TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS
DATE: JULY 18, 2005 CMR:310:05
SUBJECT: APPROVAL OF A BUDGET AMENDMENT ORDINANCE IN THE AMOUNT OF $15,219 AND AN INCREASE IN CHANGE ORDER CONTINGENCY TO CONTRACT C04142146 WITH DURAN & VENABLES, INC. IN THE AMOUNT OF $15,219 FOR CONSTRUCTION OF HARBOR POINT AND BYXBEE PARK PARKING LOT IMPROVEMENTS (CAPITAL IMPROVEMENT PROGRAM PROJECT OS-00003) TO RESOLVE A DISPUTE BETWEEN THE CITY AND DURAN AND VENABLES

RECOMMENDATION

Staff recommends that Council:

1. Approve a Budget Amendment Ordinance (BAO) in the amount of $15,219 for repairs to the Harbor Point Parking Lot Improvements, Capital Improvement Program Project OS-00003 (Attachment A);

2. Approve a $15,219 increase in contract change order funds for contract C04142146 with Duran & Venables for the Harbor Point and Byxbee Park parking lot improvements; and

3. Authorize the City Manager or his designee to execute a project close out change order to authorize Duran & Venables to perform repair work for which the City would release $47,140 in retention monies and pay an additional sum of $29,822.

BACKGROUND

On August 4, 2003 Council approved a contract in the amount of $442,000 with Duran & Venables Inc. of Milpitas (CMR:381:03, Attachment B) for the construction of the Harbor Point and Byxbee Park parking lot improvements project. A contingency in the amount of $44,000 was also approved to cover additional but unforeseen work that could develop during the course of construction. This project was part of a Community Services Department Capital Improvement Program (CIP) project approved by Council in 1999 that also included improvements to the Duck Pond parking lot, Evans Interpretive Center parking lot and Harbor Road. In its review and approval of the capital project request, the Finance Committee challenged staff to ensure that upon completion these projects would not only enhance and
protect the environmentally sensitive Baylands sites, but also serve as an example of best management practices for sustainable landscape design and construction techniques.

Toward that end, the Harbor Point and Byxbee Park projects included, among other sustainable components, a parking surface of crushed rock mixed with a non-petroleum based natural resin binder instead of asphalt. This technology had been used previously for pedestrian paths and rural maintenance roads with low intensity levels of use, but not on larger, more highly used areas such as parking lots. The finished result of the Harbor Point lot was significantly below expectations, and the paving surface in several areas began to crack and erode.

The City and contractor disputed whether the defects resulted from design defects or contractor error. On June 21, 2004, Council authorized staff to negotiate an agreement with the contractor to repair the defective portions of the pavement in exchange for the release of retention monies in the amount of $47,140 and waiver of claims for defective work.

In August 2004, the Community Services Department staff involved in the project, transferred to the Public Works Department Engineering Division. In the ensuing months Public Works staff experienced in pavement design met with DES Architects & Engineers, the design consultant for the project, and Lowney Associates, the geotechnical subconsultant, to discuss potential solutions to the problem. This group also met at the project site with representatives of the contractor, Duran & Venables. During these meetings, the City again identified major areas of the parking lot that were considered unacceptable and asked Duran & Venables for a proposal to implement repairs. The resulting proposal addresses the entire parking lot rather than only the areas in immediate need of repair, as the failed areas cover more than 50% of the parking lot surface. Duran & Venables also included costs for executing the work, which exceed the available retention funds by $29,822. This proposal has been deemed acceptable by representatives of both Duran & Venables and City staff involved.

**DISCUSSION**

The proposed repairs to the Harbor Point parking lot will involve breaking up the entire surface to a depth of approximately 8 inches, adding a 4½% solution of Type II cement using a high speed rotary mixer, regrading the surface to achieve positive drainage and recompacting at 95% relative density. This repair will renovate the entire surface of the Harbor Point parking lot using sustainable materials as the compacted base rock bound together by a cement additive and the crushed fines from the original installation does not contain any petroleum products.

Although this method is a preferred sustainable approach, over time the surface may become uneven and will be structurally inferior to an asphalt concrete pavement surface.

As noted, the original contract amount of $442,000 was supplemented with a change order contingency of $44,000. During construction of the parking lots, change orders were issued in the amount of $29,397 to pay for importing and placing additional base rock material over and above that shown on the plans. The $14,603 remaining in original change order contingency would be supplemented by the recommended additional $15,219 to cover the amount over and above the retention that is required to complete the repairs. The close out change order will provide for Duran & Venables to perform the work on the terms previously approved by Council, plus the payment of an additional sum of $29,822.
Staff will notify the Baylands’ stakeholders and frequent park visitors to coordinate use in an effort to minimize disruption during reconstruction of the Harbor Point parking lot.

**RESOURCE IMPACT**
The attached BAO will appropriate $15,219 to this project. The remaining balance is currently in Capital Improvement Program Project OS-00003 – Baylands Parking Lots Improvements. This funding has been carried over to the current fiscal year.

**PROJECT REVIEW**
This project was initially budgeted in FY 2001-2002.

**POLICY IMPLICATIONS**
The proposed project is consistent with existing City policy including the 1991 Baylands Master Plan.

**ENVIRONMENTAL REVIEW**
This project is exempt from review under the California Environmental Quality Act (CEQA), as the project involves repair, maintenance, or minor alteration of existing public structures involving negligible or no expansion of use.

**ATTACHMENTS**
Attachment A:  Budget Amendment Ordinance
Attachment B:  CMR:381:03

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