



AGENDA REPORT SUMMARY

Meeting Date: June 14th, 2022

Subject Approve Final Adjustments to FY 21/22 Budget appropriations

Prepared by: John Furtado, Finance Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Attachment 1 – Capital Projects List FY 22-26
2. Attachment 2 – Revenue, Expenses, and Fund Balances Other Funds
3. Attachment 3 – General Fund Summary, Revenues, Expenditures, and Transfers Out.

Initiated by:

Staff

Previous Council Consideration:

April 12, 2022

Fiscal Impact:

Budget revisions detail

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to approve The Final Adjustments to the FY 21/22 Budget as presented, or with recommended changes?
- Does the City Council wish to increase the budget for legal fees by \$1,000,000 from \$2,500,000 to \$3,500,000 to pay for expected legal fees that were incurred during the current Fiscal Year?
- Does the City Council wish to provide \$38,000 in funding, from Park in Lieu funds, to participate in a feasibility study for a new live theater located in downtown Los Altos?
- Does the City Council wish to adopt the recommendation of staff to complete reconciliation and corrections of the current fiscal year budget, including correctly applying CPI, appropriately charging Enterprise Funds for services received, and correctly reflecting fund balances?

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JE



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Summary/ Background:

On April 12, 2022, the City Council approved the 2021-2022 Midyear Operating Budget, and as of March 31, 2022, nine months of the 2021-23 budget cycle have been completed. Throughout the budget cycle, staff actively monitors actual revenues and expenditures and prepares a status update report to the Council at six-month intervals. These updates provide staff with opportunities to advise Council on major budget trends (revenue and expenditure) and propose changes where necessary to meet ongoing service demands or modifications related to economic or other factors. As we approach the close of the Fiscal year 21/22 staff have made further analysis on the revenue and expenses as well as past practices followed in the city which has necessitated this current, off sequence update to council for the Fiscal year 21/22. This report provides an update to the City Council on the General Fund Operating Budget's additional needs for the Fiscal Year 2021-22, and outlines proposed budget adjustments for the park in Lieu fund, enterprise, and the General Liability Fund.

Staff Recommendation:

- I. Approve the Final adjustments to the FY 21/22 Budget Appropriations as presented.
- II. Approve the increase in Legal Fees as defined in the report.
- III. In line with the direction received on April 12, 2022, City Council meeting, Staff recommends the City Council direct staff to:
 1. Amend the FY 21-22 Mid-Year budget by increasing expenditures by \$38,000 and budget the funds to come from Park in Lieu Funds, and
 2. Provide these funds to the New Theater Working Group as expressed in their funding request (attachment 1), and
 3. As part of the normal budget process, a notice for a public hearing had been done, the council will need to include the legally required findings for the use of Park in Lieu expenditures for developing new parks and recreational facilities.

Discussion/Analysis

At the April 12th, 2022, City Council meeting the City Council adopted changes to the midyear budget. Since the City Council meeting, the City has received several legal invoices for legal



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services rendered. To pay for known and expected costs for legal fees that were incurred during the current fiscal year, the legal fees budget should be increased by \$1,000,000.

During the Council meeting, the City Council directed staff to provide \$38,000 to the New Theater Working Group for participation in a feasibility study for a new theater downtown. The City Council further directed staff to provide these funds from the Park in Lieu funds.

Legal Fees

As part of the FY 21/22 Operating Budget, the City Council appropriated \$2,500,000 to the City Attorney line item. These dollars were to cover litigation fees. As of May 4, 2022, the City has paid or encumbered \$2,657,737 in legal fees which included the unbudgeted settlement paid for \$1.2 Million to 40 Main LLC. In addition, the City has received approximately \$270,000 in invoices for services. It should be noted that these fees are for services rendered to the City through February/March of 2022. It is expected that the City will incur additional expenditures for April through June.

Based on staff’s analysis of funds expended thus far which total approximately \$2,920,000, as well as estimated expenditures for the months of April, May, and June, the staff is estimating that an additional \$1 million needs to be appropriated to the City Attorney’s litigation line item.

These funds would need to be appropriated from the General Fund operating reserve, the table below projects the change to the operating reserve after the payment is incurred.

Operating Reserve Projected Balances FY 21/22		Reserve Balance	
Detail	\$ Millions	% Before	% After
Projected Operating Reserve FY 22	8,649,169		
Legal/ Litigation Fees Appropriation need	(1,000,000)		
Revised Reserve Balance	7,649,169		
Revised Expenditure Projection 2022	47,492,544	18.2%	16.1%

As seen on the table above the Projected operating reserve was increased to \$8,649,169 or 18.2% of expenses with the approval of the mid-year budget on April 12th, 2022. The current action of



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appropriating \$1 million towards additional legal fees brings down the Operating Reserve to \$7,6 million which represents 16.1% of expenses. The desired reserve level for the city is defined as 20%.

Park in Lieu Appropriation for \$ 38,000

- At the April 12 City Council meeting, the City Council authorized staff to make changes to the midyear budget as follows: Provide \$38,000 in funding to the New Theater Working Group to participate in a feasibility study for a new live theater located in downtown Los Altos.
- Prior to using Park in Lieu funds for developing new park and recreational facilities the City Council must make certain findings as outlined in State law, and these findings must be made at a noticed public hearing.
- If approved, Staff will include this change to the Final FY 22 budget, as well as the required findings, at a noticed public hearing as part of the regular budget adoption process.
- If approved, Per the MOU, the City Manager will execute an agreement with the Los Altos Stage Company to provide funds for the feasibility study of a downtown theater.”

WHEREAS, The City Council finds that the Park in Lieu fees may be used for the purpose of developing new or rehabilitating existing park or recreational facilities such as the commissioning of a feasibility study of a downtown theater in certain designated locations within the City because: (1) the neighborhood in which the fees are to be expended has fewer than three (3) acres of park area per 1,000 members of the City; (2) it reasonably foreseeable that City residents will use the proposed park and recreational facilities where the fees are being used; (3) the use of the fees is consistent with the following: (a) the City’s adopted General Plan, Open Space, Conservation & Community Facilities Element, Policy 9.2: Work with private developers to offer cultural activities within the community, such as a community theater and cinema; (b) the City’s adopted Downtown Vision Plan(DTVP), Section 3, The Community’s Vision: Utilizing existing parking plazas in a manner that enhances the village character while also meeting the working, living, entertainment, and hospitality desire of the community; (c) DTVP, Section 4, Land Use: San Antonino Road District: Envisioned attributes include: Performing arts theater, a central entertainment venue for the community; (d) DTVP, Section 4, Land Use: Opportunity Sites: Entertainment: A live thereafter is identified on Parking Plaza 2. This use would be both a daytime and evening draw from the community and elsewhere that would support complimentary businesses, such as pre-event dining; and (e) DTVP, Section 9,



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Implementation: Phase 3: Long-Term: Construct live theater (Parking Plaza 2); and (4) the fees are used in compliance Los Altos Municipal Code Section 13.24.010.

FY 21/22 Final Reconciliation and Corrections.

Staff conducted a detailed analysis of trends and budget to actuals across all funds for the past 3 years, during the review process staff discovered several errors in the budget to actuals for some funds as listed below.

Under-charged expenses to Enterprise funds.

Fund/ Program Name	Actuals FY 21	Budget FY 21	Variance
Sewer System Administration	74,760	355,168	(280,408)
Sewer System Maintenance	766,352	865,528	(99,176)
Solid Waste	16,792	181,331	(164,539)
Grand Total	857,904	1,402,027	(544,123)

As seen on the table above the Sewer and Solid waste Funds have been undercharged in the FY 20/21 year by 544,123. These funds have personnel allocations for services provided to the Enterprise activities such as Maintenance workers and Environmental Sustainability Coordinator to name a few. Staff reviewed the personnel charges and noted that while several personnel who were budgeted for these funds had either retired or left the city the Maintenance department has allocated other Maintenance workers to perform the services required, it was however noticed that these workers continued to charge their time to the General Fund instead of the enterprise funds. Based on the analysis staff is recommending that \$380,584 & \$ 164,539 be charged to the Sewer and solid waste fund respectively to recoup the charges borne by the General Fund.



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Lack of factoring in Inflation, CPI, and correct charges.

Bay Area CPI changes FY 2012 - 2021

Year	Jun CPI	% Change	Cumulative Change
2022*	328.1	1.6%	27.5%
2021	309.5	3.2%	25.9%
2020	300.0	1.6%	22.7%
2019	295.3	3.2%	21.1%
2018	286.1	3.9%	17.9%
2017	275.3	3.5%	14.0%
2016	266.0	2.7%	10.5%
2015	259.1	2.3%	7.8%
2014	253.3	3.0%	5.6%
2013	245.9	2.5%	2.5%
2012	239.8		0.0%
*FY 22 is projected based on trends			

The Administrative fees for the sewer and solid waste funds were set in FY 2012 and have never been changed since that time, Staff recommends that the bay area CPI be used to update these charges for the years FY 21 through FY 23. Staff is currently looking into hiring a consultant to conduct a complete cost allocation study for the city. This study will identify the true costs of administrative services to not only the enterprise funds but also to all other city departments and services, staff plans to bring forward the FY 24-25 Budget with those cost allocations factored in. Staff is currently recommending that the CPI factor be applied to the administrative fees charged for FY 20/21 and FY 22 years. The administrative fee to the sewer fund was set at \$827,000, after adjusting for CPI of 25.9% in FY 21 and 27.5% in FY 22 the increases will be \$214,193 & \$227,045 respectively.

Similarly, for the solid waste fund the charges were set at 91,500 after adjusting for CPI of 25.9% in FY 21 and 27.5% in FY 22 the increases will be \$23,699 & \$25,120 respectively. Furthermore, staff also found that while the charges for the solid waste fund were set at 91,500 only \$55,000 was being charged, therefore an additional 36,500 for each year is proposed to be charged.



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It must be noted that these cost increases were projected in the Prop 218 rate studies and the Enterprise funds do have the fund balance to meet these added charges.

Operating Reserve Projected Balances FY 21/22- Final			Reserve Balance	
Detail	\$ Millions		% Before	% After
Sewer Personnel Costs FY 21 recovered	380,584			
Solid Waste Personnel Costs FY 21 recovered	164,539			
Administrative Fees CPI Adjustment- Sewer FY 21 & 22	441,238			
Administrative Fees CPI Adjustment- Solid Waste FY 21 & 22	48,819			
Administrative CPI Adjustment- Solid Waste	73,000	Undercharged*		
Total FY 22 Adjustments - Contribute to Operating Reserve	1,108,180			
Revised Operating Reserve Balance	8,757,349			
Expenditure Projection 2022	47,492,544			18.4%
Amount required to reach 20%	760,364			

General Liability Charges

Staff on review noticed that the Sewer and solid waste were charged Liability insurance right up to FY 2019 however since then it was dropped off while the General Liability costs have increased exponentially over the past few years. The Enterprise funds-related claims have been consistently around 20% of claims paid. The current year's General liability costs exceed \$1 million. Therefore, we recommend restoring the Sewer and Solid waste contributions to the General Liability for \$150,000 and \$ 50,000 for each of the years FY 21 & 22, these funds will be transferred to the General Liability Fund.

Budget appropriations required for the Sewer and solid waste funds based on the proposed changes are listed below

For the Sewer Fund, the total of all the corrections required for the FY 21 & 22 sum up to \$1,121,822, however additional budget appropriations are only required to the tune of \$326,881, this is because when the original budget was adopted \$794,941 of the Solid waste budget was also appropriated to the Sewer fund in error.

For the Solid Waste Fund, the total of all the corrections required for the FY 21 & 22 sum up to \$386,881, and therefore a budget appropriation of \$386,881 is requested.



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Conclusion

Staff continues to review the financial records and budget documents for the Fiscal Years 22 & 23 and will be bringing forth a revised budget to the City council that will also reflect several of these proposed changes. At this time staff recommends that the City Council approve the final cleanup changes requested to the FY 22 budget as presented in this report.