



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes  
Albert Balagso

**SUBJECT:** HAPPY HOLLOW PARK AND ZOO  
PHASES I, IIA & IIB - VARIOUS ACTIONS

**DATE:** 03-24-11

Approved

Date

3/25/11

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

- a) Approval to increase the Happy Hollow Park and Zoo Consolidated Contingency by \$743,000, from \$4,095,450 to a total consolidated contingency amount of \$4,838,450.
- b) Approval of Contract Change Order (CCO) No. 21 with Anderson Pacific Engineering Construction, Inc. for the Happy Hollow Pedestrian Bridge Rebid Project, increasing the compensation by \$329,199 for a total contract amount of \$4,024,880 and extending the term of the agreement by 140 calendar days for a new contract completion date of April 1, 2011.
- c) Adoption of a resolution delegating Authority to the City Manager to negotiate and execute a continuation agreement with HNTB Corporation extending the term of the agreement for design consultant services for the Happy Hollow Pedestrian Bridge Rebid Project, through December 31, 2011, and increasing the amount of compensation by \$120,000 for a total not to exceed \$919,000.
- d) Adoption of a resolution delegating authority to the Director of Public Works to negotiate and execute individual contract change orders up to \$250,000 each for the Happy Hollow Pedestrian Bridge Rebid construction contract with Anderson Pacific Engineering Construction, Inc.

## OUTCOME

Taken together, the recommended actions will allow the completion of the final elements of the Happy Hollow Park & Zoo project in time for the summer season, and will complete the project at a level \$1 million under budget.

## EXECUTIVE SUMMARY

The Happy Hollow Park and Zoo project is comprised of three phases. Phase I consists of the parking lot improvements east of Coyote Creek, Phase IIA involves the construction of the zoo and attractions west of Coyote Creek and Phase IIB involves the construction of the pedestrian bridge phase over Coyote Creek. All three phases included contingencies to allow the City to

compensate the contractor for additional work performed resulting from unforeseen conditions. On March 2, 2010, Council approved the consolidation of contingencies to allow flexibility for staff to manage the project.

The bridge project is currently delayed due to several complex issues. To address these issues, the contractor submitted significant change orders that require additional compensation in the amount of \$329,199 for the contractor's additional efforts and an extension of the term of the contract by 140 calendar days. As of February 28, 2011, the total remaining of the consolidated contingency was \$310,775 and the bridge project's total time extension was 108 calendar days. The bridge project's total time extension if the proposal is approved will be 248 calendar days.

Staff is requesting an increase in consolidated contingency of \$743,000 to cover CCO #21 and potential future changes. Therefore, the total contingency requested for all phases will be \$4,838,450, which still leaves the project more than \$1 million under budget.

This memorandum also requests the authorization for the City Manager to negotiate and execute a continuation agreement for the design consultant, HNTB, to continue their construction support services and for their services to aid the design of the falsework and cable modifications. Staff is requesting that the compensation for this agreement be increased by \$120,000 and the term extended for one year. Combined with the original agreement with the consultant, the total proposed agreement is \$919,000.

This memorandum requests to increase the authority of the Director of Public Works to negotiate and execute individual contract change orders up to \$250,000 each. This change would accommodate any further change orders necessary due to the complexity and unique nature of this bridge project.

## **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 anticipated complexity to construct the Happy Hollow Park and Zoo 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 November 20, 2007, the City Council awarded the construction contract for Phase IIA to West Bay Builders, Inc. in the amount of \$42,002,850. Phase IIA involves construction of the zoo and attractions west of Coyote Creek.
- On May 19, 2009, Council awarded the construction contract for Phase IIB to Anderson Pacific Engineering Construction, Inc., (AP) in the amount of \$3,858,250. Phase IIB involves construction of a new pedestrian bridge over Coyote Creek.

- On June 23, 2009, City Council awarded the construction contract for Phase 1 to O.C. Jones & Sons (OCJ) in the amount of \$4,969,800. Phase 1 work consists of parking lot improvements east of Coyote Creek.

The total budget including hard and soft costs for all three projects is \$71,802,825. Including all the changes proposed in this memo, the anticipated expenditures for the projects total \$70,080,675, therefore the project is currently projected to be more than \$1 million under budget.

The pedestrian bridge (Phase IIB) was designed concurrently with the zoo and attractions package as an asymmetrical, single tower, cable-stayed bridge. The bridge project was separately advertised for bid in June 2007, for which bids were received on August 16, 2007. Of the four bids received, the lowest responsive bid was approximately \$7.4 million (or \$4.4 million over the engineer's estimate). After substantial evaluation and analysis of options, staff concluded that the high bids received were due to higher than normal construction cost escalation at the time as well as constructability challenges inherent in the original design. Per staff's recommendations, Council rejected all bids in November 2007 and directed staff to re-bid the project.

Subsequently, staff evaluated the design concept to determine if the bridge could be redesigned and constructed at a reduced cost. This effort resulted in Public Works retaining HNTB Corporation to redesign the bridge. HNTB's new bridge design required far fewer materials to be built with a resulting lower engineer's estimate of approximately \$5.2 million. The bids for the redesigned bridge were received in April of 2009, which was during the start of the current economic recession, with a low bid of \$3,355,000.

On March 2, 2010, Council approved the consolidation of the contingency funding for all three projects into one fund, thus allowing for flexibility in managing the three phases. The resulting consolidated contingency for the overall project equaled \$4,095,450. As of February 28, 2011 the consolidated contingency remaining was \$310,775.

The current status for each of the projects follows:

- Phase I, the parking lot project, is currently under construction and has been delayed by construction progress on the adjacent bridge construction. The parking lot project includes utility and walkway connections to the bridge that may be constructed when certain components of bridge construction have completed. The Phase I contractor is anticipated to complete the final connection to the bridge from the parking lot in April 2011.
- Phase IIA, the zoo and attractions project, completed construction in December 2009.
- Phase IIB, the bridge project, is currently under construction and is comprised of an east and west span. The east span is complete and the west span is currently under construction with completion anticipated in May 2011.

The Director of Public Works has issued 20 change orders for the Phase IIB project totaling \$340,681 and approved 108 calendar days time extension due to unforeseen conditions. The major changes contributing to the above include; unknown underground streams flowing through drilled piers and design changes required to accommodate differing field conditions that resulted in additional temporary bracing to support the bridge while under construction. The temporary bracing is typically referred to as “falsework”.

Due to environmental constraints not allowing any construction within the Riparian Corridor of Coyote Creek, the east span of the bridge project required unique falsework. It is Public Works' practice to require the contractor to be responsible for the design and construction of falsework during bridge construction. The specifications require the contractor to have an engineer prepare the falsework design and then submit it to the design consultant, HNTB, for concurrence. Because of the anticipated complexity of the falsework, the design consultant included a conceptual falsework design in the bid package as an aid to bidders.

On May 11, 2010, Council approved an amendment to the agreement for design consultant services with HNTB for the Happy Hollow Park & Zoo Pedestrian Bridge Project increasing the amount of compensation by \$50,000. The total amount of the agreement is \$799,000 and it expired on December 31, 2010.

### **ANALYSIS**

The recommended actions are necessary to address unanticipated conditions during construction and related costs needed to complete the Happy Hollow Park and Zoo projects. The requested increase in the total construction contingency will address CCO No. 21 and future unanticipated costs necessary to complete the bridge and parking lot projects. The proposed increase to contingency by \$743,000 will provide a total consolidated contingency of \$4,838,450. As mentioned above, the increased contingency can be accommodated within the overall project budget of \$71.8 million, leaving the project more than \$1 million under budget.

During the construction of the bridge, the contractor hired an engineer that developed a falsework design and submitted it for review by the City and HNTB. Through the review process, the City determined that the contractor's submitted design did not account for the unique and complex structural methods required to provide an efficient falsework design for the bridge. To facilitate a more efficient solution, HNTB was requested by the City to value-engineer the falsework design. The City and contractor negotiated to share the initial cost for HNTB's falsework re-design services. The falsework re-design process resulted in a schedule delay for the bridge project.

Additional bridge project delays resulted from discrepancies during custom cable fabrication, installation and approval. After detailed discussions with the contractor and design engineer (HNTB), the City has agreed that it is appropriate to share responsibility for additional costs and schedule delays associated with the bridge cables.

The contractor has requested additional time and compensation for the installation of the east span falsework related to changes made by the consultant and partially caused by unforeseen conditions. AP submitted four change order requests related to installing the falsework totaling \$467,609 and 175 days time extension. Staff negotiated with the contractor to reduce the change order amounts to \$329,199 and 140 calendar days. The total time extensions for the project will be 248 days, which moves the contractual completion date to April 1, 2011, after which date liquidated damages could apply. As of this report, staff is aware of some potential future change orders that may extend the contractual completion date. The current construction schedule estimates the bridge to be substantially completed and open for public use in May 2011.

The consultant services of HNTB are needed to support the construction of the bridge project and their services have been required to support review of falsework and cable length change orders. Therefore, this memorandum includes a continuation agreement for HNTB to complete the construction services required for the west span of the bridge as well as to compensate the consultant for their extended design support during the installation of the east span falsework. HNTB is requesting additional compensation for \$120,000 including an additional service of \$11,000 and staff has determined that this fee is reasonable for the scope of work. The continuation agreement will extend its expiration by one year to December 31, 2011.

Due to the uniqueness of this bridge project and the past experience with the size of change order requests, it is recommended that the authority of the Director of Public Works to execute change orders for this project be increased to \$250,000.

### **EVALUATION AND FOLLOW-UP**

Staff will return to Council on this project only if additional recommendations on new project issues are warranted.

### **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 meets Criterion 1 above. This memorandum will be posted on the City's website for the April 12, 2011 Council agenda.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and 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: \$449,199\*

Project Delivery For Phases I, IIA & IIB	\$16,969,498
<b>Continuation Agreement</b>	<b>120,000</b>
Construction **	48,347,864
Consolidated Contingency	4,095,450
<b>Consolidated Contingency Increase ***</b>	<b>743,000</b>
<b>TOTAL PROJECT COSTS</b>	<b>\$70,275,812</b>
Prior Year Expenditures	<u>\$68,140,782</u>
Remaining Project Costs	\$2,135,030

\* Includes the HNTB Continuation Agreement and CCO No. 21.

\*\* Included in this total construction contract amount is total construction contract of \$47,128,000 and Council approved change order of \$1,219,864.

\*\*\* Includes CCO No. 21 and an additional \$413,801 for future CCOs.

2. COST OF CONSTRUCTION CONTRACT:

PHASE I: Parking Lot	\$4,518,000
PHASE IIA: Zoo and Attractions	\$39,255,000
PHASE IIB: Pedestrian Bridge	\$3,355,000

COST ELEMENTS OF HNTB AGREEMENT:

Original Agreement	\$99,000
First Amendment to Consultant Agreement	650,000
Second Amendment to Consultant Agreement	50,000
Continuation Agreement	<u>120,000</u>
<b>TOTAL</b>	<b>\$919,000</b>

3. SOURCE OF FUNDING:: 471 - Parks and Recreation Bond Projects Fund  
391 - Construction Tax & Property Conveyance Tax  
Fund: City-wide Parks Purposes

4. OPERATING COSTS: The proposed operating and maintenance costs of this Pedestrian Bridge project have been included in the base budget for the Happy Hollow Park & Zoo and do not have an additional impact on the General Fund.

### **BUDGET REFERENCE**

Fund #	Appn. #	Appn. Name	RC #	Total Appn. Amount	Amount for Contract	Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Total Project Cost</b>				<b>\$2,135,030</b>			
<b>Current Funding Available</b>							
471	4787	Happy Hollow Park & Zoo Renovation and Improvements	148705	\$2,712,000	\$449,199	V-623	10/19/2010 Ord. No. 28829
471	6882	Happy Hollow Phase I Strategy		\$16,000			10/19/2010 Ord. No. 28829
391	4787	Happy Hollow Park & Zoo / Kelley Park Misc. Improvements	141245	\$17,000			10/19/2010 Ord. No. 28829
391	5583	Happy Hollow East Side Improvements	144505	\$1,200,000		V-488	06/29/2010 Ord. No. 28765
391	5037	Happy Hollow Park & Zoo Phase II Renovations	14449x	\$1,273,000		V-489	06/29/2010 Ord. No. 28765
<b>Total Current Funding Available</b>				<b>\$5,218,000</b>			

### **CEQA**

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

On November 20, 2007, Council approved a Mitigated Negative Declaration (MND) for the Happy Hollow Park & Zoo Renovation Project, which includes the pedestrian bridge project. The bridge project was removed from the renovation project and redesigned as a separate project. Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has determined that the Happy Hollow Park & Zoo Pedestrian Bridge Rebid Project does not involve new significant effects beyond those analyzed in the previously adopted MND. Therefore, the City of San José can take action on the project as being within the scope of the previously adopted MND.

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The MND identifies a number of mitigation measures that shall be implemented in order to address environmental impacts. These measures and their manner of implementation are identified in the *Mitigation Monitoring and Reporting Program* for the project. These measures have been incorporated into the project design and the construction documents.

/s/

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Acting Director, Public Works Department

/s/

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Director of Parks, Recreation and  
Neighborhood Services

For questions, please contact HARRY FREITAS, DEPUTY DIRECTOR, PUBLIC WORKS DEPARTMENT 408-535-8300.

MH:DP:pt  
Attachment  
HHPB Falsework delay rev 3-09-11 mbh-DP.doc