2 & 3</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/ (Under) Percent</u>
S.J. Amoroso Construction Co. Inc. (Redwood City)	59,997,000	931,000	60,928,000	8,140,000	15.4%
Roebbelen Contracting, Inc. (El Dorado Hills)	60,998,000	657,000	61,655,000	8,867,000	16.8%
Nibbi Brothers Associates, Inc. (San Francisco)	62,848,000	558,000	63,406,000	10,618,000	20.1%
Engineer's Estimate	52,000,000	788,000	52,788,000		

<u>Contractor</u>	<u>Add Alt No. 1</u>	<u>Add Alt No. 2</u>	<u>Add Alt No. 3</u>
S.J. Amoroso Construction Co. Inc. (Redwood City)	57,000	117,000	757,000
Roebbelen Contracting, Inc. (El Dorado Hills)	32,000	213,000	412,000
Nibbi Brothers Associates, Inc. (San Francisco)	32,000	42,000	484,000
Engineer's Estimate	91,000	67,000	630,000

Engineer's Estimate and Bid Analysis:

At the end of the 50% Construction Document phase in March 2007, two independent estimates of construction costs were submitted. After reconciliation of the estimates, the project was over budget by approximately \$11 million. A lengthy scope evaluation and value engineering process was undertaken by City staff and the consultants to implement cost reductions in many areas. The items selected for reduction or elimination were identified as those with the least operational impact to the Police Department. City staff also identified additional sources of funding for the balance of the shortfall and as part of the 2008-2012 Adopted Capital Improvement Program (CIP), and the City Council approved full funding for the project based on the March 2007 estimate. This included the allocation of the South and East San José Community Policing Centers into reserves to serve as a contingency for the South San José Police Substation. In July 2007, as the design documents were finalized, two independent estimates were reconciled resulting in a \$52 million Engineer's Estimate for the project. This amount was within the approved budget. Estimators had cautioned that with fewer than 4 or 5 bidders, the costs were likely to increase. At the time the consultant estimates were finalized, the regional construction market was demonstrating signs of a leveling off of escalation and material cost volatility. Accordingly, staff maintained a 6% per year escalation as well as a \$1 million bid cushion in the budget.

In August 2007, in response to a nationally advertised prequalification process, a total of 6 general contractors submitted qualifications and were approved to bid the project. This number of potential bidders was slightly above the minimum requirements of the final engineer's estimate. However, two weeks after the project was put out to bid, three of the six pre-qualified general contractors notified the City that they were declining to bid, citing an excess of projects. Furthermore, as noted in separate publications by Davis Langdon & Associates and the Association of General Contractors, increasing escalation in the Bay Area is being driven by strong demand for construction services for projects in the \$20 to \$100 million range. These assessments are evidenced by the limited range of subcontractors shared by the three bids received. In three of the four trades that contributed most to the bid values, only one or two subcontractors participated. This lack of general contractor and trade diversity coupled with continued material and energy cost volatility has resulted in the bid exceeding the engineer's estimate by 15% and above. The fact that the three bids received were within 4% of each other demonstrate that the bid documents were sufficiently clear and complete and that documentation errors were not a factor in the pricing received.

Staff, therefore, considers the low bid submitted for this project to be legitimate for the work to be performed and recommends award of the contract to S.J. Amoroso. Because the bid of the lowest responsive bidder is higher than the engineer's estimate and level assumed in the 2008-2012 Adopted CIP, additional funding for the project is recommended as part of this memorandum in order to provide the funding necessary for the project.

Funding Strategy:

In total, funding augmentations of \$7.0 million and the reallocation of existing reserves of \$3.4 million are recommended to award and fully fund the South San José Police Substation project. The funding sources include the Neighborhood Security Bond Fund (\$5.4 million), the General Fund (\$4.6 million), and the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes (\$400,000).

In the Neighborhood Security Bond Fund, the reallocation of reserves for the South San José Community Policing Center (\$1,739,000) and East San José Community Policing Center (\$1,677,000), approved by the City Council as part of the 2008-2012 Adopted CIP to serve as a contingency for this project, are recommended for the South San José Police Substation project. In addition, \$1.5 million of additional interest earnings above the levels assumed in the 2008-2012 Adopted CIP were recognized as part of fund reconciliations approved in the 2006-2007 Annual Report. This additional funding is recommended for the South San José Police Substation project. A decrease to the Contingency Reserve of \$500,000 is recommended which would reduce this reserve from \$1,018,661 to \$518,661. This reserve would serve as a contingency for the remaining projects. These projects include five fire stations (Nos. 2, 19, 36, 21, and 37), an emergency communications/dispatch center upgrade and a driver safety training center which are in various stages of planning and design. It should be noted that this reserve would represent approximately 1.5% of the \$35.3 million construction award amount allocated in the 2008-2012 Adopted CIP for these seven remaining projects. A decrease to the Ending Fund Balance (\$1.5 million) is recommended to offset the actions described above.

Municipal Code Section 4.55.300 sets forth the eligible expenditures of the Construction Tax and Property Conveyance Tax ("C&C Revenues"). These include the following types of improvements: library, fire, parks, parks maintenance yards, service yards and communication facilities. Additionally, Municipal Code Section 4.55.300 B authorizes the expenditure of C&C Revenues for general municipal improvements if authorized by City Council resolution. Staff recommends that the City Council allocate C&C Revenues currently appropriated for service yard purposes to the South San José Police Substation project. Accordingly, appropriation actions in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes are also included in this memorandum. A decrease to the Ending Fund Balance (\$400,000) and the establishment of a transfer to the General Fund for the South San José Police Substation project are recommended. These funds were above the level included in the 2008-2012 Adopted CIP and allocated as part of the 2006-2007 Annual Report. As these funds must be spent on capital expenditures for the South San José Police Substation, any unexpended funds would be transferred back to the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes.

Proceeds from surplus property located on Corte De Rosa and Camden Avenue, less the original purchase price, is recommended to be allocated to the South San José Police Substation project. This property was declared surplus property by the City Council on September 11, 2007. The \$70,750 purchase price for the property was paid from Construction Tax funds that had been allocated for parks purposes in Council District 10. The City Attorney's Office has advised that

the proceeds in the amount of the original purchase of the property need to be appropriated to the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (\$70,750). The remaining funds (\$2,329,250) are recommended for the project award. It should be noted that per Council Policy, the remaining funds would have been appropriated in the Economic Uncertainty Reserve in the General Fund. In order to fully fund the South San José Police Substation Project, an exception to this policy and the allocation of these funds toward the project is recommended.

A reduction to the General Fund Future Capital Projects (FF&E) Reserve (\$2,267,726, with \$1.1 million to be recouped through the reallocation of public art funds as described below for a net reduction of \$1,167,726) is recommended to fully fund the project award. This reserve was originally allocated to fund furnishings, fixtures and equipment (FF&E) for all bond-funded programs (Parks, Library, and Public Safety) and potentially fund project construction escalation, if necessary. The majority of FF&E expenditures for library, parks and fire facilities have been funded through Construction and Conveyance Tax funds. It should be noted that FF&E for Police facilities are not eligible to be funded through the existing Construction and Conveyance Tax allocation and staff will continue to pursue grant and public-private partnerships to fund these needs. The Police Department has recently worked with community members to establish a police foundation. Similar to the successful efforts of the Library Foundation and other community partnerships, staff will request police foundation participation in meeting the FF&E needs for the substation. A reduction to this reserve would leave approximately \$4.6 million remaining in this reserve to fund any remaining unfunded FF&E needs or project construction escalation.

In order to fully fund the South San José Police Substation Project, an ordinance is recommended to provide that the City Council, in its discretion, may adjust capital project allocations outside the annual budget approval process (as currently codified). An advance from the General Fund Future Capital Projects (FF&E) Reserve is recommended pending this Ordinance becoming effective. A reallocation of public art funds appropriated for remaining Police bond-funded facilities (\$1.1 million) including, but not limited to two public art projects designed for the South San José Police Substation project, is recommended for inclusion as part of the 2007-2008 Mid-Year Budget Review. This action would, however, reduce the level of public art funds in the Public Safety Bond Program for Police Bond Projects below the 2% of the construction costs as provided in the City's Art in Public Places Ordinance set forth in Chapter 22.08 of the Municipal Code. Assuming the recommendations in this memorandum are approved and the City Council approves the reallocation of public art funds to the substation project in the 2007-2008 Mid-Year Budget Review, the General Fund Future Capital Projects (FF&E) Reserve would then increase from approximately \$4.6 million to \$5.7 million.

Council Policy provides for a standard contingency of ten percent on public works projects involving the construction of a building. Staff, however, recommends a construction contingency of four and one half percent to allow sufficient funds to be allocated toward the balance of the Public Safety Bond Program. While four and one half percent is smaller than the five percent staff has recently recommended for other new Public Safety construction projects,

staff believes that over \$2.7 million for potential changes during construction of the project will be sufficient.

As described in the following Policy Alternative section of this memo and based on current escalation projections for projects of this size, the re-bidding and/or redesign of the project will cause delays and will expose the project to approximately \$325,000 per month escalation. Staff further does not recommend forgoing the pre-qualification process and re-bidding due to the uncertainty of the quantity and quality of bidders.

POLICY ALTERNATIVES

Alternative #1 – Award and Deductive Change Orders: Direct staff to seek deductive change order opportunities after award, to reduce the overall project scope while maintaining the core functionality of the substation. All savings from these actions could be refunded to the supplemental funding sources used to award the base bid. Initial opportunities for scope reductions include but are not limited to:

1. Defer Vehicle Maintenance Building and Car Wash:
2. Defer SW Portion of Site Parking (approx. 60 spaces)
3. Re-scope of Vehicle Fueling Station and Storage:
4. Defer Pre-Processing and Interview rooms tenant improvements (shell only)

Estimated Total Net Savings: \$ 2,730,000

Pros: This alternative would allow the project to proceed as scheduled avoiding additional redesign, construction cost escalation and potentially adverse bidding conditions. All savings from the deductive change orders will help partially refund any new funding sources used to award the contract. This will reduce the projects financial impact on the bond and other capital programs.

Cons: The ultimate savings from the work removed from the project after bid may be less than its actual value. The costs to implement the scope reductions at a later date will be significantly greater. The operational inefficiencies of having staff taking their vehicles to remote locations for servicing are likely to increase the yearly O&M costs. Similarly, one of the key benefits of the project will be lost until such time as the Pre-Processing and Interview Rooms can be restored, further impacting operations and the purpose of this project.

Reason for not recommending: Alternative #1 is not recommended because the savings afforded by deductive change order are almost always less than the actual cost. If the deferred scope items are introduced at a later date the costs are anticipated to be considerably higher. Furthermore, the deferred scope items will significantly reduce the operational benefits of the project due to staff time expended routing and processing arrestees to the County Jail, as well as travel time to service vehicles.

Alternative #2 – Revise and Rebid: Direct staff to modify the bid documents to remove scope that does not require significant redesign effort and time while maintaining the core functionality

of the substation. Initial opportunities for minor redesign and scope reductions include but are not limited to:

1. Defer Vehicle Maintenance Building and Car Wash
2. Eliminate Steel Shop Certification Requirement
3. Defer SW Portion of Site Parking (approx. 60 spaces)
4. Re-scope of Vehicle Fueling Station and Storage
5. Defer Pre-Processing and Interview rooms (shell only)
6. Defer Second Floor–West tenant improvements (shell only)
7. Defer entire Third Floor tenant improvements (shell only)
8. Add Two Months of Construction Escalation & Soft Costs *

Estimated Total Net Savings: \$ 3,780,000

* Assumes a 6% per year construction escalation or approx. \$650,000 for a two month delay plus \$100,000 in staff, consultant and reproduction expenses for re-bidding the project.

Pros: This alternative would have potential savings of \$3.8 million, with a minor delay in the schedule, while retaining energy efficiency, stormwater quality and LEED Silver certification.

Cons: By repackaging the bid documents and re-bidding the City runs the risk of losing the interest of bidders and sub-contractors. The result could be fewer and higher bids for a reduced scope of work and a less functional facility. Some of the savings for this option is also offset by construction escalation and the staff and reproduction costs for re-bidding itself.

Reason for not recommending: The full value of the projected savings may not be realized due to the risk of fewer bidders and higher bids at a later date. The changes would reduce police department operational efficiencies and increase O&M for the fleet, as well as significantly reduce the utility of the building. The cost to reintroduce items deferred by the re-design would likely cost a great deal more in the future.

Alternative #3 – Redesign and Rebid: Direct staff to significantly modify the bid documents to remove scope and simplify design elements while maintaining the core functionality of the substation. Initial opportunities for re-redesign and scope reductions include but are not limited to:

1. Defer Vehicle Maintenance Building and Car Wash:
2. Eliminate Steel Shop Certification Requirement:
3. Defer SW Portion of Site Parking (approx. 60 spaces):
4. Reduce of Vehicle Fueling Station and Storage Capacity
5. Defer Pre-Processing and Interview rooms (shell only)
6. Defer Second Floor–West tenant improvements (shell only)
7. Defer entire Third Floor tenant improvements (shell only)
8. Eliminate living roof system (a.k.a “green” roof)
9. Reduction in Bio-swales and storm water retention
10. Simplification of exterior cladding / material changes
11. Create allowance for unknown increase to major materials

12. Add 6+ months of Construction Escalation & Soft Costs: *

Estimated Total Net Savings: \$ 4,030,000

* Assumes a 6% per year construction escalation or approx. \$1,950,000 for a 6 month delay plus \$300,000 in staff, consultant and reproduction expenses for re-bidding the project.

Pros: This alternative would have potential savings of approximately \$4.0 million and would have a lesser financial impact to other programs and/or projects.

Cons: By redesigning the bid documents and re-bidding there would be a significant delay to the project and the risk of losing the interest of bidders and sub-contractors. The result could be fewer and higher bids for a reduced scope of work and a less functional facility. Approximately 1/3 of the potential savings are offset by increased construction escalation and soft costs incurred due to the delay and effort of re-designing and re-bidding. The cost to reintroduce items deferred by the redesign would cost more.

Reason for not recommending: There is a greater risk that projected savings may not be realized due to the possibility of fewer bidders and higher bids at a later date coupled with escalation costs for time delays. As for Alternate #2, the changes would reduce police department operational efficiencies and increase O&M for the fleet, as well as significantly reduce the utility of the building. The cost to reintroduce items deferred by the redesign would likely cost significantly more in the future.

COST/SUMMARY IMPLICATIONS

1. AMOUNT OF RECOMMENDATION:	\$59,997,000
2. COST OF PROJECT:	
Construction	\$60,547,000
Land Acquisition	8,000,000
Project Delivery	10,910,000
Construction Contingency	<u>2,710,000</u>
TOTAL PROJECT COSTS	\$82,167,000
Prior Year Expenditures	<u>\$ 14,935,024</u> *
REMAINING PROJECT COSTS	\$ 67,231,976

* A total of \$14,935,024 was expended or encumbered in prior fiscal years for land acquisition and project deliver costs including design consultant, geotechnical consultant, and project management.

3. SOURCE OF FUNDING: 475 – Neighborhood Security Bond Fund
 001- General Fund
 395 – Construction and Property Conveyance Tax Fund:
 Service Yards Purposes

4. OPERATING COSTS: The proposed operating and maintenance costs of this project have been reviewed and will be approximately \$936,000 annually in the first full year of operations. These costs have been included in the 2009-2013 Preliminary General Fund

Forecast released November 7, 2007. These figures do not include additional Police Department staffing costs that may be required to operate the facility. The appropriate budget addition requests will be submitted through standard City processes.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

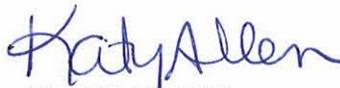
Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract	2007-08 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs				\$ 67,231,976			
Funding Available							
475	4542	South San José Police Substation	122785	55,051,000	49,584,024	V-876	10/16/2007 Ord. No. 28143
Funding in Future Years of CIP				1,768,000			
Total Funding Available				\$56,819,000			
Recommended Budget Actions							
475	8156	Reserve: East San José Community Policing Center		1,677,000	1,677,000	V-908	
475	8157	Reserve: South San José Community Policing Center		1,739,000	1,739,000	V-909	
475	8633	Contingency Reserve		500,000*	500,000	V-856	
475	8999	Ending Fund Balance		1,500,000*	1,500,000	V-857	10/16/2007 Ord. No. 28143
395	8999	Ending Fund Balance		400,000**	400,000	V-1282	10/16/2007 Ord. No. 28143
001	8682	Future Capital Projects (FF&E) Reserve		2,267,726***	2,267,726	Operating Budget XI-31	
001	TBD	South San José Police Substation		2,329,250****	2,329,250	N/A	
Total Project Funding				\$67,231,976	\$59,997,000		

* In the Neighborhood Security Bond Fund, \$1.5 million of unallocated Ending Fund Balance which resulted from higher than anticipated interest earnings realized in the 2006-2007 Annual Report is recommended to be reallocated toward the South San José Police Substation project. In addition, a reduction of \$500,000 is recommended to the Contingency Reserve which would reduce this reserve from \$1,018,661 to \$518,661.

- ** A reduction of \$400,000 is recommended to the Ending Fund Balance which would decrease the Ending Fund Balance from \$3,364,078 to \$2,964,078.
- *** A reduction of \$2,267,726 to the Future Capital Projects (FF&E) Reserve is recommended which would decrease this reserve from \$6,824,806 to \$4,557,080. The recommended reduction includes \$1.1 million of funding allocated for the substation project until approval of an Ordinance amendment that would allow public art funds be reallocated to the substation project. The reallocation of public art funds to the substation project and restoration of \$1.1 million to the Future Capital Projects (FF&E) Reserve is recommended to be included in the 2007-2008 Mid-Year Budget Review.
- **** The allocation of proceeds from the sale of City-owned surplus property on Corte De Rosa, less the original purchase price, is recommended in this memorandum toward the South San José Police Substation project.



ROBERT L. DAVIS
Chief of Police



KATY ALLEN
Director, Public Works Department



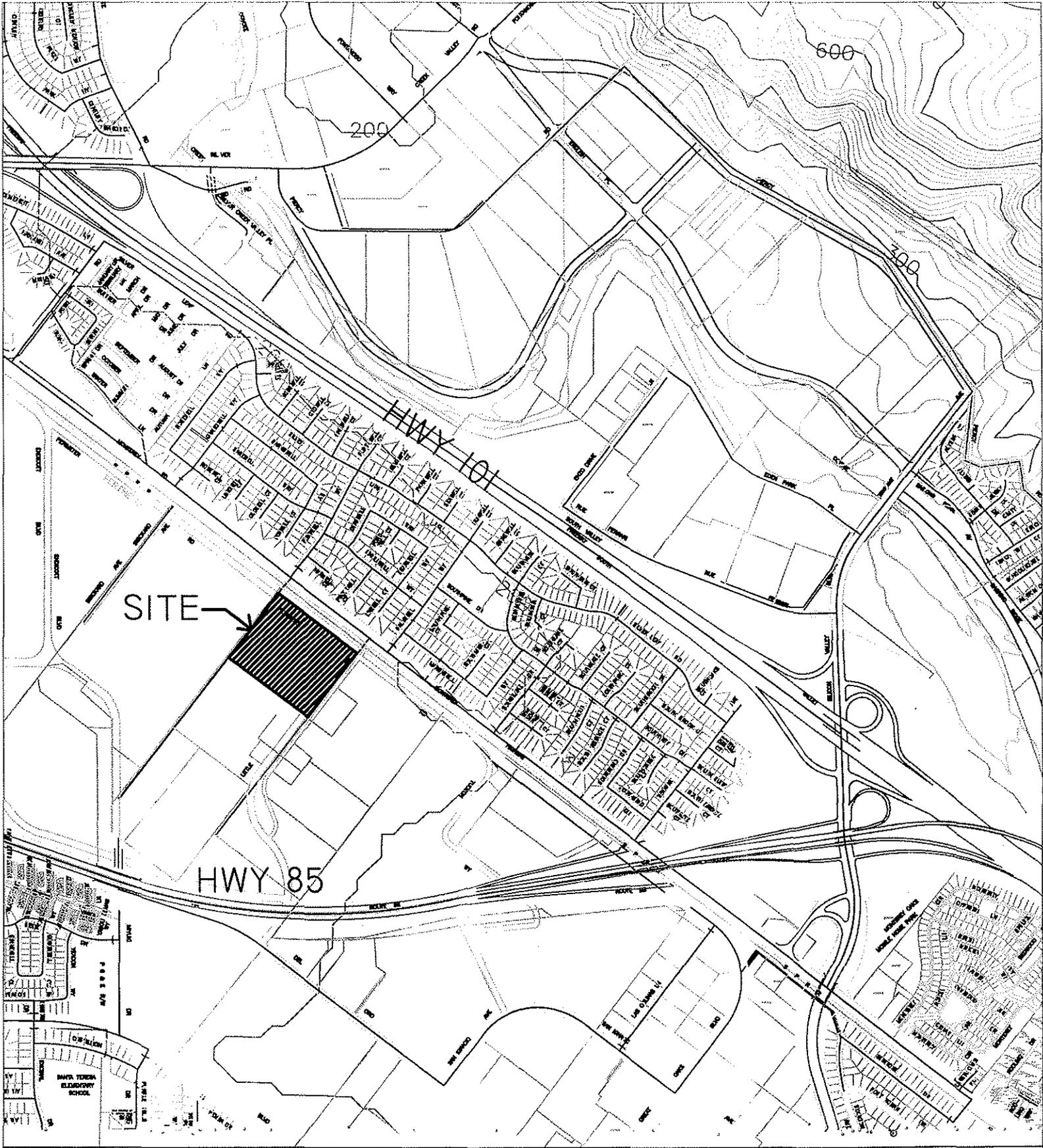
JENNIFER A. MAGUIRE
Acting Budget Director

I hereby certify that there will be available for appropriation in the designated funds and in the amounts as listed below in Fiscal Year 2007-2008 moneys in excess of those heretofore appropriated therefrom:

General Fund	\$2,729,250
Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10	70,750



Jennifer A. Maguire
Acting Budget Director



SITE

HWY 85

HWY 101

POLICE SUBSTATION
LOCATION MAP

**ADMINISTRATIVE DRAFT
MITIGATION MONITORING AND REPORTING PROGRAM**

**SOUTHSIDE POLICE SUBSTATION
PROJECT FILE NO. PP04-304**

CITY OF SAN JOSE

January 2005

P R E F A C E

Section 21081 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

On February 4, 2005 the Mitigated Negative Declaration was adopted for the Southside Police Substation Project. The Final Initial Study/Mitigated Negative Declaration concluded that the implementation of the project could result in a number of significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

**MITIGATION MONITORING AND REPORTING PROGRAM
SOUTHSIDE POLICE SUBSTATION PROJECT**

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AIR QUALITY				
Construction for the proposed project could result in significant short-term air quality impacts associated with dust generation	<p>The following construction practices will be implemented during all phases of construction on the project site:</p> <ul style="list-style-type: none"> • Use dust-proof chutes for loading construction debris onto trucks. • Water to control dust generation during demolition of structures and break-up of pavement. • Cover all trucks hauling demolition debris from the site. • Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind. • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. • Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site. • Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets. • Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.). • Install gravelbags or other erosion control measures to prevent silt runoff to public roadways. • Replant vegetation in disturbed areas as quickly as possible. 	To be implemented during both the demolition and construction phases by the contractors.	All measures will be printed on all construction documents, contracts, and project plans.	Director of Public Works.
BIOLOGICAL RESOURCES				
Construction activities such as tree removal, site grading, etc., that disturb a nesting burrowing owl on-site or immediately adjacent to the site (to the construction zone only) or destroy occupied burrows would result in a significant impact.	<ul style="list-style-type: none"> • In conformance with federal and state regulations protecting raptors against direct "take," pre-construction surveys for burrowing owls will be conducted by a qualified ornithologist prior to any soil-altering activity or development occurring within the project area. Preconstruction surveys shall be conducted per California Department of Fish and Game (CDFG) guidelines (currently no more than 30 days prior to the start of site grading), regardless of the time of year in which grading occurs. If no burrowing owls are found, then no further mitigation would be warranted. • If preconstruction surveys determine that burrowing owls are located on or immediately adjacent to the site, a construction-free buffer zone 	To be implemented no more than 30 days prior to construction by a qualified ornithologist.	<p>All measures will be printed on all construction documents, contracts, and project plans.</p> <p>If burrowing owls are encountered a report will be submitted by qualified ornithologist to the</p>	<p>Director of Public Works.</p> <p>Environmental Principal Planner in PBCE</p>

**MITIGATION MONITORING AND REPORTING PROGRAM
SOUTHSIDE POLICE SUBSTATION PROJECT**

Impact	Mitigation and Avoidance Measures	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	<p>around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities, including grading or other construction work or evictions of owls, shall proceed that may disturb breeding owls. Construction can resume once owls have fledged.</p> <ul style="list-style-type: none"> If preconstruction surveys determine that burrowing owls occupy the site, and avoiding development of occupied areas is not feasible based on determination of the lead agency, then the owls may be evicted if pre-authorized by the CDFG. CDFG typically allows eviction of owls only during the nonbreeding season (1 September-31 January). 		<p>Environmental Principal Planner in the Department of Planning, Building, and Code Enforcement (PBCE) and the Director of Public Works. The recommendations in the report shall be implemented prior to commencement of construction or grading activities.</p>	
<p>Any loss of fertile raptor or shrike eggs, or individual nesting raptors or shrikes, or any activities resulting in nest abandonment, would constitute a significant impact.</p>	<ul style="list-style-type: none"> Construction should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including raptors and shrikes, in the South San Francisco Bay area extends from January through August. If site clearing, demolition, and construction do not commence between September 1 and December 31, then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other habitats (e.g., grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation. If vegetation is to be removed by the project and all necessary 	<p>If construction occurs January through April, mitigation shall be implemented no more than 14 days prior to start of construction. If construction occurs May through August mitigation shall be implemented no more than 30 days prior the start of construction.</p>	<p>All measures will be printed on all construction documents, contracts, and project plans.</p> <p>If an active nest is found a report will be prepared by a qualified ornithologist and submitted to the Environmental Principal Planner in the PBCE Dept. and the Director of Public Works.</p>	<p>Director of Public Works.</p> <p>Environmental Principal Planner in PBCE</p>

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	<p>approvals have been obtained, suitable nesting substrate (e.g., bushes, trees, grass, burrows) that will be removed by the project shall be removed before the start of the nesting season (February) to help preclude nesting. Removal of vegetation or structures slated for removal by the project shall be completed outside of the nesting season, which extends from January through August.</p>			
<p>The loss of ordinance-sized trees could result in significant biological impacts.</p>	<ul style="list-style-type: none"> • Non-orchard trees to be removed as part of the project will be replaced at the following ratios. No tree replacement is required for orchard-type trees. • Trees 56 inches in circumference or larger will be replaced with 24-inch box native species at a 4:1 ratio (i.e., four replacement trees for each tree removed). • Trees 36 inches to 56 inches in circumference will be replaced at a 2:1 ratio with 24-inch box native species. • Trees smaller than 36 inches in circumference will be replaced at a 1:1 ratio with 15 gallon native species. • To the extent possible, healthy and mature trees will be incorporated into project landscaping design. Where feasible, ordinance sized trees will be removed, boxed, and replanted on-site as part of the project landscaping. <p>The following tree protection measures will also be included in the project in order to protect trees to be retained during construction:</p> <ul style="list-style-type: none"> • Pre-construction treatments <ol style="list-style-type: none"> 1. The applicant shall retain a consultant arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection. 2. Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed. 3. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture. • Recommendations for tree protection during construction <ol style="list-style-type: none"> 1. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modifications must be approved and monitored by the consulting arborist. 	<p>To be implemented during the construction phase by the contractors.</p>	<p>All measures will be printed on all construction documents, contracts, and project plans.</p>	<p>Director of Public Works.</p> <p>Environmental Principal Planner in PBCE</p>

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	<ol style="list-style-type: none"> 2. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist. 3. Supplemental irrigation shall be applied as determined by the consulting arborist. 4. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied. 5. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone. 6. Any additional tree pruning needed for clearance during construction must be performed or supervised by an Arborist and not by construction personnel. 7. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement. 			

CULTURAL RESOURCES

<p>The project is not within an archaeologically sensitive area. Although it is unlikely that buried cultural materials will be encountered during excavation on the site, standard conditions for excavation activities will be applied to the project as described in this section.</p>	<ul style="list-style-type: none"> • In the event any significant cultural materials are encountered, all construction within a radius of 50 feet of the find will be halted, the Environmental Principal Planner in PBCE and the Director of Public Works will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Typical recommendations include collection, recordation, and analysis of any significant cultural materials. • In the event that human remains and/or cultural materials are found, all project related construction shall cease within a 50-foot radius of the find in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California: <ol style="list-style-type: none"> a. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any 	<p>To be implemented before and during construction activities by the contractors.</p>	<p>All measures will be printed on all construction documents, contracts, and project plans.</p>	<p>Environmental Principal Planner in PBCE. Director of Public Works.</p>
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	<p>nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p> <p>b. A final report shall be submitted to the Environmental Principal Planner in the PBCE Department of and Director of Public Works. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Environmental Principal Planner of the Department of Planning, Building and Code Enforcement.</p>			

HAZARDS & HAZARDOUS MATERIALS

<p>Based on the results of the January 2005 testing, roughly 2,500 cubic yards of road base material contains naturally-occurring asbestos which could be hazardous to construction workers and workers at nearby businesses.</p>	<p>The project will include the following measures to limit public exposure to asbestos-laden dust from the construction site and road surfaces. The project will implement dust control procedures in accordance with the California Air Resources Board's (CARB) "Asbestos Airborne Toxic Control Measures (ATCM) for Construction, Grading, Quarrying and Surface Mining Operations" and an Asbestos Dust Mitigation Plan will be submitted to the City of San Jose's Environmental Principal Planner and the Bay Area Air Pollution Control Officer (APCO) at BAAQMD. The provisions of that dust mitigation plan will be implemented and maintained during the duration of the construction or grading activity. Any asbestos-containing materials that are to be removed from the site will be disposed of in accordance with applicable local, state and federal regulations.</p>	<p>To be implemented before and during demolition by the contractors.</p>	<p>All measures will be printed on all construction documents, contracts, and project plans.</p>	<p>PBCE Principal Environmental Planner Director of Public Works.</p>
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HYDROLOGY AND WATER QUALITY				
Implementation of the proposed project could result in increased storm water pollution during construction.	<p>The following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.</p> <ul style="list-style-type: none"> ▪ restrict grading to the dry season or meet City requirements for grading during the rainy season; ▪ use Best Management Practices to retain sediment on the project site; ▪ place burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains; ▪ provide temporary cover of disturbed surfaces to help control erosion during construction; ▪ provide permanent cover to stabilize the disturbed surfaces after construction has been completed; ▪ comply with the City of San José's NPDES Permit requirements, the City's ordinances and policies related to storm water management, the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity, and other applicable local, state, and federal requirements. 	To be implemented during demolition and construction phases by the contractors.	The Director of Public Works will ensure that the project implements regular maintenance activities by monitoring the site throughout the construction period.	Director of Public Works
The proposed project will increase the percentage of impervious surfaces on the site, compared to the existing conditions.	The project will include post-construction structural controls and Best Management Practices (BMPs) for reducing the volume of storm water runoff and the contamination in storm water runoff as permanent features of the project in accordance with the City of San José's requirements and other local, state, and federal requirements.	At the site-design stage of the project, prior to plan-check of construction documents by Public Works staff	<p>Review of plans and specifications by Public Works project representative</p> <p>The Director of Public Works will ensure that the project installs and implements regular maintenance activities by monitoring the site.</p>	PBCE Environmental Principal Planner Director of Public Works

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NOISE				
<p>The project site is exposed to noise levels exceeding those normally considered satisfactory for the intended use, as identified in the Noise Element of the General Plan.</p>	<ul style="list-style-type: none"> At the building design phase, a project-specific acoustical analysis will be conducted to ensure that interior noise levels will be reduced to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation, so that windows could be kept closed at the employees' discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new office uses adjacent to the railroad and Monterey Highway. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower. 	<p>Prior to plan-check of construction documents by Department of Public Works staff</p>	<p>Review plans and specification by Public Works project representative.</p>	<p>Director of Public Works</p>
<p>Noise generated by construction could create a temporary noise impact on nearby noise-sensitive receptors.</p>	<p>The project will incorporate the following avoidance measures in order to reduce the potential construction noise disturbance to adjacent land uses.</p> <ul style="list-style-type: none"> Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. Unnecessary idling of internal combustion engines shall be strictly prohibited. Utilize "quiet" air compressors and other stationary noise sources. Control noise from construction workers' radios to the point where they are not audible at off-site. Designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. (The City shall be responsible for designating a noise disturbance coordinator and the contractor will be responsible for posting the phone number and providing construction schedule notices). 	<p>During construction phases by contractors.</p>	<p>The Director of Public Works Director and or designated project representative will ensure that the contractors implement the construction noise measures.</p>	<p>Environmental Principal Planner in PBCE Director of Public Works</p>

SOURCE

City of San José, **Final Southside Police Substation Project Initial Study**, November 2004.

