



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
Robert Davis  
Jennifer A. Maguire

**SUBJECT:** SOUTH SAN JOSE POLICE  
SUBSTATION CONTRACT  
-VARIOUS ACTIONS

**DATE:** 03-02-09

Approved

Date

3/10/09

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

- a. Adoption of a resolution increasing the construction contingency for the South San José Police Substation construction contract with S.J. Amoroso Construction Co, Inc. (SJA) by \$3,600,000 to a total of \$6,310,000.
- b. Adoption of the following 2008-2009 Appropriation Ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):
  1. Increase the South San José Police Substation appropriation by \$4,500,000;
  2. Decrease the Driver Safety Training Center appropriation by \$1,000,000
  3. Decrease the Ending Fund Balance by \$3,500,000.
- c. Adoption of a resolution authorizing the Director of Public Works to negotiate and execute individual contract change orders up to \$600,000 each for the South San José Police Substation construction contract with S.J. Amoroso Construction Co, Inc. (SJA) and repealing Council Resolution No. 74660, adopted November 4, 2008.
- d. Approve the First Amendment to the Master Agreement with Gilbane Building Company for Peer Review and Implementation Support Services for the South San José Police Substation extending the term of the agreement from December 31, 2009 to September 30, 2010, increasing the maximum compensation by \$500,000 from \$1,000,000 to an amount not to exceed \$1,500,000.
- e. Approve the Second Amendment to the Phase two consultant agreement with RossDrulisCusenbery Architecture, Inc. relating to the planning, design and construction of South San José Police Substation extending the term of the agreement from July 31, 2009 to September 30, 2010, with no increase in compensation.

## **OUTCOME**

The proposed actions are recommended to address unexpected increases in the construction costs of the South San José Police Substation.

## **EXECUTIVE SUMMARY**

As communicated in the February 10, 2009 staff report to Council, the South San José Police Substation project has experienced a variety of unexpected events leading to the need for an estimated \$4.5 to \$6.5 million in additional funding. Construction of the project is about 55 percent completed, and staff is analyzing the various reasons for the increased project costs. To date, one of the significant reasons for the increased project costs is the apparent deficiencies in the design documents provided by the design consultant, RossDrulisCusenbery Architecture, Inc (“RDC”). Another significant reason for needing additional funding is to pay for the increased cost of upgrading the telecommunications systems – an upgrade that will greatly benefit the project.

The range of the estimates for additional funding is due to the fact that construction is a little over half completed and several key issues that will effect construction are still unresolved. Staff is recommending that the Project funding be increased by \$4,500,000 at this time to address the known or reasonably ascertainable cost increases and to provide the necessary construction administrative support to successfully complete the project. The proposed funding source is the Driver Safety Training Center project, which is currently on hold pending identification of a suitable site.

Approval of staff’s recommendations will provide the funding needed to continue progress on the project. Although the deficiencies in the design documents have created significant challenges, progress on the construction continues as a result of the diligence of the contractor and the additional staff and consultant resources that have been brought onto the project. The current estimated completion date of the South San José Police Substation is February 2010.

## **BACKGROUND**

On December 18, 2007 the City Council awarded the construction contract for the project to S.J. Amoroso in the amount of \$59,997,000. Pursuant to the Council Policy regarding the setting of contingencies, the normal contingency for a project involving new construction of a building is 10 percent of the construction cost. For this project, a 10 percent contingency would have been approximately \$6.0 million. Because of budget constraints, the actual contingency approved for this project was 4.5 percent of the construction cost – or \$2,710,000.

On November 4, 2008, Council adopted Resolution No. 74660, which increased the authority of the Director of Public Works to execute individual change orders for more than \$100,000 with an aggregate authority not to exceed \$1,500,000 for specific items described in the staff report. The Council action did not involve any increase in project funding. As indicated in that same report,

staff would evaluate pending and potential change orders, delay costs and the feasibility for cost savings through scope reductions. In that same report, staff also indicated that future funding actions might be necessary in order to ensure that the project had sufficient funds to be completed.

On February 10, 2009, staff reported to Council with an update on the project, identifying that the costs for the pending change orders had increased significantly, that the Project was delayed a minimum of approximately 3 to 4 months and that additional funding of between \$4,500,000 and \$6,500,000 would be needed.

In October 2006, Council approved a master agreement with Gilbane Building Company (GBC) for a maximum compensation of \$1.0 million to provide peer review and implementation support services for the South San José Police Substation. Under that agreement, Gilbane Building Company provided independent third-party reviews of design documents, schedules, cost estimates, as well as construction management and construction implementation support services related to the design and construction of the South San José Police Substation. This master agreement expires on December 12, 2009.

On June 26, 2005, Council approved the consultant agreement with RossDrulisCusenbery for architectural services related to the planning, design and construction of the South San José Police Substation project for a maximum compensation of \$4,748,975 and for a term that expired on January 31, 2009. On January 29, 2009, the City Manager, as authorized under municipal code section 4.04.55, executed the First Amendment to the consultant agreement for RDC and extended the term by six months through July 31, 2009.

### **ANALYSIS**

As noted in the background section, the construction of the South San Jose Police Substation project is faced with a number of challenges and is incurring increased costs that are projected to exceed the available funding. To date, there has been over \$1,685,000 in executed Contract Change Orders (CCOs), which has consumed over 62% of the original authorized contingency for this project. Based on known issues and staff's cost projections, the remaining \$1,025,000 in construction contingency will be insufficient to address the outstanding and potential change orders necessary to complete the project. As of this report, staff believes there are between \$3,600,000 to \$5,200,000 in additional pending and potential change orders above and beyond the remaining contingency. The recommended funding increase at this time is for the lower end of this range until a time when the entire cost can be more accurately quantified.

The projected increased costs ranges fall in to two major categories: Potential Change Orders and Construction Administration which are further broken down below:

<u>Potential Change Orders:</u>	<u>Estimated Cost Increase Range</u>	
• Mechanical, Electrical & Plumbing (MEP)	\$800,000	\$1,200,000
• Fuel Station	-50,000	-50,000
• Building Exterior	350,000	625,000
• Roof Modifications	650,000	950,000
• Long Term Telecommunications	525,000	525,000
• Settlement of Potential Delays Costs	443,000	443,000
• Various other items	882,000	1,507,000
Subtotal:	\$3,600,000	\$5,200,000
 <u>Construction Administration:</u>		
• Gilbane (Construction Support)	\$ 500,000	\$ 500,000
• Staff	400,000	800,000
Subtotal:	\$900,000	\$1,300,000
 <b>Total estimated funding need:</b>	 <b>\$4,500,000</b>	 <b>\$6,500,000</b>

With the approval of the recommended construction contingency increase of \$3.6 million, the total contingency for the project would stand at \$6.31 million or slightly over 10% of the awarded construction contract.

Potential Change Orders:

The potential change orders that are contributing to the projected increased costs are comprised of issues raised in the November 4, 2008 staff report as well as some additional factors not known at the time.

Below is an update on the reported major pending change orders from the November 4, 2008 report:

- Mechanical, Electrical and Plumbing (MEP) Changes:

In the November 4, 2008 memo to Council staff estimated that the aggregate cost of change orders related to mechanical, electrical and plumbing issues would be between \$450,000 and \$550,000. Since that time, the Contractor and staff have reached agreement on the direct cost of items related to the mechanical equipment modifications, fire dampers and electrical lighting control changes that were issued under Architectural Supplemental Instructions (ASI) No. 10, which was the basis of the November 4, 2008 memo to Council. The direct costs for these items have been resolved via Contract Change Order (CCO) No. 42 for a total cost of \$390,833, which the Director of Public Works executed on February 12, 2009. Negotiations are continuing on the Mechanical Controls and Plumbing components of ASI No. 10.

While the staff estimate for all of the ASI No. 10 items continues to be up to \$550,000, there have been subsequent conflicts and changes to these MEP systems throughout the project that are not included in this number. In aggregate the MEP changes and associated impacts to architectural components in the building are projected at this time to require approximately between \$800,000 and \$1,200,000 beyond that originally estimated. Some items that are contributing significantly to this number include corrections for duct and piping conflicts in the basement due to insufficient clearances, corrections to the carwash plumbing system, and required modifications to the smoke control and exhaust systems.

- Fueling Station:

In the November 4, 2008 memo to Council staff estimated that the aggregate cost of change orders related to the fueling station would be between \$150,000 and \$200,000. The contractor and staff have reached agreement on the costs for increased size of the fuel tank and associated equipment. This item has been resolved via Contract Change Order (CCO) No. 32 for a total cost of \$148,556, which was executed by the Director of Public Works on December 18, 2008. No time delay is associated with this change.

- Building Exterior:

In the November 4, 2008 memo to Council staff estimated that the aggregate cost of change orders related to the building exterior would be between \$200,000 and \$250,000. The technical solutions to the waterproofing and coordination of the exterior skin design are nearing resolution as of this report. The final costs for these changes are not available at this time but are projected to exceed the original estimates. Staff is now projecting that the waterproofing and exterior skin modifications required to complete the project will require between \$600,000 and \$875,000; an increase of \$350,000 to \$625,000 over the original estimate. A significant portion of the increase is attributable to the need for additional secondary structural steel supports that were omitted from the plans and specifications. The increase in costs is also attributable to changes in the exterior cladding backing and attachment details, required changes to the waterproofing materials that will be compatible with the revised exterior details, finalization of flashing, expansion joint and column closure panel details required by the added steel members.

- Roof Modifications:

In the November 4, 2008 memo to Council staff estimated that the aggregate cost of change orders related to roof modifications would be between \$150,000 and \$200,000. Staff is currently reviewing contractor proposals for additions of tapered insulation and modifications to the rooftop equipment supports. The costs for these items are anticipated to exceed the original estimates and are now projected to be between \$850,000 and \$1,150,000; an increase of \$650,000 to \$950,000. The reason for the increase is driven by the larger than anticipated volume of tapered insulation needed to provide proper drainage, increased concrete equipment curb heights and widths needed to raise the equipment above the added insulation, additional steel members required to support rooftop

equipment and modifications to the pipe and duct supports. Also contributing to the increase are the addition of several roof access hatches, changes to the rooftop equipment room, as well as necessary modifications to the roof parapet to address some long term waterproofing performance issues not addressed by the original design.

In summary, the costs for the items raised in the November 4, 2008 report to Council, are projected to require between \$1,750,000 and \$2,725,000 more than originally anticipated in the November 4, 2008 memo to Council. This estimate does not include associated delay costs, if any.

The following items are some additional potential change orders that staff is negotiating with the contractor:

- Long-Term Telecommunications:

As noted in the November 4, 2008 report to Council, staff has been evaluating the merits of modifying the cabling systems in an effort to increase the long term benefit of these systems. When the building was originally designed, the data cabling standard was Category 6e cable which has a maximum capacity of 1 Gigabit per second (1 Gbs). Since the project design was completed in the summer of 2007, the industry has standardized on a higher capacity cable referred to as Category 6a.

Category 6a has the capacity to carry up to 10 times (10 Gbs) that of the originally specified cable and would extend the useful life beyond normal scheduled obsolescence of the older Category 6e cable. Although the wiring characteristics of the two cables are the same, the Category 6a cable is physically heavier and larger than the Category 6e cable and more difficult to install. Minor building enhancements to the cable trays, conduits and supporting elements are required to accommodate the larger size of the cable.

Category 6a cable is currently being installed at the main Police buildings (PAB/PAC). This project is scheduled to be completed by June 2009. Installing consistent network capability between the two buildings will remove future incompatibility issues.

The material costs for the newer cables and terminations are approximately 25% to 33% higher than what was originally specified. There would also be proportional increase in labor costs for installing and outfitting the cables.

In addition to the Category 6a upgrades, staff is also proposing to add communication and electrical infrastructure “rough-in” work for a future alternate dispatch room on the third floor. While additional computer and radio equipment as well as power and data systems would not be installed at this time, the conduit, in-wall receptacles and structural backing for future furniture systems would be installed now to avoid a more costly retrofit in the future. In the event that a major catastrophe rendered the existing 911 dispatch center inoperable, this room; once fully equipped, could be used as an alternate dispatch location.

Staff has authorized a portion of the telecom changes related to upsizing the cable trays and conduit throughout the building so that if the complete funding is not available that a

future cable upgrade to the building can be done without requiring as significant, costly and disruptive a retrofit. The costs for these upgraded cables, the infrastructure to support them and the “rough-in” work for the future alternate dispatch location are estimated at approximately \$525,000 of which approximately \$150,000 has already been authorized to upsize the cable trays and related infrastructure.

- Settlement of Potential Delays Costs:

The contractor has notified staff that it can not meet the original construction schedule due primarily to the timing and nature of the design modifications required to the roof, exterior skin and MEP systems. The contractor submitted a delay schedule and their request for costs associated with the delay. Staff, with the assistance of Gilbane Building Company, have carefully reviewed and analyzed these submittals.

Staff has negotiated a proposed settlement with the contractor which would resolve all potential delay claims through February 1, 2009. As part of the settlement, the City would pay the contractor \$442,662, which is based on 87 days of delay at the daily rate of \$5,299.83. In addition, the construction schedule would be reset as of February 1, 2009. The new construction completion date would be February 10, 2010, which is 95 days beyond the current completion date. Staff believes that the proposed settlement is reasonable.

- Various other items:

In addition to the larger potential change orders discussed above, there have been numerous changes required to address missing information in the plans and specifications, conflicts between trades as well as some required to address changes in operational requirements of the Police Department that in aggregate are projected to add another \$882,000 to \$1,507,000 the project cost. Some of the contributing items to this category include required corrections to the elevator hoist-way shaft walls, door and hardware revisions, added tactile warning bands in pedestrian areas, added reinforcing in multiple site retaining walls, added support steel for multiple interior roll-up doors and corrections to the building interior finishes. Included also in this category are changes to the front lobby service counter area to improve staff workflow and flexibility. This category also includes allowances for additional unknown changes.

Potential cost saving measures:

As noted in the November 4, 2008 report to Council, staff has reviewed the project scope and evaluated some potential options for cost savings along with their respective operational, environmental and aesthetic impacts. Included in the evaluation was the deferral of the carwash equipment installation, on-site fueling stations and reduction of the landscaping planting throughout the site. In reviewing these options staff has determined that, not only would the cost savings be insufficient to address the projected budget shortfall in any significant manner, but the resulting operational and maintenance impacts would result in long term costs and operational inefficiencies. Furthermore in addition to the work already completed on the carwash and fuel

station, many of the major components, materials and subcontracts for the considered scope reductions have already been released by the contractor for ordering and/or fabrication. The City would only be able to recover a portion of the works value and would be left with incomplete facilities that would deteriorate if left unfinished.

Staff has implemented some changes in the areas of detention areas hardware and door types, gun storage lockers, as well as revisions to the security plaster system material requirements that will save approximately \$35,000 to \$70,000 over the original design.

Construction Administration:

Staff has also estimated that due to the extended construction schedule and complexity of the issues facing the project that additional construction administration support by staff and consultants will be required at a cost of approximately \$900,000 to \$1,300,000 in additional funding. Due to the volume of changes and field issues with the construction documents, the staffing levels and consultant support originally planned for the project are proving to be insufficient to adequately manage the project. Furthermore in addition to the projected 3 to 4 month extension of the construction schedule these increased staffing levels have and will continue to be needed for the remainder of the project.

Gilbane Master Agreement Amendment:

Gilbane Building Company has and continues to fulfill a key role in the construction of the Substation; their reviews of construction documents, schedules and cost estimates for project changes are integral to the completion of the project. Although the construction of the Substation is approximately 55% complete, the numerous unresolved project issues necessitate an amendment of the agreement with Gilbane Building Company in the amount of \$500,000 to secure construction support services through the completion of the project. The original Master Agreement with Gilbane Building Company for \$1,000,000 has been fully committed via the execution of 5 service orders (see table below).

Gilbane Master Agreement – Service Order Descriptions and Amounts:

Service Order No. 1 – Peer and Constructability Review ( <i>of Design Documents</i> )	\$ 418,000
Service Order No. 2 – Commissioning ( <i>Amended</i> )	85,848
Service Order No. 3 – Fire Protection Consultant	6,050
Service Order No. 4 – Construction Support services ( <i>Amended</i> )	411,102
Service Order No. 5 - Waterproofing Consultant	<u>79,000</u>
Total Encumbered to Date: (approximately)	\$1,000,000

Throughout the design phase Gilbane and their sub-consultants provided code and constructability review of the design documents and produced corrections and comments that were forwarded to RDC. At the 50% design completion submission and in addition to standard code and constructability reviews, Gilbane performed a Building Information Model (BIM) study of the design for the purpose of identifying major conflicts and omissions via creation of a

3-D computer model. Concurrent with this effort Gilbane provided third party estimating that was used to advise the design on value engineering decisions. At the 95% design submission by RDC in June of 2007, Gilbane reviewed and spot checked the plans against the previous comments.

During construction, Gilbane has performed monthly schedule reviews, MEP and LEED commissioning services, and has analyzed cost estimates and provided change order evaluations to assist staff in negotiations with the contractor. Services from Gilbane Building Company during construction are being utilized to a greater extent than originally anticipated because of the number and complexity of the changes to the construction documents. In addition to these activities and after construction began, GBC was tasked with providing third party reviews and consultation on the building's waterproofing due to the pending changes to the exterior skin design and other building elements. Without the services of GBC, City staff would not have the benefit of a third party review and guidance on important and timely construction matters possibly resulting in further delay of the Project and/or additional costs.

In order to secure sufficient estimating and construction support services, staff has amended the commissioning service order (SO No. 2) to remove services that will not be required until after April 2009. This action allowed staff to liquidate approximately \$127,000 in fee from SO No. 2 and amend the Construction Support service order (SO No. 4) to increase the compensation so that estimating and other construction support services can continue uninterrupted. Upon Council approval, staff will execute further amendments to service order No. 2 to restore the full commissioning services needed to complete the LEED certification process. The balance of the requested increase to the Gilbane master agreement will be utilized to secure construction support services for the remainder of construction.

In addition to the extending the contract term and increasing the maximum compensation, the proposed First amendment to the Gilbane Master Agreement also incorporates some non-substantive (i.e. formatting) changes to the insurance section.

*Staffing Strategy:*

To help address the multiple concurrent construction issues, additional staff resources have been applied to the project. The originally programmed staff has been augmented by increased senior architect and inspection staff oversight as well as part time support from a civil engineer I/II and a technician to assist with managing this higher volume change order project. Due to the extension of the project schedule, the baseline and added resources will be required for a minimum of 3 months beyond the original construction schedule. The increased cost for these resources is estimated to be approximately \$400,000. Due to the number of outstanding issues, staff will monitor the situation to determine if these staffing levels will require further augmentation or if they can be reduced to baseline levels toward the end of the project.

*Increase Change order Authority:*

Per Municipal Code Section 14.04.415, the Director of Public Works' approval authority is \$100,000 per change order. As discussed above, on November 4, 2008 the City Council

authorized the Director to execute change orders in excess of \$100,000 – up to an aggregate of \$1.5 million – for certain categories of work.

While the majority of the pending change orders are projected to fall within the Director's standard approval authority, a number of items not already covered in the November 4, 2008 resolution are estimated to exceed \$100,000. Furthermore as noted above, the total costs for several of the items for which the Director of Public Works is currently authorized to execute change orders in excess of \$100,000 are projected to exceed the Council approved overall limit of \$1,500,000. Staff is recommending repealing Resolution No. 74660 and replacing it with a resolution increasing the Director's change order approval authority to \$600,000 per change order. \$600,000 would be approximately 1% of the base construction contract amount, which staff considers adequate to efficiently negotiate and execute the pending change orders and to minimize impacts to the construction schedule.

Design Consultant Contract:

As noted in background, the term of the architectural consultant agreement with RossDrulisCusenbery (RDC) has been extended through July 31, 2009. The recommended amendment will extend the term of the agreement to September 31, 2010 which will allow sufficient time to secure construction administration and document support services through the extended construction schedule and project close out phase. Despite the many issues and concerns staff has with the quality of the original plans and specifications as the Architects of Record for the project, their continued support and coordination of the construction documents are essential to resolving the outstanding issues and successfully completing the construction. This amendment is for time only and does not increase their maximum compensation.

As noted in the February 10, 2009 report to Council, staff's primary focus at this time is to work with RDC and the contractor to resolve the outstanding construction challenges to ensure the integrity and quality of the project. RDC has been requested, and they have agreed, to take any and every action necessary to remedy any design deficiencies without further delay to the construction progress. Since the last report to Council, the pace of responses by the consultant to Requests for Information (RFI) from the contractor has improved; although there are still substantive outstanding and unresolved design issues. Staff's expects the consultant to complete its work for the original contract amount.

Funding Strategy:

To fund the above recommendations, staff is proposing to de-fund a portion of the Driver Safety Training Center (DSTC) project. This project was funded as part of the 2002 Measure O - Neighborhood Security Act (a.k.a. Public Safety Bond) to provide a driver training facility for use by the Police Department to meet their state mandated driver safety training requirements. The Police Academy is currently training at Moffett Field in Mountain View under an as-space-available agreement. The condition for use is based upon an operational necessity for the airbase that could change at any time. Aside from these operational considerations, the space currently designated for police emergency skills development driving is inadequate to the Department's needs to fully implement the needed skill development for emergency driving in both collision avoidance and high speed maneuvering. Basically, the allocated space is too narrow for full

driving skill development. To that extent, the Police Department will be moving to the Salinas Airport for the June 2009 academy driver training. The Salinas Airport has allocated an appropriate space to fully train academy recruits. A solution to train regular officers is being considered through a temporary contract with Emergency Vehicle Operation Course (EVOC) in Pleasanton. The cost of instruction is expected to exceed POST reimbursement by approximately \$150,000 per year for academy training only.

Staff was in the process of locating a site for the Driver Safety Training Center (DSTC) project, however, the more immediate funding requirements of the South San José Police Substation project have prompted staff to propose that the DSTC be partially de-funded at this time. Staff will continue efforts to pursue a location for the DSTC and, if possible, identify a source to restore funding for this project. Per the Adopted 2009-2013 Capital Improvement Program (CIP), the total project funding for the DSTC is \$8,798,000 of which approximately \$686,000 has been spent or encumbered, leaving approximately \$8,112,000 remaining. If the recommended budget actions are approved, the DSTC project total funding will be reduced to approximately \$3,612,000. The recommendation is to decrease the 2008-2009 appropriation for the DSTC as well as the 2008-2009 Ending Fund Balance in the Neighborhood Security Act Bond Fund thereby reducing the 2009-2010 DSTC appropriation.

Staff has explored other non-project specific sources of funding, such as the Public Safety Bond's Contingency Reserve and the General Fund Future Capital Projects (FF&E) Reserve. The Neighborhood Security Act Bond Fund contingency reserve currently totals approximately \$528,000 and may be required to address the future contingency needs of other capital projects, including the DSTC. With Fire Station Nos. 19 & 2 under construction, Fire Station No. 36 under design and Fire Station Nos. 21 & 37 in the early planning stages, there are sufficient unknowns to warrant retaining the contingency reserve at this level.

The General Fund Future Capital Projects (FF&E) Reserve currently totals \$4,307,080 and has been set aside to address the Fixture, Furnishing and Equipment requirements for the entire CIP. The South San José Police Substation project is projected to require approximately \$2,545,000 from this funding source to purchase furniture and equipment. The remaining funds are being held to cover potential FF&E or Capital expenses from the remainder of the 2009-2013 CIP.

On January 13, 2009, as part of the award for the construction contract for Fire Station No. 2-Rebuild Project, Council directed staff to set aside a reserve of \$590,000 for the East Community Policing Center (CPC), pending further analysis of the CPC Utilization during the FY 09-10 Budget Process. Based on the findings of the preliminary CPC Utilization Analysis report, which was shared with the Public Safety, Finance & Strategic Support Committee on December 18, 2008, staff is currently evaluating a proposal to modify the purpose of the East Community Policing Center Reserve fund. In preparation of the budget recommendations for the 2010-2014 Proposed Capital Improvement Program, staff is considering proposing that this reserve be set aside as a supplemental contingency for any future additional costs for the South San José Police Substation project. This budget proposal, if brought forward, would be accompanied by analyses and recommendations related to alternative operational models.

## **EVALUATION AND FOLLOW-UP**

With the adoption of the recommendations the project will be brought back to within budget with a projected completion in February/March of 2010. Based on the current and projected expenditure of change orders, staff anticipates that additional funds may still be required to complete the project. Staff will forward a separate budget request and recommendations once the additional funding needs if any are confirmed.

## **POLICY ALTERNATIVES**

***Alternative #1:*** Deny the requested increase of authority of the Director of Public Works and require staff to bring the subject construction change orders individually to Council after they are ready for execution.

**Pros:** The final negotiated value of the proposed change orders and impacts to the project budget would be known and Council would take action.

**Cons:** The change orders probably would not be executed in time to avoid delays to the critical path of the contract and the project could incur additional costs for delays.

**Reason for not recommending:** Staff and the consulting architects and engineers will not be able to fully vet the scope and negotiate a fair price for the proposed change orders within sufficient time to agendaize the items for Council consideration without impacting the construction schedule. The City could incur significant additional costs for delay.

***Alternative #2:*** Deny approval of the requested amendment to the RDC consultant agreements and direct staff to assign available City employees to perform these services.

**Pros:** Additional work will be available for staff to perform.

**Cons:** City staff are not the Architects and Engineers of Record for the subject projects responsible for certifying that the construction was implemented in accordance with the contract documents and for producing the Record Documents once the projects are completed.

**Reason for not recommending:** To assume the role of the Architects and Engineers of Record for a project of this size requires greater resources in multiple disciplines than are currently available. Also, by having City staff assume the above role, the City would be at increased liability for any changes and corrections made to the contract documents.

***Alternative #3:*** Deny approval of the requested amendment to the Gilbane Master Agreement agreements and direct staff to assign available City employees to perform these services

**Pros:** Additional work will be available for staff to perform.

**Cons:** The specialty LEED Commissioning, schedule analysis and estimating services for complex change orders will not be available in a timely manner to assist staff in managing this high change order project.

**Reason for not recommending:** Staff with the requisite construction experience to provide the necessary construction support services are currently engaged in the concurrent delivery of other capital projects. Furthermore, certain specialty services for complex construction schedule and estimate analysis as well as LEED commissioning and are not regularly performed by available staff.

**PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action meets the first criteria above. This memorandum will be discussed with the Public Safety Bond Citizen Oversight Committee (PSCOC) on March 18, 2009, and will be posted on the City’s website for the March 18, 2009 PSCOC meeting and the March 24, 2009, Council agenda.

**COORDINATION**

This memorandum has been coordinated with the Department of Information Technology and the City Attorney’s Office.

**FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-approved Budget Strategy, Economic Recovery section in that it will help to stimulate construction spending in our local economy.

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:	
Project Delivery	\$11,458,000
Additional Construction Support	900,000
Construction	59,997,000
Land Acquisition	8,000,000
Previous Change Orders ( 1- 53)	1,685,477
Remaining Construction Contingency	1,024,523
Proposed Additional Contingency	3,600,000
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TOTAL	\$86,665,000
Prior Year Expenditures**	( 77,199,107)
REMAINING PROJECT COSTS	<hr/>
	\$9,465,893

\* A total of \$77,199,107 was expended and encumbered from 2002-2003 thru 2007-2008 for land, project delivery and construction costs for this project.

2. COST ELEMENTS:
  - a. ELEMENTS OF CONSTRUCTION CONTRACT: \$59,997,000  
 This is a Lump Sum Contract.
  
3. SOURCE OF FUNDING: 475 – Neighborhood Security Bond Fund  
 001- General Fund
  
4. OPERATING COSTS: The new South San José Police Substation will have an operating and maintenance impact of approximately \$600,000 starting in 2009-2010 (annualized costs of approximately \$1,500,000) and included in the 2010-2014 Preliminary Five-Year General Fund Forecast. Funding will be evaluated as part of the 2009-2010 Budget development process.

**BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	RC#	Total Appn.	Amt. for Contract	2008-2009 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>				<b>\$9,465,893</b>			
<b>Current Funding Available</b>							
475	4542	South San Jose Police Substation	122785	4,687,000		V-894	10/21/08 Ord. No. 28422
001	6236	South San Jose Police Substation	122785	96,000	0	V-894	6/24/08 Ord. No. 28349
		Total		<b>\$4,783,000</b>	<b>TBD</b>		
<b>Funding in Future Years of the CIP</b>							
475	4542	South San Jose Police Substation	122785	183,000	0	V-894	
<b>Total Funding Available</b>				<b>\$4,966,000</b>			
<b>Recommended Budget Actions</b>							
475	4810	Driver Safety Training Center		1,000,000	<b>TBD</b>	V-856	
475	8999	Ending Fund Balance		3,500,000	<b>TBD</b>	V-882	
		Total		<b>\$4,500,000</b>			
<b>Total Project Funding</b>				<b>\$9,466,000</b>			

HONORABLE MAYOR AND CITY COUNCIL

03-02-09

**Subject: South San José Police Substation – Various Actions**

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**CEQA**

CEQA: Mitigated Negative Declaration, PP04-304.

*S/c Cavallaro*

*for* ROBERT DAVIS  
Chief of Police

*D. Sykes for*

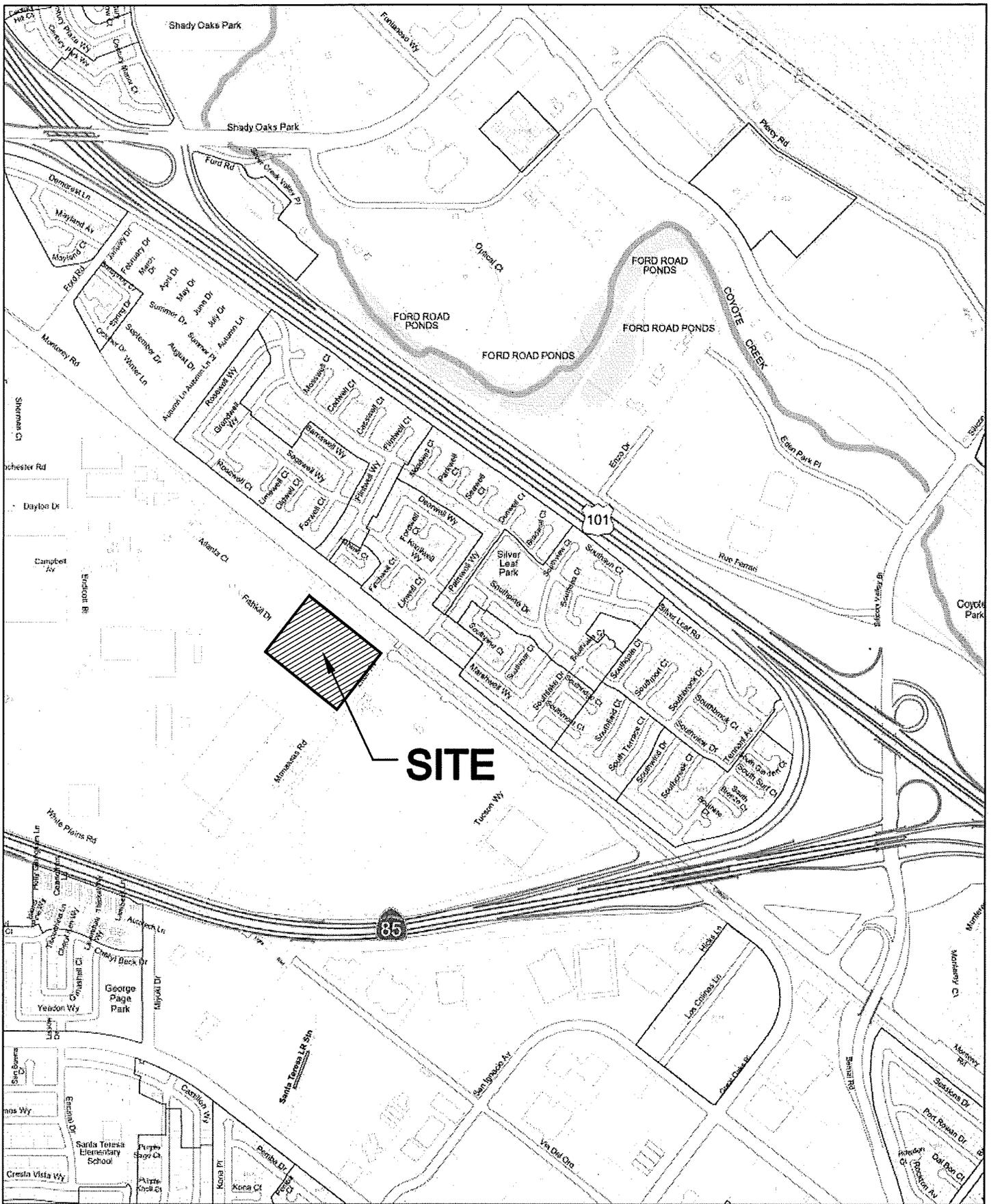
KATY ALLEN  
Director, Public Works Department

*J. Maguire*

JENNIFER A. MAGUIRE  
Budget Director

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, PUBLIC WORKS DEPARTMENT, at 408-535-8300.

KA:kj:dp:df  
Attachment  
Location Map



# POLICE SUBSTATION LOCATION MAP



## CAPITAL PROJECT BUDGET RECONCILIATION WORKSHEET

### South San Jose Police Substation

#### BREAKDOWN OF TOTAL PROJECT COSTS BY PHASE

	Total Costs
<b>Phase 1 - Project Feasibility</b>	
City Staff	530,000
Consultants	80,000
Fees & Other Expenses	12,000
<b>Phase 2 - Property and Land</b>	
City Staff	110,000
Land	8,000,000
<b>Phase 3 - Design</b>	
City Staff	1,100,000
Consultants	5,500,000
Permits & Other Expenses	100,000
<b>Phase 4 - Bid/Award/Contract</b>	
City Staff	150,000
<b>Phase 5 - Construction</b>	
City Staff	2,540,000
Consultants	1,000,000
Construction Contract	59,997,000
Contingency	2,710,000
Testing & Other Expenses	300,000
<b>Phase 6 - Post Construction/Other</b>	
	36,000
<b>TOTAL</b>	<b>82,165,000</b>
 <b>SUMMARY OF TOTAL PROJECT COSTS</b>	
Project Delivery	11,458,000
Land	8,000,000
Construction	59,997,000
Contingency	2,710,000
	<b>82,165,000</b>

Note: Total project cost includes all project delivery costs for construction and post-construction phases.