



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
Albert Balagso

**SUBJECT:** SEE BELOW

**DATE:** 02-08-10

Approved

Date

2/18/10

**COUNCIL DISTRICT:** Citywide

**SUBJECT: CONTINGENCY CONSOLIDATION FOR HAPPY HOLLOW IMPROVEMENTS PROJECT**

## RECOMMENDATION

Approval of the consolidation of contingency funding into one contingency fund up to \$1,033,999 for the three construction contracts constituting the Parks and Recreation Bond funded project Happy Hollow Park and Zoo Renovations and Improvements Project.

## OUTCOME

Approval of this consolidation of contingency funding for the three construction contracts into one contingency fund would increase flexibility in managing the projects.

## BACKGROUND

In November 2000, San José voters approved the Parks Bond Measure for improvements of the City's parks with \$52.3 million of the bond issue allocated for the implementation of the approved Happy Hollow Park and Zoo and 1991 Kelley Park master plans.

Due to the complexity of the project and to meet City operations and maintenance budget needs, the project was separated into three phases of work, to be let as three separate construction contracts:

- On June 23, 2009, City Council awarded the construction contract for Phase I to O.C. Jones & Sons with a construction contract contingency amount of \$451,800 that is ten percent of the construction value. Phase I work consists of parking lot improvements east of Coyote Creek;
- On November 20, 2007, City Council awarded the construction contract for Phase IIA to West Bay Builders, Inc. Phase IIA involves construction of the zoo and attractions improvements west of Coyote Creek. On June 16, 2009, Council

approved Construction Contract Change Order No. 31 with West Bay Builders, Inc., and increased the construction contract contingency value to a total of \$3,140,400 that is approximately eight percent of construction value.

- On May 19, 2009, Council awarded the construction contract for Phase IIB to Anderson Pacific Engineering Construction, Inc., with a construction contingency amount of \$503,250 that is 15 percent of the construction value. Phase IIB involves construction of a new pedestrian bridge over Coyote Creek.

All three phases are currently under construction. Taken together, the contingency funds for the overall project equal \$4,095,450, which amount represents approximately nine percent of the combined contract values of the three phases comprising the overall project. The contingency balances within each phase are currently \$246,527, \$344,172, and \$340,800, respectively, with a total contingency balance of \$1,033,999 for the project.

### **ANALYSIS**

The City Council approved Capitol Project Contingency Policy (Policy) establishes the contract contingency amount at the time of construction contract award for more common project types – street, sidewalk, park, trail, utility, building and building renovation – and allows for other amounts approved by the City Council for particular projects. The construction contract contingency is set aside in order to provide funding to resolve unforeseen issues in a manner which provides efficient continuity of contract efforts.

Each of the three phases of the project contain unique attributes which challenge contingency assumptions applicable to the more common project types defined within the Policy. Specifically, Phase IIA contains numerous buildings and other unique zoo and attractions features; Phase I contains a building, parking lot and other features as post closure land use elements atop a landfill; and Phase IIB is a pedestrian bridge spanning Coyote Creek with two spans of 270 feet each.

Because staff cannot presently predict with accuracy in which phase or phases of the project the remaining contingency funds will be required, by consolidating the funds remaining in the three separate construction contract contingencies into a single contingency fund, staff will maintain maximum flexibility to timely apply those funds where and when they are needed for the benefit of the overall project.

Because of the complexity inherent within each phase of the project, staff recommends that the City Council approve consolidation of the remaining construction contract contingencies into one aggregate contingency in the amount of \$1,033,999 which may be drawn from for any of the three construction contracts comprising the project. To meet commitments of project openings to the community, consolidation will enable staff to effectively and efficiently manage the remaining project construction by resolving unforeseen issues as they are encountered.

## EVALUATION AND FOLLOW-UP

Staff will return to the City Council in March 2010 with additional recommendations on other project issues.

## POLICY ALTERNATIVES

**Alternative #1: Do not consolidate the construction contingency funds.**

**Pros:** Contingency funds will continue to be managed on an individual contract level as originally approved by the City Council.

**Cons:** Does not provide the ability to effectively manage construction change issues with respect to the overall Project in a timely and efficient manner.

**Reason for not recommending:** Flexibility and timely response to any of the three construction contracts are restricted which limits overall project benefit.

## 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 item does not meet the Criterion above. This memorandum will be posted on the City's website for the March 2, 2010 Council agenda.

## COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

## FISCAL/POLICY ALIGNMENT

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

**COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

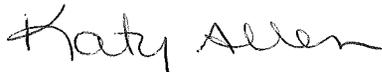
Contingency Phase I	\$451,800
Contingency Phase IIA	3,140,400
Contingency Phase IIB	<u>605,750</u>
<b>TOTAL PROJECT CONTINGENCY</b>	<b>\$4,197,950</b>
Prior Expenditures	<u>(3,163,951)</u>
<b>REMAINING PROJECT CONTINGENCY</b>	<b>\$1,033,999</b>
  
2. COST ELEMENTS OF CONTRACT:
  
3. SOURCE OF FUNDING:: 471 - Park and Recreation Bond Projects Fund  
391 - Construction Tax. & Property Conveyance Tax  
Fund: City-wide Parks Purposes
  
4. OPERATING COSTS: The anticipated operating and maintenance costs associated with the renovated Happy Hollow Park and Zoo were incorporated into the Parks, Recreation and Neighborhood Services Department as part of the 2009-2010 budget process.

**BUDGET REFERENCE**

Not applicable

**CEQA**

CEQA: Mitigated Negative Declaration, File No. PP05-142, dated April 2007, and Amended Mitigated Negative Declaration, File No. PP09-023, dated February 6, 2009



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

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