



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Departments Name: General Services &
CEO/Office of
Emergency Services.
Department No.: 063 / 990
For Agenda Of: 5 January 2010
Placement: Departmental Agenda
Estimated Tme: 40 minutes
Continued Item: Yes.
If Yes, date from: 8 December 2009
Vote Required:

TO: Board of Supervisors
FROM: Department Bob Nisbet, Director, General Services, 568-1011
Director(s): Michael D. Harris, Emergency Operations Chief, 560-1081
Contact Info: Paddy Langlands, Deputy Director, General Services, 568-3096
SUBJECT: Hearing Regarding the Emergency Operations Center (EOC) Building Project
#8666. Acceptance of Financial Gift to County.

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- A. By 4/5th vote, approve attached Budget Revision Request #0000752 for \$4,214,739 for the completion of the Emergency Operations Center Project (including construction, EOC systems and non-construction components of the project); and,
- B. On condition of approval of Recommendation A, by majority vote accept a cash donation of \$2,025,000 (two million, twenty-five thousand dollars) from the Orfalea Fund's "Aware & Prepare Initiative" and the Initiative's partnering philanthropic entities (the James S. Bower Foundation, the Orfalea Fund, the Santa Barbara Foundation and the Wood-Claeyssens Foundation (local 501 (c)(3) entities), directing the Emergency Operations Chief, County Counsel and the Auditor-Controller to ensure compliance with the County's "Acceptance of Gifts by County" policy (attached), and, by a 4/5th vote, approve attached Budget Revision #0000755 for \$2,025,000 for the construction of the Emergency Operations Center and to be deposited in Fund 30 , Department 063, Line Item 5895 –

Auditor-Controller Concurrence

As to form: Yes

Other Donations (Capital Projects, Project# 8666 (EOC)), solely for EOC construction and critical EOC system needs as agreed to between the County and the donor; and,

- C. By majority vote, award a Fixed Price Construction Contract to the apparent low bidder, Melchiori Construction Company (a local vendor) in the amount of \$3,586,013, subject to the provisions of the documents and certifications as set forth in the plans and specifications applicable to the project as required by California Law; and,
 - C.1. By majority vote, upon approval of Recommendation C, authorize the Chair to execute the construction contract upon return of the Contractor's executed contract documents, and the review and approval of the County Counsel, Auditor-Controller and Risk Manager or their authorized representatives;
 - C.2. By majority vote, upon approval of Recommendation C, authorize the Director of General Services to approve change orders of an amount not to exceed \$25,000 plus 5% of the awarded contract amount less \$250,000, or \$191,800.65.
- D. By majority vote, upon approval of Recommendation C, execute attached Amendment No. 1 to the Professional Services Agreement for The Austin Company for Construction Administration Services in the amount of \$179,487 inclusive of reimbursable expenses, for a total contract fee of \$550,618.
- E. By majority vote, approve the Final Mitigated Negative Declaration and adopt the County's mitigation monitoring program pursuant to the California Environmental Quality Act (CEQA) guidelines for the Emergency Operations Center (web link to document provided below).

Summary Text:

On 18 August 2009, the General Services Department and the Office of Emergency Services (OES) provided the Board of Supervisors with recommendations regarding the need for a permanent EOC. At that hearing, in their recognition of the need for a permanent facility that meets operational requirements to serve the local communities, local philanthropic leaders stepped forth to offer financial assistance to the County to assist with construction and technical (communication systems) needs. Staff was directed to proceed with a bid process and return to the Board after the construction bidding process and report on its results and to receive further direction. After conducting a prequalification and bid process, bids were received 19 November 2009. Fourteen (14) bids were submitted. The low bid, including all bid alternates, was submitted by Melchiori Construction Co. for \$3,586,013. The bid specifications require that the awarded contractor's submitted bid be executed by 18 January 2010 or the proposed bid may be withdrawn or required additional bonding.

Staff scheduled a Departmental Hearing for 8 December 2009 to report to the Board the results of the construction bidding, conduct ministerial actions related to the project, and authorize the Emergency Operations Chief to enter into agreements to accept philanthropic funds to be used solely for the EOC Project in an amount of \$2,025,000. Due to the illness of Supervisor Gray, the Board moved to continue the item to the Board's agenda of 5 January 2010. In the interim period, County Counsel and the County Auditor-Controller have provided guidance to staff clarifying the recommendations contained above.

Background:

The primary purpose of the Emergency Operations Center (EOC) is to serve as a single focal point for the management of information, policy making and resource support and allocation during all phases of a local emergency. The County, which is the lead agency for the Operational Area, as well as recent Grand Jury investigations, has recognized the need to replace the current EOC trailers. The current EOC is an interim facility shared with the Employees University program. Discussions have taken place over several years regarding the need to build a permanent structure that will fully meet the needs of the County.

Staff and our EOC consultant, The Austin Company (which was selected through a Request for Qualifications process), have conducted numerous site visits to existing EOC's in the Southern California region; have determined the purpose and program for the EOC; have determined the potential disasters it would respond to and potentially be threatened with; have studied various areas of the county (on County property) to best locate the facility, including an evaluation of EOC staffing and their proximity to EOC emergency staff offices and residences; and have assessed needed infrastructure to ensure sustained operation of the EOC during potential disasters. Based on these extensive studies and analyses, , staff continues to recommend that the EOC be constructed in the Santa Barbara area on County property next to the Fire Department headquarters on Cathedral Oaks.

Using the architectural and engineering services of The Austin Company, General Services completed design and construction documents for a 9,992 SF facility, has pre-qualified over two dozen general contractors, and has obtained construction bids from these pre-qualified contractors.

The 9,922 square foot facility is designed to essential services standards¹, as well as environmentally sustainable design features. The size and configuration are based on professional experience from both the EOC design experts at The Austin Company and emergency managers in OES. Site visits by staff to major cities throughout southern California demonstrated that other counties typically identified their EOCs as undersized and in need of expansion. While the proposed EOC's size has been reduced to 9,922 square feet to meet the Counties existing funds, staff and its EOC consultant believe this size of a facility is sufficiently large to execute its mission of emergency and disaster leadership, and to do it significantly better than the existing, interim facility. Furthermore, with an addition of approximately 1,160 square feet to the facility, designed separately as an additive construction alternate that would be awarded simultaneously, and funded by the Aware & Prepare Initiative, the facility will be sufficiently sized to meet the County's needs for decades to come.

The core EOC features include a 2,000 SF Incident Management Room, one large and one smaller break-out room, a management conference room, Joint Information Center (JIC), and support space for Geographic Information Systems (GIS) and Channel 20/Amateur Radio Emergency Service (ARES). Raised flooring will allow flexibility in equipping the room and integrating future technology. The IT room, uninterruptible power supply (UPS) room, electrical room, and emergency generator are all sited along the northern side of the facility for ease in servicing. Six offices and a reception workstation will serve day to day operations for the OES; a large break room and restrooms including showers will comfortably support extended EOC activations. The site will be secured via a fenced enclosure with card activated security gates, and a card reader system at exterior and select interior doors.

During the programming and design phases, General Services in conjunction with the design team interfaced with several departments and agencies. This included an onsite review with County Fire officials, who were very receptive of measures intended to enhance fire resistance inherent in the design. Their comments and recommendations, including reducing the amount and type of new landscaping, an additive alternate for smoke filtration, and strategies for implementing and maintaining defensible space surrounding the site in the long term were incorporated into the plans.

Operable windows in offices and along the clerestory windows in the main corridor will allow occupants to take advantage of cross ventilation as weather conditions permit. Additional sustainable features include low flow fixtures, instantaneous hot water, waterless urinals, high efficiency lighting and air handling units, a standing seam roof to accommodate future solar panels, minimized permeable surfaces,

¹ Section 16007 of the California Health and Safety Code defines Essential Services Facilities as, "any building, including those designed and constructed for public agencies, used, or designed to be used, or any building, a portion of which is used, or designed to be used, as a fire station, police station, emergency operations center, California Highway Patrol, Sheriff's office, or emergency communications dispatch center." Such facilities require greater structural strength sufficient to allow the facility to remain occupied and operational after an earthquake event.

and native/drought tolerant landscaping. The project is LEED registered through the US Green Building Council, and we have established the goal of qualifying for LEED certification if not silver. The administrative costs for LEED certification, however, are not presently funded and estimated at \$24,500.

The bid documents included several additive alternates to take advantage of bids coming in lower than anticipated. The Aware & Prepare Initiative has asked that their funds be used specifically for paying for some of the base construction costs and expansion of the incident room to take advantage of the optimal building environment (an addition of approx. 1,160 square feet) and other critical systems that would otherwise not be financially feasible by the County funding alone. Other areas of funding are meant to provide for a smoke filtration system to protect occupants from outside smoke, an enhanced computer room that will provide back up systems within the EOC and to the County, a communications tower to provide the EOC a communication system, and connecting the EOC into the County's fiber optic network.

On September 28, 2009, General Services began the public bidding process for this project by engaging in the prequalification of prospective general contractors. Twenty Six (26) prequalification submittals were received by the published deadline, and of those, nineteen (19) were deemed to be qualified based on their scores on the questionnaires, supporting documentation, and reference checks. The public bid period concluded on November 19, 2009 with (fourteen) 14 bids received. General Services recommends moving forward with a construction award of \$3,586,013 including alternates one (1) through six (6). Melchiori Construction (a local vendor) is the lowest responsive bidder willing to honor their bid. The second lowest bid is \$3,794,456.00 and the average of all bids submitted is \$3,941,083.11, again with all alternates included. Construction is anticipated to begin January 2010, and be completed in three hundred sixty (360) calendar days.

Pursuant to the California Environmental Quality Act (CEQA), County Planning and Development publicized a Revised Draft Mitigated Negative Declaration in October 2009 with respect to the environmental impacts of the project. After receiving public comments, a Final Mitigated Negative Declaration was compiled and certified by the Planning and Development Department on November 18, 2009. The Final Mitigated Negative Declaration can be accessed through the following link: <http://www.sbcountyplanning.org/projects/EmerOpsCenter/index.cfm>. The recommended mitigation measures will be implemented on the project.

As a condition of building the new Emergency Operations Center, Goleta Water District is requiring an extension of a fire line and other improvements associated with ensuring there is adequate service to the new facility. The Surety Deposit Agreement accompanies a deposit in the amount of \$24,000 and will ensure that funds are available to complete the improvements in the unlikely event the County does not

complete the work to the Goleta Water District's standards. The deposit will be returned in 3 stages as the project progresses, with the final third returned one year after the date of acceptance. Interest on the funds deposited will also be returned to the County.

Performance Measure:

With approval of the recommended actions, General Services anticipates that the construction can begin in January of 2010 with occupancy anticipated for January of 2011.

Fiscal and Facilities Impacts:

Budgeted: Yes

With the approval of the two attached Budget Revisions, the project will be fully funded.

Fiscal Analysis:

For several years the Board of Supervisors has been diligent in cumulatively placing funding in the County's Capital Projects Designation with the goal of building a permanent EOC. Given the philanthropic support for the project and the very positive construction bidding climate, the County's financial contribution towards this project has been reduced from an EOC-only building cost of approximately \$7,261,000, to a total "turn-key" EOC project requiring \$5,238,441 of Capital Projects Designation (leaving an unassigned Designation balance for this project of \$1,661,559). To date, \$1,023,702 has been moved from the Capital Projects Designation to pay for various engineering, architectural, permitting and other project cost. Because these funds were already appropriated, the net amount required from the Designation to complete the project is \$4,214,739 (as requested in Recommendation A).

As stated, originally it was estimated that an EOC building alone would cost approximately \$7,261,000. Staff was continually researching ways to fund the systems needed inside an EOC. Because of funding constraints, the size of the building was reduced and several key components were either reduced or eliminated. Given the low accepted construction bid (\$3,586,013) and the support of the philanthropic community, critical infrastructures such as communication systems (telephones, radio systems), solar panels for energy, universal power supply battery systems, furniture and a robust computer room to support the County during emergencies can be placed back into the project. The result is a total project cost of \$7,434,945.

Funding Sources	Current FY Cost:	Est. Annualized On-going Cost:	Total One-Time Project Cost
General Fund	\$ 3,500,000	\$ 80,000	\$ 5,238,441
Aware & Prepare Initiative			\$ 2,025,000
OES Communication Fund Fees			\$ 171,504
Other:			
Total	\$ 3,500,000	\$ 80,000	\$ 7,434,945

Staffing Impacts:

Legal Positions:

0

FTEs:

0

Special Instructions:

Please forward a copy of the Minute Order to Emergency Operations Chief stating the acceptance or rejection of the cash donation from the Aware & Prepare Initiative and its partnering 501(c)(3) entities.

Please send one (1) duplicate original Amendment #1, one (1) duplicate original Surety Deposit Agreement, and one (1) copy of the minute order, to Celeste Manolas, GS Support Services Division, Courthouse East Wing.

Attachments:

1. County Policy "Acceptance of Gifts by County"
2. Budget Revision # 0000752
3. Budget Revision # 0000755
4. Proposed Contract with Melchiori Construction Co.
5. Amendment #1 to the Professional Services Agreement
6. Surety Deposit Agreement with Goleta Water District
7. Board Presentation

Authored by:

Michael D. Harris, Office of Emergency Services

Celeste Manolas, General Services

cc:

Lois Mitchell, President, Orfalea Foundations

Barbara Anderson, Client Executive, James Lee Witt and Associates

Aware & Prepare Initiative Director

County of Santa Barbara

On-line Policies & Procedures Manual

Acceptance of Gifts by County

Activated: 4/11/2006

Updated: 2/3/2006

Policy

The County receives donations for numerous types of unique programs. This policy applies to all donations, including these unique programs, and should be used in conjunction with Resolution #99-485 adopted by the Board of Supervisors on December 7, 1999. This policy has been developed to encourage, recognize, and report donations in the most proper manner as guided by the government code, the Internal Revenue Code, and generally accepted accounting principles. Some examples of cash and non-cash (in-kind) donations received by the County include:

- Probation – receives donations for Camps, Counseling, Education Center and Juvenile Drug Court.
- Fire – receives donations for their Helicopter Program and for new supplies, such as firefighting brush pants.
- Sheriff – receives donations for special equipment and other programs. They also receive donations for the K-9 program, and vehicle donations.
- Public Health – receives a variety of donations for programs that include Animal Services, Patient Donations, Breast Cancer Detection Program, Dental Program, Pharmacy Program and Seniors Program.
- Parks – receives donations for park renovation projects such as the Manning Park Youth Center, Waller Park Road Paving, Waller Park dog-off leash project, Improvements to the Courthouse Sunken Gardens project, and repairs to the Cachuma Lake Nature Center.
- County Arts Commission – receives various pieces of art or art collections.
- Alcohol Drug Mental Health Services (ADHMS) – receives pharmaceutical drug samples from distributors and donations, generally under \$200 in cash, from individuals and community to assist with clients' supplies and services.
- Social Services – receives donated gifts from individuals and community organizations to help low-income families and children. These are generally not cash, but items such as toys, gift cards to a store, clothes, etc. The department also engages in a range of fund raising activities such as rummage sales and silent auctions that raise money from county employees for client needs.
- General Services – occasionally receives proceeds of land like the 3.5-acre site at the Betteravia Government Center.

The Board of Supervisors has delegated to elected or appointed department heads the ability to accept or reject any individual "gift, bequest or device" (donation), within the jurisdiction of such department, in a sum not to exceed \$10,000. The County Executive Officer may accept donations up to \$10,000 not designated for any particular purpose. If a donation is greater than \$10,000, an acceptance or rejection decision shall be determined by the Board of Supervisors. Acceptance of a donation requires that the accounting and Internal Revenue Service procedures as described in later sections be followed by the benefiting department. A donation of any amount may be presented to the Board of Supervisors for acceptance or rejection if the department head determines that doing so would serve the public interest.

Authority:	Government Code Section 25355 California Code of Regulations, Title 2, section 18944.2
IRS Authority:	The County may accept donations as charitable contributions under Internal Revenue Code Section 170(c) (1).
Donor Types:	Donations may be accepted directly from taxpayers, such as individuals, partnerships, and corporations, or from IRC 501(c)(3) non-profit agencies.
Donation Defined:	A voluntary transfer of money or tangible item without compensation to a charity or public institution. A transfer that stipulates advertising, marketing, or other quid-pro-quo in return for the transfer is not a donation, rather it is a "sponsorship" and is beyond the scope of this policy.
Donor Influence:	Donations are not to be accepted from individuals or agencies where acceptance will require the donor to receive a substantial benefit from the County or will allow the donor to determine policy or to exert influence on the County or accepting department.
Donation Types:	Cash or non-cash (in-kind). Non-cash donations can include goods, supplies, equipment, vehicles, buildings, land, computer software, works of art, historical treasures, and other. Non-cash donations should have value to the County in its form for acceptance.
Donation Threshold:	Individual items with a value of less than \$10,000; i.e., pharmaceutical samples, and individual donations of less than \$10,000 from the same donor would not meet the \$10,000 threshold requiring Board of Supervisors (BOS) acceptance. Additionally, if the total from the same donor sums to \$10,000 or more as a random

circumstance during the fiscal year, this total would not be required to be accepted by the BOS. A pledge of \$10,000 or greater, but paid in installments, does qualify.

- Acceptance Timing: Donations shall be officially accepted by the department head or the Board of Supervisors prior to placing the donation in use. A department may have physical possession of the donation prior to official acceptance, but must return the donation if it is not accepted.
- Donation Solicitation: Departments must avoid any actual or perceived conflict-of-interest surrounding donations. All donations must be made and any actions taken by departments must be with complete impartiality and without favoritism, and the appearance of partiality or favoritism must be avoided. For example, departments must not solicit donations from organizations over which they have regulatory or enforcement authority. Department Heads may pursue donations consistent with County strategic plans and policy, but should not require employees to do so if it is not a primary job function of the employee.
- Appraisals/Valuations: If a donor estimates that a non-cash donation has a value of \$5,000 or more, an appraisal is necessary if the donation is other than supplies or materials. The appraisal cost cannot be added to the estimated value of the item. Additionally, the cost and the pursuit of the appraisal should be the responsibility of the donor. The reference to "qualified appraisals" in this document is in accordance with IRS Publication 561 available at www.irs.gov. Supplies and materials that are new and have never been placed in service prior to the donation may be valued with purchase receipts provided by the donor as long as the elapsed time of transfer would not have affected the value.
- Policy Exclusions: The following items are excluded from the acceptance or rejection requirements of this countywide policy since they are not donations with respect to this policy. Although excluded, departments may need to develop internal policies or criteria for these specific exclusions for their own tracking or reporting needs.
 - a) Volunteer service hours – these are not considered donations since these services are not allowable as IRS charitable deductions and their value is not reported on County financial statements. If a department wishes to acknowledge volunteer service hours as matter of public interest, it is allowable under this policy.
 - b) Shared cost programs – programs that share the cost of a County project with individuals or agencies resulting in a benefit for both the County and the cost-sharer. These are not considered donations since the individual is receiving something from the County in return for their contribution.
 - c) Operating or capital grants
- Donation Receipt: See sample donation receipt at the end of this document. This receipt should be provided to donors as noted in the following procedures.

Procedures for CASH Donations

When accepting cash, the department's procedures are based on the amount of the cash donation only. The following procedures are numbered and correspond with the \$10,000 threshold as defined in the policy statement. The table to the right is a reference to the policy number applicable to the dollar threshold.

Cash	
	Any Source
<\$10,000	C1
>=\$10,000	C2

C1 - If the cash donation is Less than \$10,000:

1. Department should provide a receipt to the donor for any amount
2. Amount should be deposited immediately into the County Treasury
3. A budget revision should be completed, if necessary, to appropriate the donation revenue

C2 - If the cash donation is Greater than \$10,000:

1. Departments should follow all steps in procedure C1 above
2. Departments should prepare a letter recommending Board acceptance or rejection of the donation. Board letters should include:
 - o A recommendation that the Board of Supervisors accept the donation
 - o The amount of the donation
 - o The name of the donor (per 2 CCR §18944.2)
 - o The facts and circumstances of the donation
 - o Any and all caveats or obligations that acceptance of the donation will require
 - o A description of how the donation will be used for County operations or other County purpose
 - o The accounting (fund, department, account) identifying where the cash will be deposited
 - o The budget revision, if necessary, to appropriate the donation revenue

Action of the Board will result in a minute order of acceptance or rejection. If rejected, the gift shall be returned to the rightful owner.

Procedures for NON-CASH Donations

The procedures for accepting non-cash donations are more extensive than for accepting cash donations. The steps involved are based on several factors, including: the donor entity type (taxpayer or a non-profit agency), and the value of the donation. Another

factor that needs to be considered when determining the procedures is whether or not a taxpaying donor will be deducting the amount as a charitable deduction on their tax return.

	Non-Cash		
	Taxpayer		501(c)(3)
	Deduct	Not Deduct	
<\$5,000	N1	N1	N1
>=\$5,000	N2.A	N2.B	N3
>\$10,000	N4	N4	N5

To help guide readers through the procedures, the table above was created, which references the corresponding procedure number with the distinguishing factors for non-cash donation acceptance.

N1 - If the donation is NON-Cash and Less than \$5,000:

1. Department should provide a receipt to the donor for any amount, if requested by the donor. The value of the donation should be agreed upon by the County and the donor to be less than \$5,000.

N2 - If the donation is NON-Cash and Greater than \$5,000 and Received from a Taxpayer:

- A. If the donor is going to claim the donation as a charitable deduction on their tax return:
 1. Per IRS regulations, a qualified appraisal is necessary to support the valuation amount
 2. The donor must complete IRS Form 8283
 3. The department accepting the donation must sign off on IRS Form 8283 as instructed
 4. Department must provide a receipt to the donor for the valued amount
 5. A copy of the appraisal and IRS Form 8283 should be forwarded to the Auditor-Controller for proper classification in the County's financial statements.
- B. If the donor is not going to claim the donation as a charitable deduction on their tax return:
 1. A qualified appraisal is necessary to support the valuation amount (for items other than materials, and supplies) for proper asset recognition in the County's financial statements.
 2. Department must provide a receipt to the donor for the valued amount.

N3 - If the donation is NON-Cash and Greater than \$5,000 and Received from a 501(c)(3):

1. A qualified appraisal is necessary to support the valuation amount (for items other than materials, and supplies) for proper asset recognition in the County's financial statements
2. Department should provide a receipt to the donor for the amount of the appraised value, if requested by the donor.

N4 - If the donation is NON-Cash and Greater than \$10,000 and Received from a Taxpayer:

1. Departments should follow all steps in procedure N2.A or N2.B above
2. Departments should prepare a letter recommending Board acceptance or rejection of the donation. Board letters should include:
 - o A recommendation that the Board of Supervisors accept the donation
 - o The appraised value of the donation
 - o The name of the donor (per 2 CCR §18944.2)
 - o The facts and circumstances of the donation
 - o Any and all caveats or obligations that acceptance of the donation will require
 - o A description of how the donation will be used for County operations or other County purpose
 - o An estimate of annual operating expenses associated with any equipment donated and subsequently accepted by the County

In the case of acceptance of equipment or fixed assets, copies of the minute order should be transmitted to the Purchasing Agent and Auditor-Controller who will record the item in the departmental and County fixed asset inventory. In accordance with GASB 34, the donated value will be recorded as revenue for financial statement purposes only.

N5 - If the donation is NON-Cash and Greater than \$10,000 and Received from a 501(c)(3):

1. Departments should follow all steps in procedure N3 above
2. Departments should prepare a letter recommending Board acceptance or rejection of the donation following procedure N4.2 above.

Donation Receipt Sample:

Budget Revision Request

Gov. Code Sec. 29125 & 29130

BJE 0000752
Budget Journal Entry #

JE 0018666
Related Journal Entry #

Subject / Title: Provide a *short description* for this budget revision request. For example: "Designate funds for zoning ordinance amendments" or "Distribute proceeds from sale of 2005 COPS".




General County Programs/General Services: This budget revision will release and transfer from the capital designation \$4,214,739 to Fund 0030 for the EOC Project #8666 .

Justification: For all changes: explain what the change is for and why it is needed. Attach additional justification, board Letters or spreadsheet, if appropriate. When moving Appropriation: explain why it's available. When Revenue is adjusted: explain the reason for the increase or decrease. For adjustments to General Fund Contingency: explain why no other alternative funding source is available.

This budget revision, in accordance with the accompanying board letter for the agenda of 1/5/10 releases \$4,214,739 from the General County Programs Capital Designation and transfers that amount to Fund 0030 Department 063, EOC Project #8666 to be used solely for the construction of the Emergency Operations Center.

Financial Summary

Increase or (Decrease) in Appropriation for / Uses:	Department / Fund 990 / 0001	Department / Fund 063 / 0030	Department / Fund /	Department / Fund /
Salaries & Benefits	00	00	00	00
Services & Supplies	00	00	00	00
Other Charges	00	00	00	00
Fixed Assets	00	4,214,739 00	00	00
Other Financing Uses	4,214,739 00	00	00	00
Intrafund Transfers	00	00	00	00
Reserve or Designation	00	00	00	00
Sources:				
Revenue	00	00	00	00
Other Financing Sources	00	4,214,739 00	00	00
Intrafund Transfers	00	00	00	00
Reserve or Designation	4,214,739 00	00	00	00
Effect on Contingency / RE	00	00	00	00

Departmental Authorization	Auditor-Controller	CEO's Recommendation	Board of Supervisor's Action
 Department Head Date: 12/22/09	Budget Journal Entry and Related Journal Entry if applicable Approved as to Accounting Form.  Auditor-Controller	<input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove Date: 12/22/09 Transfer/Revision in Accordance with Board Policy dated 8/3/93.  County Executive Officer	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date Agenda Item Clerk of the Board of Supervisors

Budget Journal Entry

Document Number: BJE - 0000752
Document Description: EOC 8666 desig release
Post On:

Batch ID: 1156976
Processed On:
Processed By:

References

Audit Trail:

Accounting

<u>Fund</u>	<u>Dept</u>	<u>GL Acct</u>	<u>LI Acct</u>	<u>Debit Amount</u>	<u>Credit Amount</u>	<u>Prog</u>	<u>OUnit</u>	<u>Proj</u>	<u>Budget Period</u>	<u>Description</u>
0001	990	2420	9730	4,214,739.00		8300			201001	EOC designation for project balance
0001	990	2530	7901		4,214,739.00	8300			201001	EOC designation for project balance
0030	063	2420	5910	4,214,739.00		1930		8666	201001	EOC designation for project balance
0030	063	2530	8700		4,214,739.00	1930		8666	201001	EOC designation for project balance
			Total	<u>8,429,478.00</u>	<u>8,429,478.00</u>					

sin

Signatures

Signed By Signed On Department



Journal Entry

Document Number: JE - 0018666 Batch ID: 1158268
 Document Description: (Enter Document Description) Processed On:
 Post On: Processed By:

References

Audit Trail: bje0000752 Cash Type: I - Interfund

Accounting

Fund	Dept	GL Acct	LI Acct	Debit Amount	Credit Amount	Prog	OUnit	Proj	Act	Area	Equip	Depositor	Description
0001	990	2100	9730	4,214,739.00		8300							transfer for EOC re: BJE 0000752
0001	990	2710	9730		4,214,739.00	8300							transfer for EOC re: BJE 0000752
0001	990	2810	7901	4,214,739.00		8300							transfer for EOC re: BJE 0000752
0001		0110			4,214,739.00								transfer for EOC re: BJE 0000752
0030		0110		4,214,739.00									transfer for EOC re: BJE 0000752
0030	063	2710	5910		4,214,739.00	1930		8666					transfer for EOC re: BJE 0000752
Total				<u>12,644,217.00</u>	<u>12,644,217.00</u>								

SW

Signatures

Signed By Signed On Department

Budget Revision Request

BJE 0000755

Budget Journal Entry #

Gov. Code Sec. 29125 & 29130

JE

Related Journal Entry #

Subject / Title: Provide a **short description** for this budget revision request. For example: "Designate funds for zoning ordinance amendments" or "Distribute proceeds from sale of 2005 COPS".



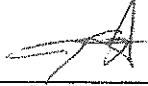
General County Programs/General Services: Recognize a cash donation from the Orfalea Fund's "Aware & Prepare Initiative in the amount of \$2,025,000 for the EOC Project #8666.

Justification: For all changes: explain what the change is for and why it is needed. Attach additional justification, board Letters or spreadsheet, if appropriate. When moving Appropriation: explain why it's available. When Revenue is adjusted: explain the reason for the increase or decrease. For adjustments to General Fund Contingency: explain why no other alternative funding source is available.

This budget revision, in accordance with the accompanying board letter for the agenda of 1/5/10 will accept a cash donation of \$2,025,000, from the Orfalea Fund's "Aware & Prepare Initiative" and the Initiative's partnering philanthropic entities (the James S. Bower Foundation, the Orfalea Fund, the Santa Barbara Foundation and the Wood-Claeysens Foundation) to be deposited in Fund 0030, Department 063, Line Item 5895 - Other Donations (for Project# 8666 (EOC)), to be used solely for EOC construction and critical EOC system needs as agreed to between the County and the donors.

Financial Summary

Increase or (Decrease) in Appropriation for / Uses:	Department / Fund 063 / 0030		Department / Fund		Department / Fund		Department / Fund	
					/		/	
Salaries & Benefits	00		00		00		00	
Services & Supplies	00		00		00		00	
Other Charges	00		00		00		00	
Fixed Assets	2,025,000	00	00		00		00	
Other Financing Uses	00		00		00		00	
Intrafund Transfers	00		00		00		00	
Reserve or Designation	00		00		00		00	
Sources:								
Revenue	2,025,000	00	00		00		00	
Other Financing Sources	00		00		00		00	
Intrafund Transfers	00		00		00		00	
Reserve or Designation	00		00		00		00	
Effect on Contingency / RE	00		00		00		00	

Departmental Authorization	Auditor-Controller	CEO's Recommendation	Board of Supervisor's Action
 Department Head Date: 12/22/09	Budget Journal Entry and Related Journal Entry if applicable Approved as to Accounting Form.  Auditor-Controller	<input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove Date: 12/24/09 Transfer/Revision in Accordance with Board Policy dated 8/3/93.  County Executive Officer	<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date: _____ Agenda Item: _____ Clerk of the Board of Supervisors

Budget Journal Entry

Document Number: BJE - 0000755
Document Description: (Enter Document Description)
Post On:

Batch ID: 1158223
Processed On:
Processed By:

References

Audit Trail:

Accounting

<u>Fund</u>	<u>Dept</u>	<u>GL Acct</u>	<u>LI Acct</u>	<u>Debit Amount</u>	<u>Credit Amount</u>	<u>Prog</u>	<u>OUnit</u>	<u>Proj</u>	<u>Budget Period</u>	<u>Description</u>
0030	063	2420	5895	2,025,000.00		1930		8666	201001	Orfalea Foundation donation for EOC
0030	063	2530	8700		2,025,000.00	1930		8666	201001	Orfalea Foundation donation for EOC
			Total	<u>2,025,000.00</u>	<u>2,025,000.00</u>					

SW

Signatures

Signed By Signed On Department





This is a draft contract, it does not require signatures at this time. We will be requesting permission for the chair to execute later.

COUNTY OF SANTA BARBARA
AGREEMENT FOR:
General Services Project No. 8666
County of Santa Barbara
Emergency Operations Center
4408 Cathedral Oaks, Santa Barbara, CA 93110

THIS AGREEMENT is made by and between the County of Santa Barbara, a political subdivision of the State of California, hereinafter called COUNTY, and Melchiori Construction Company, referred to as CONTRACTOR, for the completion of the work identified herein, on the following terms, conditions and provisions:

- 1. CONTRACT:** This agreement incorporates by reference all of the General and Special Conditions and Specifications provided by COUNTY for the work identified above; and where consistent with this document, the proposal executed and submitted by the CONTRACTOR. CONTRACTOR acknowledges receipt of all such documents as were not already in Contractor's possession. Said incorporated documents, this agreement, any Notice to Contractors, the Bid Bond, the Faithful Performance Bond, and Payment Bond are referred to herein as the "Contract" or "Contract Documents." Copies of all said documents are on file in the Department of General Services Office of the COUNTY and have been and will be made available to the CONTRACTOR during the term of this Agreement.
- 2. WORK:** CONTRACTOR agrees, at his own proper cost and expense, to furnish all the work and all equipment and materials necessary to perform and complete the work described in the documents referred to above, in a good and workmanlike manner to the satisfaction of the Director of General Services of said COUNTY, all in strict accordance with the Plans and the Contract Documents provided.
- 3. EXCAVATIONS:** Before any pavement resurfacing, displacement or excavation of the ground that may be required by any performance under this Agreement, the CONTRACTOR shall obtain an inquiry identification number by calling Underground Service Alert (USA) 1 (800) 422-4133 or by such other means as may be required; shall conform to all requirements of Government Code Sections 4215 through 4217 regarding any such pavement resurfacing, displacement or excavation, including the payment of any fees required; and shall facilitate performance by the COUNTY of any obligation required of the COUNTY under said Sections. There shall be no performance under this Agreement by either party unless and until the provisions of such Sections are complied with and the County Representative is notified regarding the compliance.
- 4. COUNTY REPRESENTATIVE:** The County Representative referred to in the Contract Documents is Celeste Manolas.
- 5. PAYMENT:** As full compensation for furnishing all labor, supervision, overhead, materials and equipment and for doing all the work completed and embraced in this Agreement and subject to adjustments and liquidated damages, if any, as provided in the Contract Documents, the base amount to be paid to the CONTRACTOR for satisfactory completion of all requirements of the Contractor under this Agreement is and shall be THREE MILLION FIVE HUNDRED EIGHTY SIX THOUSAND THIRTEEN DOLLARS AND ZERO CENTS (\$3,586,013.00), to be paid as provided in the Contract Documents dated October 26, 2009. The CONTRACTOR assumes and will provide against any and all loss or damage arising out of the nature of the work undertaken, or from the action of the elements, or from any unforeseen difficulties or

obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the COUNTY, and assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the work, for well and faithfully completing the work and the whole thereof, in the manner and to the requirements of the Contract and directions of the County Representative, hereunder. The COUNTY will have the right to audit of Contractor's project records. Records must be made available in a form satisfactory to the Santa Barbara County Auditor-Controller.

6. **EXTRA WORK:** Extra work, materials, resolution of disputes, corrections, and/or changes to the specifications as are required for the proper completion of the work or the improvement contemplated may be effected or authorized in writing and agreement made of compensation at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents) by the County Representative, if compensation is not in excess of 10% of the original base agreement amount or \$25,000, or \$25,000 + 5% of the amount of the bid in excess of \$250,000. Compensation in such equitable amount as is appropriate for the requirements of the COUNTY or may be authorized by resolution or minute order of the Santa Barbara County Board of Supervisors. The County Representative may agree upon appropriate additional time to be allowed as required for such extra work, materials, resolution or changes.

7. **COMPLIANCE WITH LAW, AMENDMENTS:** CONTRACTOR shall keep fully informed of all laws, ordinances and regulations which do or may affect the conduct of the work, the materials used therein or persons engaged or employed thereon and all such orders of bodies and tribunals having any jurisdiction over same. If it be found that the Special Provisions or Standard Specifications for the work conflict with any such law, ordinance or regulation, the CONTRACTOR shall immediately report same to the County Representative in writing. CONTRACTOR shall at all times observe and comply with and shall cause all agents and employees to observe and comply with all such laws, ordinances, regulations or decrees as the same now exists or may be hereafter amended and all superseding provisions thereof. CONTRACTOR acknowledges, particularly, the provisions of Sections 3196 and Sections 3247 and 3252, inclusive, of the Civil Code of California. CONTRACTOR shall protect and indemnify the County of Santa Barbara, the Board of Supervisors, the Director of General Services, and/or any officer, agent or employee of the COUNTY against any claims or liability arising from or based on the violation of any such law, ordinance, regulation or decree whether by CONTRACTOR, or a subcontractor, agent or employee.

8. **PAYMENTS NOT ACCEPTANCE:** No certificate given or payments made under this Contract, except the final payment shall be evidence of the performance of this Contract, either wholly or in part, against any claim upon CONTRACTOR. Final payment for the work performed under this Contract shall not be made until the lapse of thirty (30) days after the Notice of Completion of said work has been filed for record and no payment shall be construed to be acceptance of any defective work or improper materials. CONTRACTOR agrees that the payment for final quantities due under this Contract and the payment of amounts due for any work in accordance with any amendments of this Contract, shall release the County of Santa Barbara from any and all claims or liabilities on account of work performed under this Contract or any amendments thereof. In addition to guarantees required elsewhere, CONTRACTOR shall and does hereby guarantee all workmanship and material to be free of defects and fit for the purposes intended for a period of one year from and after both the date of acceptance of the work and the recordation of the Notice of Completion by the COUNTY, and CONTRACTOR shall repair or replace any or all work and material, together with any other portions of the work which may be displaced in so doing, that in the opinion of the County Representative, is or becomes defective during the period of said guarantee without expense whatsoever to the COUNTY.

9. **PREVAILING WAGE RATES:** Rates of wages, including overtime, holiday and Sunday rates provided for the work are subject to the effect of the California Labor Code, Sections 1770 et. seq. Executive Orders of the President of the United States No. 9240, dated September 9, 1942, and No. 9250, dated October 3, 1942, and to any modifications thereof and to any and all lawful orders of the President or any authorized Federal Officer or agency, insofar as the same may be applicable to this Contract.

10. **CONTRACT DOCUMENTS ACKNOWLEDGED:** CONTRACTOR hereby declares that he has read the "Contract Documents" pertaining to the work to be accomplished hereunder, has carefully examined the plans and detail drawings of the work to be performed and fully understands the intent and meaning of the same.

11. TIME FOR COMMENCEMENT, COMPLETION: The work to be done under this Agreement shall be completed within Three Hundred Sixty (360) calendar days after execution of this Agreement. As soon as practicable after the Contract has been executed by both the CONTRACTOR and the COUNTY, a Notice to Proceed will be issued by the County Representative stating the starting date of the Contract time. The CONTRACTOR shall begin work within fifteen (15) calendar days after receiving the Notice to Proceed, unless otherwise provided. Attention is directed to the provisions of this Agreement pertaining to Liquidated Damages for failure to complete the work within the allowed time.

12. WORKERS' COMPENSATION INSURANCE: CONTRACTOR certifies as to knowledge of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code. CONTRACTOR will comply with such provisions before commencing the performance of the work of this Contract.

13. PROGRESS PAYMENT NO WAIVER FOR DELAY: Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages heretofore agreed upon as part of this Contract.

14. GUARANTEE BONDS: Before any performance under this Agreement, the CONTRACTOR shall provide the security required by statute for the payment of all workers and suppliers, and security for faithful performance of all terms and conditions of this Agreement, in an amount and form approved by the COUNTY. Both securities shall contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.

15. NON-DISCRIMINATION: The CONTRACTOR acknowledges that this Agreement is subject to the provisions of Article XIII of Chapter 2 of the Santa Barbara County Code, providing against discrimination in employment. The CONTRACTOR agrees to perform all requirements of a contractor under the provisions of said Article and to pay all costs occasioned to the COUNTY by any noncompliance by the CONTRACTOR.

16. DISPUTES: Should any dispute arise respecting the construction or meaning of any of the plans or specifications affecting the work or respecting the true value of any extra work or work omitted, the dispute shall be resolved by the Engineer/Architect whose decision shall be final and binding upon the parties. If, after the decision of the Engineer/Architect as provided herein, claims (as defined in Public Contracts Code Section 20104) under this Contract are filed by CONTRACTOR against COUNTY and those claims are in the aggregate amount of \$375,000 or less, said claims shall be resolved pursuant to Public Contracts Code Sections 20104 through 20104.8, inclusive.

17. SUBSTITUTION OF MATERIALS, SUBSTITUTION OF CONTRACTORS: The County Representative is authorized to act on behalf of the awarding authority in any matters requiring consent, notice or hearing in order to substitute materials or equipment specified or to substitute subcontractors.

ACCEPTED AND AGREED this th day of January, 2010.

“CONTRACTOR”:
MELCHIORI CONSTRUCTION COMPANY

Mark J. Melchiori, President

Address: 809 De La Vina St
City/State/Zip: Santa Barbara, CA 93101
License #: B - 609668
IRS#: 77-0260661

“COUNTY”

County of Santa Barbara

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
CHAIR
BOARD OF SUPERVISORS
County of Santa Barbara

By: _____
Deputy Clerk of the Board

APPROVED AS TO FORM:
DENNIS A. MARSHALL,
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy Auditor-Controller

APPROVED AS TO FORM:
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

By: _____

Dept 063 Fund 003 Program 1930 Account 8700 Project: 8666

AMENDMENT No. 1
TO PROFESSIONAL SERVICES AGREEMENT
FOR
Architectural & Engineering Services
Santa Barbara County Emergency Operations Center
PROJECT NO. 8666

This Amendment to Agreement is entered into, by and between:

Austin Building & Design DBA The
Austin Company
hereinafter called "A/E"

and

The County of Santa Barbara, California
hereinafter called "COUNTY"

WITNESSETH

WHEREAS, the parties hereto under the date of May 12, 2009, entered into an agreement for performance of Architectural Services, by A/E in connection with the Santa Barbara county Emergency Operations Center Project No. 8666, Santa Barbara, California; and

WHEREAS, the parties hereto desire to amend the Agreement:

NOW THEREFORE, the parties hereto agree as follows:

- I. Page 1, Paragraph 1 of the Agreement is hereby amended to add construction phase services by adding subparagraph 1.C.5 as follows:

A/E shall perform Architectural Services which shall include the following:

- C. Design Development through Construction:
 1. Design Development
 2. Construction Documents
 3. Cost Estimates
 4. Bid and Award

5. Construction Administration

- II. In consideration of the additional services associated with the Construction Administration Phase as detailed in item IV below, the COUNTY will increase the A/E's fee by One Hundred Fifty Nine Thousand, One Hundred Seventeen Dollars (\$159,117), plus an increase in estimated reimbursable expenses of Twenty Thousand Three Hundred and Seventy Dollars (\$20,370). Article 3, item A , par. 1, is hereby amended to read as follows:

ARTICLE 3. FEE AND PROVISION FOR PAYMENT:

- A. Fee: The COUNTY will pay the A/E a fee of Five Hundred Twenty Thousand Nine Hundred and Eight Dollars (\$520,908) plus reimbursable expenses (estimated at \$29,710) for all work described in this Agreement and in Attachment A. Fee shall be invoiced based on Attachment B. Any additional applicable hourly rate billings as authorized in Article 4 shall be based on the information contained in Attachment B. Attachment B is attached hereto and incorporated herein by reference as though here fully set forth. Each portion of the Project let separately on a segregated bid basis shall be considered a separate Project only for the purpose of determining the fee for services for Design Development through Construction Administration in accordance with the Schedule of Fees.

- III. Attachment A "SCOPE OF SERVICES" is hereby amended to add sections 9 "CONSTRUCTION ADMINISTRATION PHASE" and 10 "CONSTRUCTION CONTRACT COMPLIANCE PHASE" as follow:

9. CONSTRUCTION ADMINISTRATION PHASE

- 9.1 General: The construction phase will commence on the date the construction contract is signed and will terminate one year after notice of completion; or, in the absence of a notice of completion, one year after the Project is fully completed.

- 9.1.2 Within a reasonable time after execution and prior to issuance of a notice to proceed, A/E shall participate in a comprehensive review of construction documents along with COUNTY representatives and the General Contractor. A/E, at its sole expense shall obtain the participation of its consultants on previous phases as deemed necessary by COUNTY. The purpose of this session shall be to reduce construction and/or maintenance costs through all possible means. The A/E shall be compensated as an Additional Service for any revisions made to the contract documents arising out of value engineering undertaken pursuant to the terms of this paragraph.

- 9.1.3 The contractor shall prepare a schedule of required submittals not later than fourteen (14) days after the receipt of the notice to proceed. The designated representative and the A/E shall review the contractor's submittal schedule for completeness, fulfillment of specification requirements, and compatibility with the anticipated construction schedule.
- 9.1.4 The COUNTY's duties shall include, but not be limited to, administration of all communications, records, and meetings; on-site quality control through testing and inspection; monitoring the schedule; negotiation of price changes; and coordination of close-out.
- 9.1.5 The A/E's responsibilities shall include interpretation of the contract documents; periodic site observations; review of submittals; provision of documents for proposed changes; and general consultation to the COUNTY on design matters. The A/E shall be fully responsible for all matters related to the A/E's design and all of the A/E's recommendations to the COUNTY which are carried out by the COUNTY. An allowance for the following site visits is included:
- 34 single-person site visits by ARCHITECT, 10 site visits by the civil engineer, and 9 site visits by the landscape architect. These visits are intended to address service requirements of paragraphs 9.1.5, 9.4.8.3, 10.1.6, but not paragraph 9.4.8.4.
- 9.1.6 The A/E shall at all times have access to the work wherever it is in preparation and progress. When directed by the designated representative, the contractor shall provide facilities for such access at the contractor's cost so the A/E may perform his functions under the contract documents.
- 9.1.7 All written communications to the contractor will be issued by the COUNTY with copies sent concurrently to the A/E. Unless the A/E provides timely notification to the COUNTY in writing that the A/E disagrees with the content of a COUNTY communication with respect to design matters, the A/E shall be deemed to agree with the content of the COUNTY communication.
- 9.2 **Interpretation of the Contract Documents**
- 9.2.1 The A/E will be the interpreter of the requirements of the drawings and specifications. Written interpretations necessary for the proper execution or progress of the work, in the form of drawings or otherwise, will be issued with reasonable promptness by the A/E through the designated representative and in accordance with any schedule agreed upon. The contractor or COUNTY shall make a written dated request through the designated representative to the A/E for such interpretations. Such interpretations shall be consistent with and reasonable inferable from the contract documents. The contractor or COUNTY shall execute and complete the work in accordance with such interpretations. The A/E shall not

be liable to the contractor for the result of any interpretation or decisions rendered in good faith in such capacity.

- 9.2.1.1 The A/E shall interpret the requirements of change orders and decide all other questions of design intent in connection with the work.
- 9.2.2 It shall be the responsibility of the A/E to make interpretations and render opinions in regard to all claims to the COUNTY or designated representative involving questions of interpretation of the intent of the drawings and specifications. Such opinions and interpretations, together with the reasons therefore, shall be furnished in writing by the A/E to the COUNTY, designated representative, and contractor within ten (10) days after a request is made thereof.
- 9.2.3 Neither the contractor, the designated representative, nor the COUNTY shall be bound by any determination, interpretation, or opinion of the A/E if it is determined that such is not in accord with the true intent of the contract documents. The party taking issue with the determination, interpretation, or decision of the A/E shall give the other party or parties, as the case may be, written notice of such fact within ten (10) days after the determination, interpretation, or opinion is rendered by the A/E. However, it is the intent of this Section that in the actual performance of the work, the contractor and the designated representative shall, in the first instance, proceed in accordance with the instruction given by the A/E unless the COUNTY and the designated representative mutually agree that the contractor and the designated representative shall proceed otherwise.

9.3 **Changes to the Contract Documents:**

- 9.3.1 **Change Order Authority.** The A/E has no authority to issue change orders. All requests for proposals shall be prepared by the A/E, shall be approved by the COUNTY or Director of General Services, and shall be issued to the contractor through the designated representative.
- 9.3.2 Intentionally left blank.
- 9.3.3 **Minor Changes.** The A/E will have the authority to order, through the designated representative, minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents. Such changes will be effected by written order and such changes shall be binding on the COUNTY, the designated representative and the contractor. The contractor shall carry out such written orders promptly.
- 9.3.4 **Concealed Conditions.** Should concealed conditions be encountered in the performance of the work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions

indicated by the contract documents, or should unknown physical conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract be encountered, the contractor shall report the conditions to the designated representative before the conditions are disturbed. The designated representative shall thereupon notify the A/E. Upon such notices, or upon its own observation of such conditions, the A/E shall promptly make such changes in the contract documents as it finds necessary to conform to the different conditions. Any change in the cost of the work or the time needed for completion resulting from concealed conditions shall be determined in accordance with COUNTY change order procedures provided a notice thereof is made within ten (10) days after the first observance of the conditions. The A/E shall be compensated, as identified in Attachment B, for any additional services it may have rendered due to the unknown conditions.

9.3.5 **Guarantee Period.** As a basic service, after the completion of the work, the A/E shall review the work at one (1) year, unless otherwise agreed, and make written recommendations to the COUNTY for correction of any deficiencies.

9.4 **Construction Responsibilities:**

9.4.1 **Correspondence.** The A/E and contractor shall communicate with each other only through the designated representative.

9.4.2 **Requests for Substitutions of Labor and/or Materials by the Contractor.**
Pursuant to Section 3400 of the Public Contract Code, any reference in the specifications and plans to any brand name, article, device, product, materials fixture, form, or type of construction by brand name, make, or catalog number shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition; and the contractor, may request to use any article, device, product, materials fixture, form, or type of construction which, in the judgment of the A/E, expressed in writing, is equal to that specified. The contractor must, within thirty-five (35) days after award of the contract, submit data substantiating a request for substitution or "an equal".

If the contractor proposed to use a material which while suitable for the intended use, deviates in any way from the detailed requirements of the contract documents it shall inform the A/E through the designated representative in writing of the nature of such deviations at the time that the materials are submitted for approval and shall request a written approval of the deviation from the contract documents.

In requesting approval of deviations or substitutions, the contractor shall provide evidence leading to a reasonable certainty that the proposed substitutions or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the A/E, the evidence presented by the contractor does not

provide a sufficient basis for such reasonable certainty, the A/E shall inform the COUNTY of this opinion.

The A/E will judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits, such as quality of materials and manufacturing, utility and life expectancy. The A/E will not approve proposed substitutes as equal to items specified which, in its opinion, would be inharmonious, or otherwise inconsistent with the character or quality of design of the Project.

Any additional cost, or any loss or damage, arising from the substitution of any material or method for those originally specified or drawn shall be borne by the contractor notwithstanding approval or acceptance of such substitution by the COUNTY or the A/E, unless such substitution was made at the written request or direction of the COUNTY and the A/E. Third-time review of contractor's submittals will be considered additional service.

9.4.3 **Schedule of Values and Progress Payments.** The contractor will submit a detailed breakdown, by task, of cost for the Project total (including contract amendment costs) to the A/E and the COUNTY for review and approval. This breakdown is to be used as a basis for making progress payments and will be referred to as the Schedule of Values. The Schedule of Values, submitted by the contractor shall be evaluated by the A/E within ten (10) days. This evaluation shall determine that the schedule represents an accurate assignment of values to the various divisions of work.

The designated representative must also approve the Schedule of Values submitted by the contractor. Once approved, the designated representative distributes signed copies to the A/E, contractor, and to the General Services Department Accounting Office.

The A/E shall review Contractor's applications for progress payments to recommend COUNTY approval or not based on A/E's knowledge of construction performance and completion status. Once reviewed, the A/E shall forward the document to the designated representative. The A/E may decline to recommend an application for payment if, in its opinion, the application is not adequately supported.

COUNTY Approval. The designated representative will make final approval of the progress payment submitted by the contractor. Once approved, the designated representative will process the application for payment and distribute copies to the A/E and contractor. The designated representative may decline approval of an application for payment if, in his opinion, the application is not adequately supported.

9.4.4 Submittal of Shop Drawings by Contractor. The contractor will submit all shop drawings pertaining to the contract to the A/E and the designated representative with a dated transmittal form. Subcontractors and suppliers must submit their respective shop drawings through the contractor. The A/E's approval shall mean that the submittal is in conformance with the construction documents.

9.4.5 Drawing Submittal and Distribution by Contractor.

Initial Submittal. All submittals shall be electronic. The COUNTY will forward these to the A/E who will coordinate their review for and/or correction with the COUNTY. After such coordination, the A/E will note corrections and return them to the contractor and the COUNTY with corrections and/or approvals noted.

Re-submittal. An electronic copy of corrected submittal shall be submitted to the COUNTY. The A/E will then follow the same procedure outlined in the preceding paragraph. This re-submittal process should be continued until all corrections have been approved.

Final Distribution: The contractor will send an electronic to the COUNTY. Approval by the A/E will be qualified as stated in this attachment and the general and special provisions of the construction contract. The contractor will obtain and provide such number of prints of the approved submittal as determined for field distribution.

Catalog and Technical Data. All pertinent electronic data should be submitted with shop drawings by the contractor who will then send three (3) copies to the COUNTY.

Materials and Equipment List. A list of materials and equipment must be submitted by the contractor.

Initial submittal. An electronic copy to the COUNTY.

Re-submittals. As required by the A/E, the A/E will furnish the COUNTY with one electronic copy of the re-submittal notice. All communication and correspondence between the A/E and the contractor should take place through the designated representative.

Final submittal. Within fifteen (15) days after receipt of Notice of Approval, the contractor will submit two (2) corrected bound copies to the A/E and two (2) corrected bound copies to the COUNTY.

9.4.6 Field Orders. To be used only for emergency instructions to the contractor where the time required for preparation and execution of a formal contract amendment would result in delay or stoppage of the work. The COUNTY must approve a field

order before it is issued. A duly authorized contract amendment will replace field orders as soon as possible and will reference the appropriate field order.

Following signature by the A/E, the contractor, and the COUNTY, the COUNTY will distribute copies to the contractor and the A/E.

- 9.4.7 **Contract Change Orders.** In accordance with the general and special provisions of the construction contract and this AGREEMENT, changes in the work will be authorized using the COUNTY's contract change order procedure. Requests for any changes that might result in a change in contract price or contract time will be directed to the COUNTY.
- 9.4.7.1 **Proposal request.** A proposal request is a request from the COUNTY to the contractor for submittal of an itemized quote for a proposed change in the scope of the contract work. The A/E will prepare a Proposal Request form at the direction of the COUNTY, for the COUNTY's submittal to the contractor with a copy going to the A/E. The designated representative will maintain a log of proposal requests.
- 9.4.7.2 **Cost proposal.** In response to the proposal request, the contractor will submit a quote, or cost proposal. The cost proposal should include documentation from subcontractors and should itemize any adjustments to the contract sum or to the Project Schedule. The cost proposal will be submitted to the COUNTY with one copy going to the A/E.
- 9.4.7.3 **A/E's Recommendation.** The A/E will review the contractor's cost proposal and submit a recommendation to the COUNTY. The COUNTY will review both the contractor's cost proposal and the A/E's recommendation and either approve or disapprove the proposed adjustment to the contract sum/contract time. When requested by COUNTY, A/E shall provide a cost estimate independent of the contractor's proposal. Such A/E's review and estimate will be considered an additional service and shall be billed at the hourly rates set forth in this Agreement.
- 9.4.7.4 **Construction Change Authorization.** If the COUNTY approves the proposed adjustment to the contract sum/contract time, it will issue a directive, sometimes known as a Construction Change Authorization, instructing the contractor to proceed with the change in the scope of work. If the parties cannot agree on a sum/time change, they shall proceed as outlined in the general provisions of the construction contract. A written contract change order will be issued pursuant to the following Section, 9.4.7.5.
- 9.4.7.5 **Contract Change Order.** At the direction of the COUNTY, the A/E will compile the approved proposal requests with a summary of changes in contract scope, sum, and time with attached documentation. COUNTY will submit a formal request to the Director of General Services, and the Board of Supervisors if applicable, for approval of written amendments to the Construction Contract, incorporating the changes in scope, sum, and time. The contract amendment becomes effective upon

approval by the Director of General Services or the Board of Supervisors, whichever is applicable.

9.4.8 Construction Meetings.

9.4.8.1 Partnership Workshop. If requested, A/E will participate in a Partnering Workshop for the purpose of establishing working relationships among stakeholders in the project through a mutually developed, formal strategy of commitment and communication. Such A/E's participation will be considered an additional service and shall be billed at the hourly rates set forth in this Agreement.

9.4.8.2 Preconstruction Meeting. After the partnering session, all parties (i.e., A/E, contractor, the COUNTY, etc.) will meet to discuss the Project scheduling, to clarify procedures, etc.

9.4.8.3 Construction Progress Meetings. These will be held weekly at the job site and will be attended by the contractor's top field supervisory personnel, representative(s) of the A/E, (attendance by conference call) and representative(s) of the COUNTY. Minutes of these meetings will be prepared by the designated representative.

9.4.8.4 End of Warranty Meeting. The COUNTY shall schedule an end of warranty review meeting with the designated representative, A/E, and contractor prior to the end of one year warranty to determine any work requiring correction.

10. CONSTRUCTION CONTRACT COMPLIANCE PHASE

10.1 General:

10.1.1 The A/E shall assist the COUNTY in assuring the contractor's compliance with the construction contract by providing periodic construction observation; evaluation of construction data; evaluation of contractor's applications for payment; consultation at construction meetings; and inspection for beneficial occupancy, if applicable, and final completion, in accordance with the following:

10.1.2 Review by the A/E:

The A/E shall make on-site observations of construction as necessary to ensure conformance to construction documents while work progresses and upon completion and;

Such visits shall be for the purpose of observing: the progress of the work; that the character, scope, and detail of construction comply with the design; and that the quality of workmanship and materials conform to the intent of the A/E as expressed in the contract documents, the A/E's directives, approved shop drawings and samples, and the clarification drawings.

The A/E shall consider the need to reject work which does not conform to the contract documents. Whenever, in its opinion, A/E considers it necessary or advisable for the implementation of the intent of the contract documents, it will have authority to require special inspection or testing of the work in accordance with the general provisions of the construction contract whether or not such work is then fabricated, installed, or completed. However, neither the A/E's authority to act under this paragraph, nor any decision made by it in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the A/E to the contractor, any subcontractor, any of their agents or employees, or any other person performing any of the work.

The A/E will determine the amount, quality, acceptability and fitness of all parts of the work. The A/E will recommend suspension of the work whenever suspension may be necessary to ensure the proper execution of the work. The A/E shall, at the request of the COUNTY, provide guidance to the general contractor as to design requirements expressed or implied in or depicted in the contract documents, the approved shop drawings and samples, and the clarification drawings. Such guidance shall also be provided in relation to or by way of recommendations for or recommended actions in response to: site visits, inspection reports, laboratory reports and test data, contractor proposals, schedules, or other relevant documents. When requested, such guidance shall be in writing.

The A/E shall review the amounts owing to the contractor based on observations at the site and on evaluations of the contractor's applications for payment; and make written recommendations to the COUNTY regarding payment of the amounts. The A/E's recommendation to the COUNTY to pay the amounts on the contractor's applications for payment shall constitute a representation by the A/E to the COUNTY, based on the A/E's periodic on-site observations, that the work has progressed to the point indicated; the work is in accordance with the contract documents; and that the contractor is entitled to payment in the amount approved. Before recommending payment, the A/E shall review the record drawings being maintained by the contractor and inform the COUNTY in writing of the level of completeness and general accuracy of the record drawings.

The A/E shall attend construction progress meetings as defined in 9.4.8.3. If construction progress meetings continue beyond the specified time of the construction contract, through no fault of the A/E, the A/E shall be compensated for additional meetings in accordance with Attachment B.

The A/E shall conduct punch list inspections in conjunction with the COUNTY; and shall recommend based on the progress of the work, the date of final completion. The A/E shall also review, for general content and completion, the warranties, guarantees, record documents, and other documents required by the contract documents and assembled by the contractor.

- 10.1.2.1 The A/E will communicate with the contractor through the designated representative.
- 10.1.3 **Construction Development Responsibilities.**
- 10.1.3.1 **Field Observation.**
- 10.1.3.2 The COUNTY may provide its own resident inspectors, as it deems advisable, during construction. This action on the part of the COUNTY will in no way relieve the A/E from performing their responsibilities as specified in the AGREEMENT.
- 10.1.3.3 As required to ensure conformance during the construction phase, the A/E shall provide to the contractor and the COUNTY interpretations of the contract documents. The A/E (and its consultants) shall provide, at A/E'S sole cost and expense, all design work deemed necessary by the COUNTY to correct an item of error and/or omission in the contract documents.
- 10.1.4 **Punch List.** The A/E will walk the Project with COUNTY representative(s) when requested to do so. The A/E will review the punch list compiled by the contractor using the COUNTY template and indicate any lack of compliance with the contract documents. The A/E is to distribute two copies each of the punch list with A/E comments added to the COUNTY and the contractor
- 10.1.5 **Owner Move-in/Training Orientation – Not Used**
- 10.1.6 **Commissioning.** As defined in paragraph 7.2.8. A/E shall support commissioning of the project as follows: prepare a written sequence of operations for facility MEP systems during the construction document phase; define functional testing requirements for MEP equipment; prepare a pre-functional check list and testing procedures for MEP systems; and, witness on-site testing and commissioning of key MEP equipment and systems.
- 10.1.7 **Record Documents**
- 10.1.7.1 The A/E shall review the contractor's record drawings, guarantees, and operating manuals for compliance with the contract documents and shall either approve the documentation or specify in writing corrective measures to be taken by the contractor.
- 10.1.7.2 Based on A/E's site visit reviews of Contractor's As-built documents during construction, ARCHITECT will recommend COUNTY's acceptance of Contractors As-built documents prior to A/E's preparation of the final Record Documents.
- 10.1.7.3 Upon COUNTY's receipt and acceptance of Contractor's As-built documents, A/E must prepare a set of Record Documents for the Project including the Drawings and Project Manual. These will include all revisions and/or changes that have been made during the course of the construction, as recorded on the job set maintained by the

Contractor. The A/E must review all such revisions and/or changes during the work and must approve the set of prints maintained by the contractor prior to the A/E's final submittal of the record drawings. All computer-generated information shall be copied onto disks or other comparable computer data media as may be specified by COUNTY and given to COUNTY. The record drawings shall:

a. Be submitted as originals of the revised tracings labeled "record drawings" and specifications and are required by the COUNTY prior to final fee payment.

b. Be submitted in Autocad 2000i or higher on disk, DVD or other comparable computer data media as specified by COUNTY.

10.1.7.4 A/E prepared Record Project Manual must incorporate all changes to the Project Manual issued during construction and indicate each product incorporated into the Work.

10.1.7.5 Record Project Manual shall also be submitted in electronic format.

10.1.8 Warranty Phase

10.1.8.1 Acceptance by the County of the A/E-prepared Record Documents constitutes completion of the A/E's Basic Services for compensation purposes; however, the A/E is required to conduct an inspection of the Project one month prior to expiration of the Contractor's one-year Warranty/Guarantee period without additional compensation.

10.1.8.2 Other than the inspection of the Project one month prior to expiration of the Contractor's one-year Warranty/Guarantee period, should County request Warranty Phase Services after A/E's completion of their Basic Services, and Services are required through no fault of A/E, A/E will be compensated pursuant to Attachment B, para. I.B, "Extra Work".

IV. Attachment C "PROJECT SCHEDULE" is hereby amended to read as follows:

ATTACHMENT C

PROJECT SCHEDULE

I. SCHEDULE OF PROJECT ACTIVITIES

The following schedule of Project activities has been established by the COUNTY for this project:

<u>Date</u>	<u>Task</u>
April 14, 2009	Design Development documents due
April 21, 2009	D.D. review by County completed
May 14, 2009	50% Construction Documents due
May 29, 2009	50% C.D. review by County completed
June 9, 2009	Cost Estimate due (based on 50% complete C.D.)
June 16, 2009	90% Construction Documents due
June 23, 2009	90% C.D. review by County completed
June 30, 2009	100% Construction Documents due
November 19, 2009	Bid Opening
January 30, 2010	Notice to Proceed
January 21, 2011	Construction completion
March 22, 2011	Closeout/ Commissioning completion
End of scope of work	

APPROVED AND EXECUTED by COUNTY and ARCHITECT on this 20th day of NOVEMBER, 2009.

"A/E":

By: The Austin Company

Curt Miller Vice President/General Manager
CURT MILLER

"COUNTY"
County of Santa Barbara

ATTEST:

By: _____

MICHAEL F. BROWN
CLERK OF THE BOARD

CHAIR
BOARD OF SUPERVISORS
County of Santa Barbara

By: _____
Deputy Clerk of the Board

APPROVED AS TO FORM:
FORM:
DENNIS A. MARSHALL,
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: [Signature]
Deputy County Counsel

By: [Signature]
Deputy Auditor-Controller

APPROVED AS TO FORM:
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

By: [Signature]

Dept. 063; Account 8700; Fund 0030; Program 1930; Project 8666

SURETY DEPOSIT AGREEMENT

This Surety Deposit Agreement ("Agreement") is entered into as of December 8, 2009, by and between the County of Santa Barbara, California ("County"), and, the Goleta Water District ("District") as described further below.

RECITALS

WHEREAS, the Santa Barbara County General Services' Department is constructing a new Emergency Operations Center at 4408 Cathedral Oaks; and

WHEREAS, the District requires that the County in order to serve the new Emergency Operations Center on the 4400 block of Cathedral Oaks make improvements including: a new 2" manifold with 2 services per GWD details 2-02 and 2-04, and extending an 8" fire line and double check detector assembly per GWD detail 4-03 (the "project"); and

WHEREAS, the District requires the County to place as a surety for the project a deposit of \$24,000 with the District to ensure completion of the project to District standards and specifications, including satisfactory operation for a one-year period following completion; and

WHEREAS, the County desires to enter into an agreement with the District to ensure the proper treatment and eventual return of the surety deposit;

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises and covenants as set forth below, the parties agree as follows:

The County will deposit with the District a sum of \$24,000 as a surety in lieu of a Letter of Credit for the water service project on the 4400 block of Cathedral Oaks near the new Emergency Operations Center at 4408 Cathedral Oaks.

Within three days of receipt of the money, the District will invest the money with financial institutions as stipulated in California Government Code 53601, where the funds will remain unless the District determines that it may need to incur costs and use the surety deposit to complete the project or the District determines the project is complete, in which case the District will return the applicable portions of the surety deposit to the County including any interest earned to date according to the schedule described below.

If the District determines that it may need to incur costs and use the surety deposit to make the project meet the District's standards and specifications, as described in the District's standards and specifications manual, the District will provide reasonable notice to the County, the District will discuss the issues with the County, and the District will provide a reasonable opportunity for the County to resolve the issues prior to incurring costs or using the surety deposit. Following those steps, and as a last resort, if the project does not meet

the District's Standards and Specifications and the District must and does incur costs to make the project meet such Standards and Specifications, the District may use the security deposit to make the project meet such Standards and Specifications. The District may only make a claim to use the surety deposit for work directly related to the project.

Schedule for Return of Surety Deposit

One-Third ($1/3^{\text{rd}}$) of the deposit (\$8,000) plus earned interest on the whole deposit at the Date of Acceptance of the project. "Date of Acceptance" is defined as the date the project is deemed complete by the District in respect to its Standards and Specifications. The District agrees to not unreasonably delay the Date of Acceptance and to promptly provide written evidence of the Date of Acceptance to the County.

One-Third ($1/3^{\text{rd}}$) of the deposit (\$8,000) plus earned interest on the remaining deposit at 90 days after the Date of Acceptance, so long as the project continues to perform satisfactorily pursuant to District Standards and Specifications as of 90 days after the Date of Acceptance.

One-Third ($1/3^{\text{rd}}$) of the deposit (\$8,000) plus all remaining earned interest at one year after the Date of Acceptance, so long as the project continues to perform satisfactorily pursuant to District Standards and Specifications as of one year after the Date of Acceptance. If the project does not perform satisfactorily pursuant to District Standards and Specifications as of that date, the District will return this portion of the deposit when the project performs satisfactorily pursuant to District Standards and Specifications.

If any provision in this Agreement is held invalid, the remaining provisions remain in effect. This Agreement may be executed in any number of counterparts, and all such counterparts shall together constitute one and the same instrument. This Agreement constitutes the entire agreement of the parties hereto in conjunction with the matters considered herein, and supersedes any previous agreement or understandings. It may not be modified except in writing executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of December 8, 2009.

"District"

Goleta Water District
4699 Hollister Avenue
Santa Barbara, CA 93110

By: 

Eric E. Ford

Administrative Manager/ CFO

"COUNTY"

County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
CLERK OF THE BOARD
County of Santa Barbara

By: _____
Deputy Clerk of the Board

By: _____

CHAIR
BOARD OF SUPERVISORS

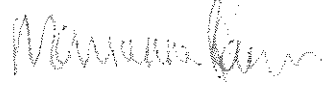
APPROVED AS TO FORM:
DENNIS A. MARSHALL,
COUNTY COUNSEL

By: 
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: 
Deputy Auditor-Controller

APPROVED AS TO FORM:
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR



Dept 063 Fund 0030 Program 1930 Account 8700 Project 8666

*Board of Supervisors Hearing
5 January 2010*



Paul Wellman, The Independent



Santa Barbara County Operational Area EOC

EOC Project Highlights

- **18 August 2009: Directed to Proceed With Bid Process & Report Back to Board.**
- **Bid Process Completed With Very Favorable Bids Received.**
- **Aware & Prepare Initiative Partners Remain Strong and Supportive Partners.**

Santa Barbara County Operational Area EOC



EOC Project Proposed Expenses

EOC Construction	\$4,688,335
Pjct. Mgt., Fees, CEQA, Site Testing, Engineering, Etc.	1,731,457
EOC Equip., Computers, Communications, Fiber, etc.	1,015,153
Total Project Budget	\$7,434,945

Santa Barbara County Operational Area EOC



EOC Project Proposed Revenues

OES Communications Funding (8692)	\$ 171,504
Aware & Prepare Initiative	2,025,000
Capital Projects Designation	5,238,441
Unassigned Balance in Designation	\$ 1,661,559

Santa Barbara County Operational Area EOC

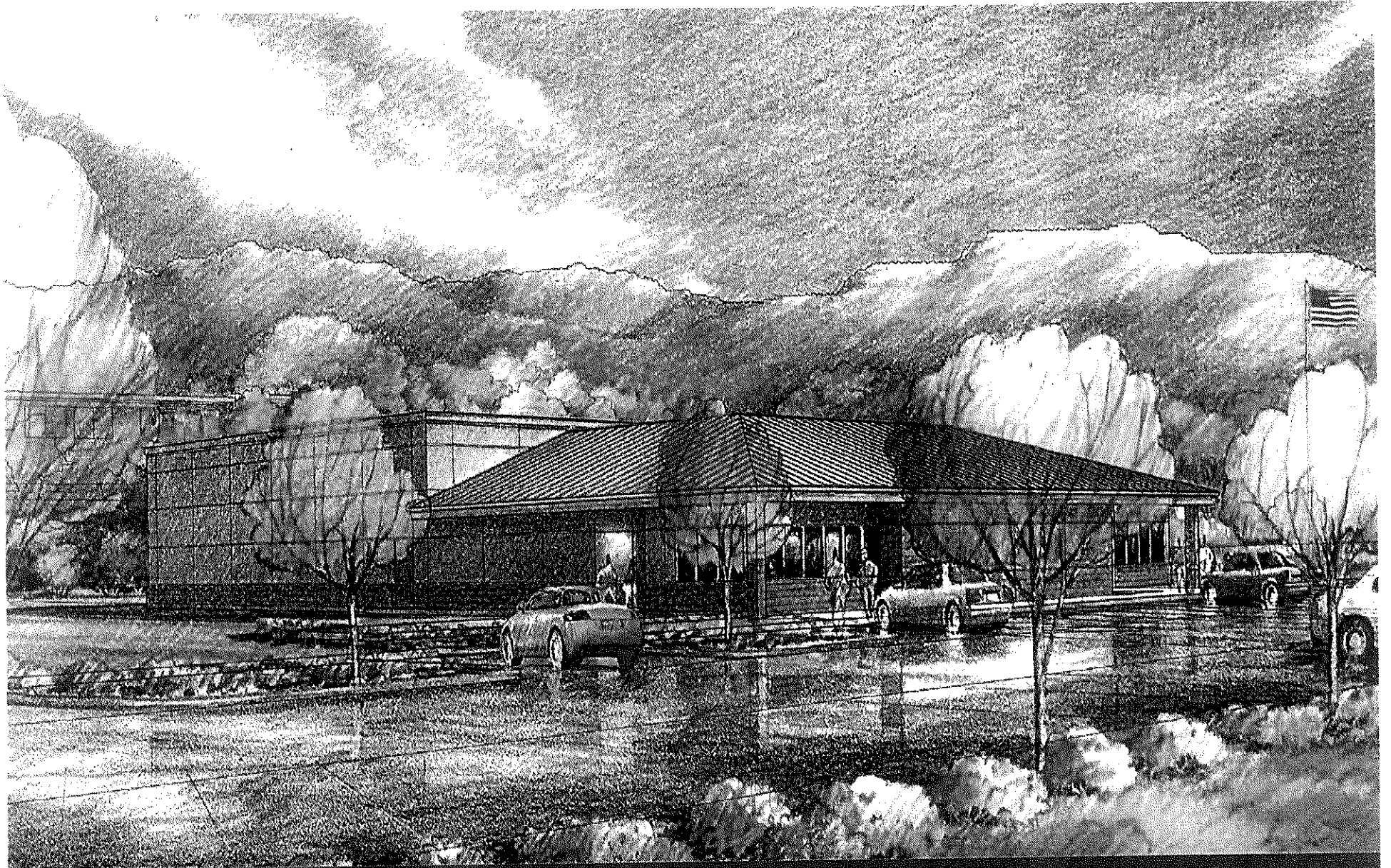


EOC Project Recommendations

- *Approve Recommended Actions A through G of Staff Board Letter and proceed with EOC Construction.*
- *Direct Emergency Operations Chief to Continue to Develop Financing From Sources Other the County.*

Santa Barbara County Operational Area EOC





Santa Barbara County Operational Area EOC

