

**CITY OF SAN JOSE**  
**2016-2017 PROPOSED OPERATING BUDGET**

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**SUMMARY OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OBLIGATIONS AND RISKS TO THE CITY**

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Effective February 1, 2012, all redevelopment agencies in the State of California were dissolved pursuant to AB X1 26. As part of the legislation, Successor Agencies are charged with winding down operations and overseeing the dissolution process in an orderly manner. On January 24, 2012, the City Council adopted Resolution No. 76128 documenting its decision to serve as the Successor Agency to the former Redevelopment Agency (“Successor Agency”), a separate public entity. Over the years, the City of San José made a number of loans to the former Redevelopment Agency for specified eligible redevelopment purposes, including loans made to pay debt service and other long-standing obligations. With narrow exceptions, loans between cities and their redevelopment agencies were invalidated by AB X1 26. However, with the approval of AB 1484 in June 2012, loans such as those outlined below may be deemed an enforceable obligation contingent upon 1) the issuance of a Notice of Completion finding by the State Department of Finance (DOF), and 2) a finding by the Oversight Board of the Successor Agency that these loans were for legitimate redevelopment purposes. The passage of California Senate Bill 107 on September 22, 2015 narrowed the scope of loans eligible to be reinstated. SB 107 does not allow the reinstatement of the outstanding loan from the Subdivision Park Trust Fund to the Successor Agency due to the reimbursable nature of the loan, and, as a result, action will be taken to write off the outstanding loan in the Subdivision Park Trust Fund. If a loan is reinstated, the loan terms need to be revised to conform to statutory criteria for interest calculations and repayment priorities. Loans between the Low and Moderate Income Housing Fund and the former Redevelopment Agency, including the Supplemental Educational Revenue Augmentation Fund (SERAF) loan, are enforceable obligations of the Successor Agency, which must be repaid prior to any other reinstated loans between the City and the Successor Agency. It should be noted that the enforceability of a portion of the SERAF loan repayment by the Successor Agency has been denied by the DOF due to the initial funding mechanism for the loan. The Administration continues to work through these issues. The other City funds portion of the SERAF loan was due and payable by the Successor Agency beginning in June 2015 and funds were budgeted in 2014-2015 accordingly to ensure payoff (as described below).

Outlined below are the outstanding loans from the City to the former Redevelopment Agency, which remained as of February 1, 2012, upon the dissolution of the former Redevelopment Agency. Currently, they remain unenforceable obligations except where otherwise noted. Should repayment from the Successor Agency not be authorized under the Dissolution Law, the impacted funds would not be repaid and a write-off of the outstanding loan would be necessary.

The 2014-2015 Adopted Budget provided funding for the City’s General Fund to pay off the \$10.0 million in loans from other City funds (Interfund Loans) to the Agency that were used to pay a portion of the former Redevelopment Agency’s SERAF obligation. This action shifted the funding source of this portion (\$10.0 million) of the SERAF loan between the City and the former Redevelopment Agency from the Sewage Treatment Plant Connection Fee Fund (\$5.0 million), Subdivision Park Trust Fund (\$3.0 million), and Ice Centre Revenue Fund (\$2.0 million) to the City’s General Fund. The Administration is planning to seek Successor Agency Oversight Board approval to reinstate this \$10.0 million portion of the SERAF loan between the City and the Successor Agency as a valid and binding obligation of the Successor Agency so that the General Fund can eventually be repaid.

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Lending Fund	Outstanding Obligation (March 31, 2016)	Loan Description and Terms	Funding Source Backup Obligation		
			General Fund	Other Funds	Total All Funds
<b>Supplemental Educational Revenue Augmentation Fund (SERAF) Loan</b>					
Low and Moderate Income Housing Fund (443)	\$66,066,990	The Low and Moderate Income Housing Fund and other City funds loaned funding to the former San José Redevelopment Agency, (Agency) in order for the former Agency to make the State mandated payments of \$62.0 million and \$13.0 million to the SERAF on May 10, 2010 and May 10, 2011, respectively. Per the Loan Agreement by and among the City, the City of San José Financing Authority, and the former Agency dated May 6, 2010, the Successor Agency must repay the SERAF Loan as follows:  i) \$40.0 million principal plus associated costs due to the Low and Moderate Income Housing Fund by June 30, 2015.* ii) \$12.0 million principal plus associated costs due to the Low and Moderate Income Housing Fund by June 30, 2015 (issuance of commercial paper).** iii) \$13.0 million principal plus associated costs due to the Low and Moderate Income Housing Fund by June 30, 2016.*	\$0	\$66,066,990	\$66,066,990
General Fund	\$10,202,966	In 2014-2015, the General Fund paid off the \$10.0 million principal plus interest due to the Ice Centre Revenue Fund (\$2.0 million), Sewage Treatment Plant Connection Fee Fund (\$5.0 million), and Subdivision Park Trust Fund (\$3.0 million), shifting the funding source of this portion (\$10.0 million) of the SERAF loan between the City and the former Agency.	\$10,202,966	\$0	\$10,202,966
<b>Subtotal</b>	<b>\$76,269,956</b>		<b>\$10,202,966</b>	<b>\$66,066,990</b>	<b>\$76,269,956</b>

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			General Fund	Other Funds	Total All Funds
<b>Parking Fund Loans</b>					
General Purpose Parking Fund (533)	\$6,800,000	<p>In April 2005, the City and former Agency entered into a Loan Agreement whereby the City loaned the former Agency \$6.8 million from the City's Parking Fund, representing approximately two years of debt service the former Agency would be paying on the 4<sup>th</sup> and San Fernando Street Parking Garage. The loan was requested by the former Agency in response to reductions in its tax increment revenue to "ensure the continuity of Agency projects and essential redevelopment programs." The loan was originally scheduled for repayment in January 2009. In 2007, the loan was amended to defer repayment of the \$6.8 million loan until July 31, 2012 and eliminating the accrual of interest after June 30, 2007 if the loan was repaid by July 31, 2012.</p> <p>In February 2010, the loan was amended again. The principal payment date was extended to be due on or before June 30, 2015. Payment was not made by this date, interest on the \$6.8 million would be waived. Payment was not made by that date, therefore, interest is due on the \$6.8 million. Under the Dissolution Law, interest accrues at the City's LAIF rate from June 30, 2007. Accrued interest is not included in the amount shown in the table pending the application of interest in the City's accounting system.</p>	\$0	\$6,800,000	\$6,800,000

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Lending Fund	Outstanding Obligation (March 31, 2016)	Loan Description and Terms	Funding Source Backup Obligation		
			General Fund	Other Funds	Total All Funds
Parking Capital Development Fund (556)	\$6,728,294	In February 2010, the City Council approved an additional loan to the former Agency for debt service payments on the 4 <sup>th</sup> and San Fernando Street Parking Garage: \$1.7 million for the second debt service payment due in 2009-2010, \$3.4 million in 2010-2011, and \$1.7 million in 2011-2012. An agreement between the City and the Redevelopment Agency calls for a full repayment of this \$6.7 million loan to the Parking Capital Development Fund in 2015-2016. The loaned amounts to the former Agency for these purposes do not accrue interest.	\$0	\$6,728,294	\$6,728,294
<b>Subtotal</b>	<b>\$13,528,294</b>		<b>\$0</b>	<b>\$13,528,294</b>	<b>\$13,528,294</b>
<b>Other Obligations</b>					
Subdivision Park Trust Fund (375)	\$8,111,800	The former Agency owes the City deferred payments under the Parkland In-Lieu Fee for Low-Income Residential Units Voucher Program. In February 2010, the City Council/Agency Board approved scheduling the payment by the Agency for 2015-2016. Per California Senate Bill 107, which became effective on September 22, 2015, this loan is no longer eligible to be reinstated, and the outstanding obligation will be updated when the amount is written off in the City's accounting system.	\$0	\$8,111,800	\$8,111,800
<b>Total</b>	<b>\$97,910,050</b>		<b>\$10,202,966</b>	<b>\$87,707,084</b>	<b>\$97,910,050</b>

\* It should be noted that a finding by the State Department of Finance has denied the enforceability of this obligation in both the Housing Due Diligence Report and the Housing Asset Transfer Report because of the initial funding mechanism of the loan; the Administration continues to work through this issue.

\*\* The issuance of commercial paper (approximately \$12.0 million) has been identified as an enforceable obligation and is included on the Recognized Obligation Payment Schedule. As such, the outstanding amounts are being paid.

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**Successor Agency Obligations with City Impacts**

The City is not liable for the debts of the Successor Agency, but there may be policy reasons for the City Council to continue to make payments of certain Successor Agency obligations. The City is only contractually obligated to make payments for the following Successor Agency enforceable obligations: 4<sup>th</sup> and San Fernando Parking Garage Debt Service, Convention Center Debt Service, Federal Department of Housing and Urban Development (HUD) Section 108 loan payments, Educational Revenue Augmentation Fund (ERAF) Loan Payments, and Interfund Loans made in connection with the SERAF Loan (as discussed above).

As part of determining the current financial state of the Successor Agency, the Administration continues to project future property tax increment revenues and analyze the current level of enforceable obligations. Based on that analysis, it is projected that there would not be sufficient property tax increment revenue to pay all of the enforceable obligations in the foreseeable future. This analysis assumed the continued withholding of the PERS and Water District levies due to the continued uncertainty surrounding litigation between the Successor Agency and the County of Santa Clara (County) in regards to these monies and the priority of enforceable obligations of the Successor Agency. Due to the Successor Agency's insufficient funds situation, it is assumed that City funds would be used to ensure adequate funding for Successor Agency administrative expenses in 2016-2017. Based on a recent review of financial cash flow of funds, included in this 2016-2017 Proposed Operating Budget is an estimated direct subsidy level of \$975,000 in the General Fund.

Should the Successor Agency be unable to make the loan repayment for the HUD Section 108 loan program to the Federal Department of Housing and Urban Development, Community Development Block Grant (CDBG) funds may be used to cover this payment, which is again the case for 2016-2017. Per the bond covenants for the 4<sup>th</sup> and San Fernando Parking Garage, revenues of both the Successor Agency and the General Purpose Parking Fund are pledged to make the loan repayment for the annual debt service of approximately \$3.4 million related to this facility. If the Successor Agency has insufficient revenues to make the payment, the General Purpose Parking Fund is required to cover the payment. It is assumed in 2016-2017 that no payment will need to be made by the General Purpose Parking Fund.

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**Reimbursement Agreement between the Successor Agency and the City of San José**

Beginning in 2012-2013, the City has provided financial support to the Successor Agency as a result of insufficient property tax increment revenues to pay all enforceable obligations. Through the 2012-2013 Reimbursement Agreement and the subsequent Amended and Reinstated Long-Term Reimbursement Agreement (together the “Reimbursement Agreement”) between the City and the Successor Agency, “City Advance Amounts,” advanced during 2012-2013 through 2014-2015 as outlined below, were eligible for either inter-year or intra-year reimbursements, the outstanding portion of which totals \$15.2 million for the three years. As a result of the timing of the distribution of property tax increment revenues, the City may be required to provide cash flow loans as well as structural deficit loans in the event revenues are insufficient to cover all enforceable obligations. Below are the obligations outlined in the Reimbursement Agreement:

- **City Supported Agency Obligations:** City of San José Financing Authority Revenue Bonds Series 2001A (4<sup>th</sup> and San Fernando Parking Garage) Debt Service; City of San José Financing Authority Lease Revenue Bonds Series 2001F (Convention Center) Debt Service; and ERAF payments.
- **Administrative Costs** pursuant to an administrative cost budget approved by the Oversight Board, including employee costs (for administrative, professional, technical, financial, and legal staffing), third party contractual services, office equipment and supplies, (including staffing from the City Manager’s Office, City Clerk’s Office, City Attorney’s Office, Finance Department, and the Housing Department) and other operational costs related to the general winding down of the former Redevelopment Agency.

On September 22, 2015, California Senate Bill 107 was signed into law. SB 107 amended the redevelopment dissolution law, which now disallows the Successor Agency’s ability to reimburse the City for cash advances on an intra-year basis. As such, the City did receive reimbursement for the cash advance made for the City Supported Obligations of \$9.8 million for the Convention Center and \$1.6 million for the 4<sup>th</sup> and San Fernando Parking Garage debt payments. Along with the outstanding portion of advances made from 2011-2012 through 2014-2015, the loans made in 2015-2016 will not be repaid until there is sufficient property tax revenue to pay all other enforceable obligations since obligations to the City are subordinate to all other enforceable obligations. However, under SB 107, the City would be entitled to interest on the loan at the Local Agency Investment Fund (LAIF) rate. Furthermore, after all SERAF repayments are made to the Low and Moderate Income Housing Fund (LMIHF), the Dissolution law provides that twenty percent (20%) of any additional loan repayments to the City shall be transferred to the LMIHF.

At the end of 2015-2016, the total enforceable obligation to be repaid by the Successor Agency is estimated to be \$29.6 million for the accrued outstanding portion of prior year subsidies, but does not include actual 2015-2016 Successor Agency direct administrative or City support costs that will be finalized as of June 30, 2016. Based on continued, moderate tax increment growth, repayment is expected in 10 to 15 years. Using the current level of annual distributions from the RPTIF and the

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continued ability to reserve RPTTF each year for debt service, it is anticipated the Successor Agency will be able to pay all of its debt service going forward without an advance from the City. However, this may change if property tax revenues decrease in the future.

It should be noted that the HUD Section 108 loan is not included in the Reimbursement Agreement, approximately \$2.0 million annually paid by the Community Development Block Grant (CDBG) Fund, per a DOF determination. DOF determined that since CDBG funds are an allowable source of funds for the HUD Section 108 loan repayments and the CDBG funds are security for the payment of the HUD Section 108 loans, the City may not be reimbursed for funds advanced for the purpose of repaying the HUD Section 108 loans. As discussed earlier, in this 2016-2017 Proposed Budget and consistent with past practice beginning in 2012-2013, CDBG funds are once again programmed to complete a maximum of \$2.2 million in loan repayment without an assumption for reimbursement from the Successor Agency.

City Financial Support Description	2013-2014 ACTUALS	2014-2015 ACTUALS	2015-2016 ESTIMATE
<i>General Fund</i>			
- Convention Center Debt Service	\$9,834,157	\$12,627,600	\$9,800,000
- Educational Revenue Augmentation Fund (ERAF) Loan	1,615,000	0	0
- General Fund Subsidy for direct Successor Agency Administrative Costs	1,355,607	931,690	1,101,109
- City Support Services: City Attorney's Office, City Clerk's Office, City Manager's Office, and Finance Department Staffing (and associated overhead costs)	1,506,789	1,267,224	1,576,644
- Unsecured Enforceable Obligations	310,236	140,710	250,000
- City Hall Rent - 13th/14th floor offices	100,000	100,000	24,452
<i>General Purpose Parking Fund</i>			
- 4th and San Fernando Parking Garage Debt Service	3,362,653	1,681,713	1,681,576
<i>Low and Moderate Income Housing Asset Fund</i>			
- City Support Services: Housing Department support related to Successor Agency Enforceable Obligations (and associated overhead costs)	51,380	5,317	5,704
<b>Total City Financial Support</b>	<b>\$18,135,822</b>	<b>\$16,754,254</b>	<b>\$14,439,485</b>
<i>SARA Reimbursement</i>	<i>(12,902,222)</i>	<i>(12,759,251)</i>	
<b>Outstanding City Subsidy</b>	<b>5,233,600</b>	<b>3,995,003</b>	<b>14,439,485</b>

**City Advance Amount**

As a result of the continued projected insufficient property tax increment revenues to fund all of the Successor Agency's enforceable obligations, the City has assumed payment of administrative costs until sufficient property tax increment revenues are received. The net "City Advance Amounts" as outlined in this 2016-2017 Proposed Operating Budget and City Support Services, as approved by the Successor Agency Oversight Board for the ROPS 2016-2017, are detailed below. It should be

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noted that this may be modified during the year through a City Council approved action. The “City Advance Amounts” below excludes CDBG funds, which are planned to make a maximum of \$2.2 million in HUD Section 108 loan payment in 2016-2017 due to the DOF ruling as discussed earlier in this section.

**2016-2017 Proposed Budget City Advance Amount  
City Support for the Successor Agency**

Description	General Fund	All Funds
<i>General Fund Subsidy for direct Successor Agency Administrative Costs</i>	\$975,000	\$975,000
<i>City Support Services: City Attorney's Office, City Clerk's Office, City Manager's Office, Finance, and Housing Department staffing (and associated overhead costs)</i>	1,103,101	1,103,101
City Hall Rent - 13th floor offices	16,112	16,112
<b>Total City Support</b>	<b>\$2,094,213</b>	<b>\$2,094,213</b>

In 2016-2017, insufficient property tax increment (RPT\*TF) continues to be projected such that the Successor Agency will not be able to pay all of its enforceable obligations, therefore it is anticipated that the City will assist in paying Successor Agency administrative costs requiring a General Fund subsidy of \$975,000. This figure includes a \$175,000 reduction in the budgeted administrative costs of the Successor Agency; additional details can be found in the *City-Wide Expenses* section of this document.

As of June 30<sup>th</sup> of each fiscal year, prior to the adoption of California Senate Bill 107 as discussed in the section entitled “Reimbursement Agreement between the Successor Agency and the City of San José”, the Successor Agency was obligated to reimburse the City up to the eligible intra-year advance amount for that year consistent with the procedures and priority of obligations outlined in the Reimbursement Agreement between the City and the Successor Agency. Any portion that remained outstanding each year has accrued as an Enforceable Obligation under the Dissolution Law and will be repaid as set forth in Health and Safety Code Section 34182. Due to the passage of California Senate Bill 107, this is no longer the case, and any required intra-year advance amounts to the Successor Agency will now be accrued as an Enforceable Obligation to be repaid in 10 to 15 years. It should be noted that the City Attorney’s Office and the Administration continue to review all of the Successor Agency obligations to reduce the impact on the General Fund, the CDBG Fund, and the General Purpose Parking Fund.