COUNCIL AGENDA: 03/14/23
FILE: 23-365
ITEM: 3.5

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Councilmember Arjun Batra

SUBJECT: SEE BELOW

DATE: March 14, 2023

Approved Arjun Dev Batra Date March 14, 2023

SUBJECT: STATUS REPORT ON THE NOVEMBER 2018 BALLOT MEASURE T – THE DISASTER PREPAREDNESS, PUBLIC SAFETY, AND INFRASTRUCTURE GENERAL OBLIGATION BOND

RECOMMENDATION

1) Accept and approve the staff memorandum for item 3.5
2) Direct City Staff to retain all current and future project savings in the Measure T fund until all currently approved projects are completed, moving any project savings between projects as required to complete the list of currently approved projects.

BACKGROUND

As highlighted in the previous memo, signed by me and Councilmember Davis, there is a significant shortfall of Measure T funds for the current list of projects. On May 13, 2022, Mayor Liccardo and Councilmember Davis authored a memo which also highlighted the impending shortfall and argued convincing that while "The lake should be restored to support recreational use, support our underserved communities, and increase access to green resources for East Side families… Preventing contamination of a critical source of drinking water in an underground aquifer is not the same as restoring the recreational use of a lake."

The above memo was heard in Council on June 28, 2022. Minutes of the meeting clearly outline direction to staff to seek other funding for the important Lake Cunningham project, and not use Measure T funds.

> *(3) Direct IGR team - and state and federal lobbyists - to identify, and have staff actively pursue, state and federal funding to support Lake Cunningham restoration. (4) Direct PRNS staff to explore public private partnership (P3) opportunities that would deliver restoration - and enhanced recreational benefits - to Lake Cunningham.*

In addition, the minutes also state:

> *(a) Reaffirm Council commitment to the voters – as reiterated in the June 2, 2020 City Council meeting – to use any savings from Measure T's Environmental and Flood Protection Projects category to fund a local water quality project.*

However, the language in Measure T didn't say that any leftover funds in any category would be earmarked for any project, including any water quality project, and in the June 28 meeting minutes, there was no specific project in mind. More important, is the commitment to the voters by the Council to ensure that all four of the remaining fire stations are fully funded as also stated in the minutes:

> *(4) Commit the City to ensuring all four remaining fire stations are fully funded, whether through allocations of Measure T funding or through exploring alternate funding sources (including, but not limited to, federal/state infrastructure grants and city fund allocations).*

Police and fire response and infrastructure, and our ability to save lives, is at the heart of what the Council is responsible for, a basic core service. We must reaffirm our commitment to ensuring all four remaining stations are fully funded, and utilize savings from all other Measure T projects to do so.

Only Street Repair is a protected category. In the September 11, 2018 Staff memo, the only funds dedicated to a specific project is the $300,000,000 allocated to Street Repair. Footnote 3 states, "The street repair allocation is a minimum amount. All other allocations are anticipated dollar amount and subject to change as projects are further defined and scoped out."

All other funds in the remaining $350,000,000 are fungible and can be moved as needed to support other projects on the list. If, when all projects are complete, there are remaining Measure T funds, they are to be used for "critical" infrastructure. Footnote 4 states, " If any savings result from this [referring to Police/Fire/Emergency Operations Center] category, the intent would be to place them in the "Other Priority Critical Infrastructure" category." At this point, it does not appear likely there will be any surplus Measure T funds.

Council Agenda: 5/17/2022
ITEM: 3.5

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo
Councilmember Dev Davis

SUBJECT: Measure T Status Report

DATE: May 13, 2022

Approved

Date

Recommendation

1) Accept staff recommendations (a)(b)(c)(d) and (f), and;

2) Regarding recommendation (e), as described in Tables 2&4 of the Public Safety Program Reserve section of this report, approve option #2, which funds the Measure T public safety reserves to help ensure delivery of the public safety program of projects put before the voters.

3) Direct IGR team - and state and federal lobbyists - to identify, and have staff actively pursue, state and federal funding to support Lake Cunningham restoration.

4) Direct PRNS staff to explore public private partnership (P3) opportunities that would deliver restoration - and enhanced recreational benefits - to Lake Cunningham.

Background

Voter approval of any bond or tax measure requires trust. When we urged voters to approve Measure T, the largest bond measure in San Jose history, on November 6, 2018, we were clear about asking them to pay for public safety and street improvements. The very title of the measure, "The Disaster Preparedness, Public Safety and Infrastructure Bond," said as much. They were clear about what they were voting for. More than 70 percent of the electorate voted yes, authorizing up to $650 million in General Obligation Bonds for infrastructure projects, because according to the polling we reviewed extensively, our residents were willing to pay for public safety and streets. We put out campaign mail with photos of cops and firefighters. We even framed the funding used for Coyote Valley's protection in public safety

terms, focusing on the benefits of preserving open space in preventing flooding and drinking water contamination, as suggested by the polling.

The ballot language for the measure— which resulted from our extensive poll testing and discussions of critical needs with staff—followed:

> *Disaster Preparedness, Public Safety, and Infrastructure Bond*
> *To:*
> *• Upgrade 911 communications, police, fire and paramedics facilities to improve emergency and disaster response;*
> *• Repair deteriorating bridges vulnerable to earthquakes;*
> *• Repave streets and potholes in the worst condition;*
> *• Prevent flooding and water quality contamination;*
> *• Repair critical infrastructure;*
>
> *Shall San José issue $650,000,000 in general obligation bonds with an average levy of 11 cents per $1,000 of assessed value, averaging $34,208,000 annually until repaid, requiring community oversight and annual audits?*

Two months before the November election, on September 11, 2018, the Council unanimously approved a proposed Measure T project list, to ensure transparency with our voters. In passing the bond measure, the voters reaffirmed the importance of investing in our public safety infrastructure. Our City will need future measures to make major investments like these, to be sure. To keep the trust of our voters and taxpayers, we recommend keeping a total of $3.5 million in the public safety reserve until staff has received bids for the majority of the public safety projects that we promised our voters.

Seven public safety projects remain to be bid. Sharp construction escalations threaten to undermine our delivery of what we promised, and according to the staff report, we've already encountered challenges:

- A $2 million shortfall is forcing a reduced buildout of Fire Station 32 in District 7, to allow for only a single company in a high-need area.
- The construction of Fire Station 23 on Capitol Avenue in District 4 faces uncertainty with the rapid escalation of construction bids.
- Station 20 requires a backfill of $2.3 million to keep Measure T funds intact.
- The new 911 call center appears $4 million short.

We must fund our public safety project reserve to help meet the original commitments made to the voters in 2018, to ensure the remaining seven projects get built.

We agree that investments in Lake Cunningham are important, but Lake Cunningham was never articulated by the Council as a priority when the measure's project list was assembled or presented to the voters in September of 2018. Lake Cunningham was never discussed with voters as part of the public campaign. It does not fit squarely within any of the five categories of expenditures described in the measure's resolution language. Rather, it was added as a potential project well after voter approval, and with no analysis that compared the benefits or costs of that project to any other water quality project in the City.

The lake should be restored to support recreational use, support our underserved communities, and increase access to green resources for East Side families. But that's not what we told the voters they'd be paying for when they approved Measure T. Preventing contamination of a critical source of drinking water in an underground aquifer is not the same as restoring the recreational use of a lake.

Preliminary estimates indicate a need of $26 million to make the necessary enhancements for Lake Cunningham's restoration, over a 5-year period – investments that would make the lake's water quality viable for recreational use. While the $3.2 million allocation could fund several near-term projects to start the process of enhancing water quality and user experience, it's only a small step towards the larger vision for Lake Cunningham.

The significant parks and environmental funding available at the state and federal level provides tenable hope that we could get the broader project funded, one that would deliver significant improvements to Lake Cunningham. Our IGR team, and state and federal lobbyists should identify opportunities for funding, and with PRNS, pursue these resources to deliver this project. Further, staff should explore P3 opportunities to deliver restoration and recreation benefits at Lake Cunningham.

Delivering Measure T's promised projects - as our voters have told us to - should be our #1 priority. After Measure O's passage in 2002, it took another 20 years to deliver Fire Station 37. Those failures undermine voters' trust.

We should fund our public safety project reserves and ensure we deliver the program of projects our voters expect, while simultaneously identifying - and actively pursuing - needed resources to deliver the larger program of projects to fully restore Lake Cunningham.

COUNCIL AGENDA: 9/11/18
FILE: 18-1172
ITEM: 3.7

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: September 7, 2018

Approved Date 9-7-18

SUBJECT: DISASTER PREPAREDNESS, PUBLIC SAFETY, AND INFRASTRUCTURE GENERAL OBLIGATION BOND MEASURE: PROPOSED PROJECT CATEGORIES

REPLACEMENT

REASON FOR REPLACEMENT

This replacement memorandum is being submitted to make technical adjustments to the information provided in the Cost Summary/Implications Section and Attachment A of the original memorandum.

RECOMMENDATION

Approve the proposed project categories for the November 2018 General Obligation Bond Measure for the acquisition, construction and completion of certain municipal improvements related to Disaster Preparedness, Public Safety, and Infrastructure.

OUTCOME

If the Council approves the proposed project categories for the Disaster Preparedness, Public Safety, and Infrastructure Bond, the Administration will engage with Council offices, develop educational materials, and inform the community about the general obligation bond and the City's infrastructure needs.

BACKGROUND

On August 10, 2018, the City Council adopted a resolution, placing a ballot measure authorizing a general obligation bond for Disaster Preparedness, Public Safety and Infrastructure on the November 6, 2018 citywide ballot. San José voters will be asked to approve the ballot language

presented below. This is listed as "Measure T" on the Santa Clara County Registrar of Voters website for the November 6, 2018 election.

Disaster Preparedness, Public Safety and Infrastructure Bond To: • Upgrade 911 communications, police, fire, and paramedics facilities to improve emergency and disaster response; • Repair deteriorating bridges vulnerable to earthquakes; • Repave streets and potholes in the worst condition; • Prevent flooding and water quality contamination; • Repair critical infrastructure; Shall San Jose issue $650,000,000 in general obligation bonds with an average levy of 11¢ per $1,000 of assessed value, averaging $34,208,000 annually until repaid, requiring community oversight and annual audits.	YES NO

The City Council resolution specified that $300 million of the General Obligation bond funds are to be spent on repaving streets and potholes in the worst condition, assuming the full authorized amount of $650 million is issued. In addition, the Council directed the Administration to: 1) add maintenance history, focusing on assets in greatest disrepair, to the criteria that will be used to evaluate projects to be funded from the potential bond measure; and 2) the Administration is to return to Council with a list of possible future projects and/or clearly defined project categories for final approval.

ANALYSIS

The State of California Constitution provides that a city may issue general obligation bonds for the acquisition and improvement of real property if authorized by two-thirds of its voters. General obligation bonds are payable only from ad valorem property taxes, which are required to be levied in an amount sufficient to pay interest and principal on the bonds coming due in each year. These property tax revenues are generated from an additional property tax that is distinct from general property tax collections and are dedicated to paying debt service on the bonds and cannot be levied or used for any other purpose. General obligation bonds are generally issued over a period of years and then repaid over a twenty- to thirty-year period from the date of issuance.

For years, the City has lacked sufficient funds to pay for maintenance and infrastructure needs. As a result, the City's backlog of unmet/deferred infrastructure needs has grown to approximately $1.4 billion. The City needs an additional $112 million annually to maintain the City's infrastructure in a sustained and functional condition.

Deferring maintenance increases future costs, and the City has long identified the need to find funding to address the backlog as a critical budget priority. While not all the projects on the backlog list are eligible for general obligation bond funding, a general obligation bond measure has the potential to address a significant portion of the backlog. The bond also could fund new or modernized facilities that would be less costly to maintain than current, rundown facilities that are expensive to maintain. Bond funds also could be used to address significant gaps in the City's public safety, emergency response, and disaster preparedness infrastructure.

Attachment A provides proposed potential general obligation bond projects and project categories along with the anticipated dollar amount to be allocated to each category, examples of potential future projects within each category, and the General Fund impact (positive or negative). Staff developed this list after reviewing the following criteria:

- ***Fiscal Responsibility:*** Does the project leverage additional funding? Does the project reduce the City's commitment of General Fund dollars? Will implementing this project now save capital or General Fund dollars in the future?
- ***Maintenance History:*** Does the project address a facility with significant maintenance issues and costs; what is the state of disrepair of the facility?
- ***Project Readiness:*** Is the project scope of work fully understood?
- ***Public Safety:*** Does the project directly or indirectly enhance the safety of our residents?
- ***Leveraging Opportunities:*** Are there partnership opportunities currently available that would help the City move this project forward?
- ***Equity:*** Does this project maximize the City's ability to provide opportunity to our residents who are most in need?
- ***Resident's Priorities:*** Do our residents believe that this project is a priority?

In accordance with the Council resolution, the project list has dedicated $300 million in funding for repairs to neighborhood streets in the worst condition. The highest priority, based on prior Council discussion, is public safety, which includes potential projects to complete Fire Station 37, rebuild and repair existing fire stations, build a new police training center, upgrade or rebuild 911 emergency communications facilities, and upgrade or build a new Emergency Operations Center. The next level of priority focuses on the storm conveyance system, environmental protection and clean water projects, such as the Charcot pump station, potential Coyote Valley Projects, and clean water projects. The final priority is enhancing security and disaster response, which includes improvements to citywide critical infrastructure, enhancing community centers and parks to enhance public safety, and converting streetlights and lighting on public buildings, parks, libraries, and community centers, and parking lots to energy efficient, cost-saving LED lights.

Education and Outreach

After Council approves the project categories, the Administration will begin to provide residents of San José with information about the potential bond. It is important to note that state law prohibits City staff, elected officials, and Mayor and Council staff members from using City funds, equipment, resources, or time to campaign or engage in electioneering activities. The City Attorney's Office provides guidance to employees and elected officials regarding what activities are prohibited. City staff may, however, provide factual educational information to San José residents regarding measures that the City Council places on the ballot. Such information must be an accurate, fair, and impartial presentation of the relevant facts. This may include information about:

- Content of the ballot measure;
- What projects or types of projects could be funded by the general obligation bond measure;
- Clarification on how much an average homeowner would be taxed as presented in best estimates provided in the ballot statement and its accompanying Tax Rate Statement, including assumptions on interest rates at the time the bonds will be issued, the proposed number of bond series to be issued, the timing of the bond issuances, and the estimated assessed value of property in San José, among other factors; and
- Other facts about the ballot measure.

EVALUATION AND FOLLOW-UP

If the ballot measure is approved in November 2018, the Administration will return to the City Council in early 2019 with a more detailed implementation and staffing plan for the expenditure of these funds.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the September 11, 2018, City Council meeting. In addition, the Administration plans to create a web page, fact sheets, newsletter articles, social media materials, press releases, and other materials about the Disaster Preparedness, Public Safety, and Infrastructure Bond. Also City staff will hold community meetings to provide an overview of the measure and answer questions from residents, and the presentations will be focused on the facts of the measure and will not advocate for/against the measure, in accordance with state law.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The proposed General Obligation bond measure would address critical public safety needs, better prepare the City for potential disasters, and fund significant unmet/deferred infrastructure needs. As noted in Attachment A, a number of the potential projects would ultimately have either a positive (e.g., LED lighting projects would reduce energy costs) or negative (e.g., the addition of a new fire station would increase operating and maintenance costs as well as require the addition of a new fire company) direct impact on the General Fund. Aside from a new fire station that will improve much needed fire and emergency medical response levels, it should noted that the negative estimated General Fund impacts typically relate to the anticipated change in operating and maintenance costs for facilities. If the bond measure is approved by voters in November 2018, City staff will return to the City Council in early 2019 with an implementation plan for these projects to ensure that any negative General Fund impacts are minimized and phased in to the extent possible.

CEQA

Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment.

/s/
MATT CANO
Director of Public Works

For questions, please contact Matt Cano, Director at (408) 535-8477

Attachment A: Proposed General Obligation Bond Project Categories

ATTACHMENT A

Proposed General Obligation Bond Project Categories

Bond Project List	Anticipated Dollar Amount	Description of Potential Projects[1] (final list will be pending environmental approval of individual projects)	Potential General Fund Impact[2]
Street Repair[3]	$ 300,000,000	Repair/replacement of neighborhood streets in worst condition	Positive
Police/Fire/Emergency Operations Center[4]	$ 175,000,000	Build new Fire Station 37	Negative
		Rebuild/relocate or build two Fire Stations, including property acquisition	Positive
		Rehabilitation of various stations	Positive
		Upgraded or new 911 and Emergency Operations Center (if new, assume built on existing City property)	Negative
		Public Safety Headquarters Infrastructure Needs	Positive
		New police training center (assume land acquisition and rehabilitation of an existing building)	Negative
		New police dept. Air Support Unit Hangar helicopter terminal on existing city property at Mineta SJIA	Positive
Environmental Protection Projects	$ 50,000,000	Water supply, flood control, open space and environmental protection of lands such as Coyote Valley	Neutral
Storm System Conveyance & Flood Prevention Projects	$ 35,000,000	Construction of a pump station at Charcot Avenue	Positive
Clean Water Projects	$ 25,000,000	Priority projects would be partnerships to simultaneously provide clean water to our Bays and beautify existing City owned open space.	To be determined
Bridges	$ 20,000,000	Leverage up to or more than $80 million in outside funds for bridge overpasses to be seismically retrofitted or repaired.	Positive
LED Lighting	$ 20,000,000	Replacement of both streetlights and other outdoor lights in city facilities, such as the parks, libraries, community centers and corporation yards to reduce ongoing General Fund impacts.	Positive
Public safety parks/community center facility improvements	$ 12,950,000	Upgrading community centers/emergency shelters and parks facilities to support public safety	Positive
Other Priority Critical Infrastructure	$ 5,000,000	Priority critical infrastructure repairs to reduce ongoing General Fund impacts	Positive
Total[5]	**$ 642,950,000**		

1. Although not listed above as a separate category, the inclusion of smart infrastructure, such as broadband and fiber connectivity to enhance emergency response, will be evalauted as appropriate as part of the scope of work for the above projects.

2. The potential General Fund impact column is a conceptual estimate of whether the project(s) would have a positive, neutral or negative direct impact on the City's General Fund after implementation. This typically relates to the change in operating and maintenance costs associated with the facilities/projects. At this time there is not enough information available to estimate the potential impact of the Clean Water Projects so this is listed as "to be determined"

3. The street repair allocation is a minimum amount. All other allocations are anticipated dollar amounts and subject to change as projects are further defined and scoped out.

4. If any savings result from this category the intent would be to place them in the "Other Priority Critical Infrastructure" category

5. The total does not equal $650,000,000 as it takes into account approximately $7,050,000 in necessary funds for bond issuance