

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **March 5, 2024**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Maz Bozorginia, Public Works Director/City Engineer

TITLE: **SEWER AUTHORITY MID-COASTSIDE (SAM) OPERATIONS BUDGET AMENDMENT REQUEST – PRINCETON PUMP STATION CAPITAL PROJECT**

RECOMMENDATION:

Adopt a resolution approving, under protest, the requested budget augmentation increasing the previously approved Princeton Pump Station Capital Replacement Project in the amount of \$823,849, and repeal Resolution 2024-08 approved on February 12, 2024.

If the Council takes no action on this item, staff will proceed pursuant to Resolution 2024-08 and continue to seek a renewed stipulation of the parties.

FISCAL IMPACT:

The fiscal impact to the City’s sewer enterprise fund associated with this action is \$823,849. This payment will be made under protest pending the outcome of the City’s court action seeking declaratory relief.

STRATEGIC PLAN:

This action supports the *Fiscal Sustainability* and *Inclusive Governance* Elements of the Strategic Plan.

BACKGROUND:

SAM is preparing to replace the Princeton Pump Station, which is part of the Intertie Pipeline System (IPS), a series of force mains, pump stations and wet weather storage facilities that convey effluent from sewer customers within the Montara Water and Sanitary District (MWSD) and Granada Community Services District (GCSD), to the SAM-operated treatment plant.

In Fiscal Year 2017-18, the City filed a lawsuit to protect City sewer rate payers from covering expenses related to the IPS, as it does not directly benefit them, and named the other SAM member agencies as parties. Under a subsequent Stipulation and Order entered by the court on September 13, 2017, the City agreed to fund IPS projects in the FY 2017-18 budget, under protest, pending the outcome of the City’s request for declaratory relief. MWSD/GCSD have

not been willing to agree to a renewed Stipulation and Order, which has caused a pause in SAM's ability to move forward on critical repairs that impact Granada and Montara Districts.

The California Appellate Court recently considered the City's appeal of the Santa Clara Superior Court decision in *City of Half Moon Bay v. Granada Community Services District et al.* Unfortunately, the decision of the Appellate Court will require further Superior Court hearings, which will delay the outcome. In the event the City ultimately prevails, MWSD/GCSD would refund IPS capital costs previously paid under protest.

The Appellate Court heard the arguments in October 2023. On December 15, 2023, the Court issued its opinion reversing the grant of summary judgment to the Districts and remanding the action back to the trial court. This was positive news for City rate payers but means further delay as there is no date set for trial.

At the regular SAM Board meeting of January 22, 2024, a number of capital project related items were presented by staff, including deferral of low-priority capital improvements and approvals to move forward with significant replacements of infrastructure at the wastewater treatment plant. The final item approved authorized the SAM General Manager to submit a budget amendment for Fiscal Year 2023-24 to member agencies for approval (Attachment 2).

On February 6, 2024, the City Council adopted a resolution (Resolution 2024-08) approving SAM's requested budget augmentation to increase funding for the previously approved IPS capital replacement projects (Princeton Pump Station & Montara Force Main), subject to a renewed stipulation authorizing the City to pay under protest while reserving its rights for final resolution in the court action. The City's attempts at seeking a renewed stipulation have thus far been rejected by GCSD and MWSD.

DISCUSSION:

At the regular SAM Board meeting of February 26, 2024, the SAM Board met to consider a recommendation from the General Manager to place a hold on the Princeton Pump Station Capital Rehabilitation Project for an indefinite period of time. This was due to the current budget amendment impasse and would have a fiscal impact of approximately \$50,000 to pause the contractor mobilization for three months. The SAM Board chose not to approve the requested action.

The Princeton Pump Station Capital Replacement Project construction commenced under a contract authorized by SAM although adequate funding was not available to fulfill the entirety of the scope. This project was originally approved as part of the FY 2022-23 with a budget of \$1,263,181. The current estimate to complete the work is now estimated to be \$2,602,773, which requires an additional \$1,339,592. Of this total, the City's flow-based share (61.5%) is \$823,849.

Granada and Montara have chosen not to participate in establishing a renewed Stipulation. This issue became a source of contention with the adoption of the FY 2023-24 SAM operating budget.

Meanwhile, SAM's General Counsel has advised the parties the law is clear that the City is entitled to pay under protest, even absent a stipulation or court order. In addition, SAM staff has indicated that there are eminent occupational hazards associated with the existing Princeton Pump Station. In reliance on SAM counsel's statements and in consideration for the operational safety of SAM staff, the City Council may consider authorizing the requested budget amendment even in the absence of a stipulation of the parties. If the Council takes no action, staff will proceed pursuant to the Council's February 12, 2024, action.

ATTACHMENTS:

- 1) Resolution
- 2) SAM Staff Report – Princeton Pump Station Capital Project February 26, 2024
- 3) SAM Staff Report – Budget Amendment Request FY 2023/24 January 22, 2024