



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julia H. Cooper
John Aitken

SUBJECT: SEE BELOW

DATE: February 20, 2021

Approved D. DSYL

Date
02/26/21

**SUBJECT: APPROVAL OF THE SALE AND ISSUANCE OF BONDS AND RELATED
BOND DOCUMENTS FOR THE CITY OF SAN JOSE AIRPORT
REVENUE REFUNDING BONDS, SERIES 2021**

RECOMMENDATION

- a. Hold a TEFRA (“Tax Equity and Fiscal Responsibility Act”) hearing with respect to the proposed issuance by the City of one or more series of airport revenue refunding qualified private activity bonds in an aggregate principal amount not to exceed \$117 million pursuant to a plan of finance in order to provide proceeds to refinance all or a portion of the costs of acquisition, construction, equipping, financing, reconstruction, development, and modification of airport facilities that are included in or are consistent with the Airport Master Plan.
- b. Adopt the Twenty-First Supplemental Resolution (the “Resolution”) of the City Council:
 1. Authorizing the issuance of City of San José Airport Revenue Refunding Bonds, Series 2021 in three series, including the City of San José Airport Revenue Refunding Bonds, Series 2021A (AMT) (the “Series 2021A Bonds”), the City of San José Airport Revenue Refunding Bonds, Series 2021B (Non-AMT) (the “Series 2021B Bonds”), and the City of San José Airport Revenue Refunding Bonds, 2021C (Taxable) (the “Series 2021C Bonds” and, together with the Series 2021A Bonds and the Series 2021B Bonds, the “Series 2021 Bonds”) in an aggregate principal amount of not to exceed \$521 million to be sold through negotiated sale;
 2. Approving substantially final forms of Twelfth Supplemental Trust Agreement, Preliminary Official Statement, Final Official Statement, Bond Purchase Agreement, and Continuing Disclosure Certificate; authorizing the distribution of one or more Preliminary Official Statements and Final Official Statements; and
 3. Authorizing the City’s Authorized Representative to take other necessary actions in connection therewith.

OUTCOME

Approval of the recommendation will result in the issuance of three series of Airport Revenue Refunding Bonds; the Series 2021A Bonds, the Series 2021B Bonds and the Series 2021C Bonds, to refund certain outstanding City of San José Airport Revenue Bonds to restructure the debt service profile and realize debt service savings, consistent with objectives of the City's Debt Management Policy and the requirements stipulated in the Airport's Master Trust Agreement.

EXECUTIVE SUMMARY

This staff report recommends approving the issuance of the Series 2021 Bonds in an aggregate principal amount of not to exceed \$521 million, in three separate series (the Series 2021A Bonds, the Series 2021B Bonds and the Series 2021C Bonds), to refund (1) all or a portion of the City's outstanding Airport Revenue Bonds, Series 2011A-1 (AMT¹) (the "Series 2011A-1 Bonds") with the proceeds of the Series 2021A Bonds; (2) all or a portion of the City's outstanding Airport Revenue Bonds, Series 2011A-2 (Non-AMT) (the "Series 2011A-2 Bonds") with the proceeds of the Series 2021B Bonds; and (3) all or a portion of the City's outstanding Airport Revenue Bonds, Series 2011B (Taxable) (the "Series 2011B Bonds"); a portion of the City's outstanding Airport Revenue Refunding Bonds, Series 2014A (the "Series 2014A Bonds"); a portion of the City's outstanding Airport Revenue Refunding Bonds, Series 2017A (the "Series 2017A Bonds"); and a portion of the City's outstanding Airport Revenue Refunding Bonds, Series 2017B (the Series 2017B Bonds" and, together with the Series 2011A-1 Bonds, the Series 2011A-2 Bonds, the Series 2011B Bonds, the Series 2014A Bonds, and the Series 2017A Bonds, the "Refunded Bonds") all with the proceeds of the Series 2021C Bonds. Depending on actual bond market conditions at the time the Bonds are sold, the Series 2021 Bonds are anticipated to generate approximately \$135.5 million in net present value savings or 28.6% as a percent of the refunded principal, with significant near-term debt service relief to help facilitate the Airport's COVID-19 recovery process.

BACKGROUND

Projects Completed During Phase I

The Refunded Bonds funded the Airport's capital development program formulated through a master planning process originally approved by Council in 1997. Construction of the Phase 1 projects was substantially completed in fiscal year 2010-11. The Phase 1 projects included nine new gates, design and construction of the new Terminal B; improvements to the existing

¹ AMT (Alternative Minimum Tax) - an income tax based on separate and alternative method of calculating taxable income and separate and alternative schedule of rates. With respect to bonds, the interest on certain types of qualified tax-exempt private activity bonds is included in income for purposes of the individual and corporate alternative minimum tax.

Terminal A, the phased demolition of Terminal C; design and construction of the Consolidated Rental Car Facility (the “ConRAC”); realignment and improvement of existing terminal roadways; parking improvements; airfield projects, including noise mitigation and the reconstruction of Taxiway Y; and other improvements, including portions of the Phase I projects that were deferred, including construction of a new belly freight facility and an Aircraft Rescue and Firefighting Facility (“ARFF”)².

Five Year Capital Improvement Program

In June 2020, the City adopted a five-year, 2021-2025 Airport Capital Improvement Program (the “CIP”) primarily comprised of projects that are necessary for the safe and efficient operation of the Airport. The CIP is updated annually and reflects the Airport Department’s prioritization of projects that address a variety of requirements and needs, including public safety, regulatory requirements, accommodation of air carrier and general aviation operations, and the convenience of the travelling public and that are balanced against the maintenance of competitive rates and charges imposed on the airlines. The estimated costs for the projects included in the CIP total approximately \$310.1 million and approximately 42% of the estimated CIP costs are contingent upon the receipt of grant funding and the future availability of other Airport funds. While the refunding provides debt service savings and operating relief to the Airport, no new bonds are being issued to fund the CIP.

There are likely to be a number of changes to the CIP due to the effects of the COVID-19 pandemic. The Airport has suspended or reduced the scope of certain capital projects that could be scaled back or delayed to future periods based on the operational needs of the Airport. The Airport may decide to resume these projects at a future date.

The Refunded Bonds

The Series 2021A Bonds are being issued (i) to refund all or a portion of the outstanding Series 2011A-1 Bonds, and (ii) to pay costs of issuing the Series 2021A Bonds. The Series 2021B Bonds are being issued (i) to refund all or a portion of the outstanding Series 2011A-2 Bonds, and (ii) to pay costs of issuing the Series 2021B Bonds. The Series 2021C Bonds are being issued (i) to refund all or a portion of the outstanding Series 2011B Bonds, a portion of the outstanding Series 2014A Bonds, a portion of the outstanding Series 2017A Bonds, and a portion of the outstanding Series 2017B Bonds, (ii) to fund a deposit into the 2021C Account of the Bond Reserve Fund, and (iii) to pay costs of issuing the Series 2021C Bonds.

The Refunded Bonds were issued pursuant to the Master Trust Agreement, dated July 1, 2001, as amended and supplemented to date (together with all amendments and supplements thereto, the “Trust Agreement”).

² The ARFF is under construction, funded with AIP grants and local share funding (cash) and no Airport bond proceeds have been used for this project. The belly freight facility remains deferred.

Series 2011A-1 and Series 2011 A-2 Bonds: On July 28, 2011, the City issued Series 2011A-1 Bonds in the amount of \$150,405,000 and its Series 2011A-2 Bonds in the amount of \$86,380,000. Proceeds of the Series 2011A-1 and Series 2011A-2 Bonds were used to: redeem \$129,578,000 of subordinated commercial paper notes; refund all of the City's Airport Revenue Refunding Bonds, Series 1998A (\$6,540,000); refund all of the City's Airport Revenue Bonds, Series 2001A (\$85,625,000); fund a debt service reserve fund, and to pay the costs related to issuing the Bonds. As of March 2, 2021, there is \$114,865,000 of Series 2011A-1 Bonds outstanding and \$66,115,000 of Series 2011A-2 Bonds outstanding.

Series 2011B Bonds: On December 14, 2011, the City issued \$271,820,000 of its Series 2011B Bonds to refund \$224,672,000 aggregate principal amount of Subordinated Commercial Paper Notes Series C originally issued to finance and/or refinance the costs of designing and constructing certain improvements to the Airport, including, without limitation, the completion of the construction of the Consolidated Rental Car Facility (the "ConRAC"). Proceeds of the Series 2011B Bonds were also used to pay a portion of accrued interest (through March 1, 2014), to make a cash deposit to the 2011B Bond Reserve Fund, to fund an increase of the Rolling Coverage Amount (defined below), and to pay the costs of issuing the Series 2011B. As of March 2, 2021, there is \$252,895,000 of Series 2011B Bonds outstanding. The Series 2011B Bonds as well as the portion of the Series 2021C Bonds allocable to the refunding of the Series 2011B Bonds are payable from customer facility charge revenues ("CFC Revenues") that are pledged as Other Available Revenue under the terms of the Trust Agreement.

Series 2014A Bonds: On October 7, 2014, the City issued \$57,350,000 of its Series 2014A Bonds. The Series 2014A Bonds were issued (i) to refund all of the outstanding City of San José Airport Revenue Bonds, Series 2004C, in the amount of \$69,730,000 and (ii) to pay costs of issuing the Series 2014A Bonds. As of March 2, 2021, there is \$34,480,000 of Series 2014A Bonds outstanding.

Series 2017A and Series 2017B Bonds: On April 11, 2017, City issued \$624,270,000 of Airport Revenue Refunding Bonds, consisting of the Series 2017A Bonds, in the amount of \$473,595,000, and the Series 2017B Bonds in the amount of \$150,675,000. Proceeds of the Series 2017A Bonds were issued to (1) refund \$513,815,000 of the City's Airport Revenue Bonds, Series 2007A (AMT), (ii) make a deposit into a debt service reserve fund, and (iii) to pay costs of issuing the Series 2017A Bonds. Proceeds of the Series 2017B Bonds were issued to (1) redeem \$169,690,000 of the City's Airport Revenue Bonds, Series 2007B Bonds (Non-AMT), and (2) to pay costs of issuing the Series 2017B Bonds. As of March 2, 2021, there is \$423,200,000 of Series 2017A Bonds outstanding and \$134,635,000 of Series 2017B Bonds outstanding.

ANALYSIS

Plan of Finance

The Airport currently has approximately \$1.1 billion of bonds outstanding. The proposed financing strategy would refund all or a portion of the outstanding Series 2011A-1 Bonds and Series 2011A-2 Bonds on a tax-exempt basis, and refund all or a portion of the outstanding Series 2011B Bonds on a taxable basis. The City will also use taxable bond proceeds to advance refund and re-amortize selected maturities of the outstanding Series 2014A Bonds, Series 2017A Bonds and Series 2017B Bonds. Below is a description of the Series 2021 Bonds, a summary of the estimated sources and uses of funds, and a discussion of the additional bonds test that is a prerequisite to the issuance of the Series 2021 Bonds.

Description of the Series 2021 Bonds

The Series 2021 Bonds are anticipated to be issued in three series. The Series 2021A Bonds (AMT) are being issued (i) to refund all or a portion of the outstanding Series 2011A-1 Bonds and (ii) to pay costs of issuing the Series 2021A Bonds.

The Series 2021B Bonds (non-AMT) are being issued (i) to refund all or a portion of the outstanding Series 2011A-2 Bonds, and (ii) to pay costs of issuing the Series 2021B Bonds.

The Series 2021C Bonds (taxable) are being issued (i) to refund all or a portion of the outstanding Series 2011B Bonds, a portion of the outstanding Series 2014A Bonds, a portion of the outstanding Series 2017A Bonds, and a portion of the outstanding Series 2017B Bonds, (ii) to fund a deposit into the 2021C Account of the Bond Reserve Fund, and (iii) to pay costs of issuing the Series 2021C Bonds.

The issuance of the Series 2021 Bonds is expected to result in a partial release of funds from the General Account of the Bond Reserve Fund and a release of all the funds from the 2011B Account of the Bond Reserve Fund. The Series 2021C Bonds will fund a deposit to the 2021C Account of the Bond Reserve Fund, as noted above, but amounts released from the 2011B Account of the Bonds Reserve Fund will help to offset the new reserve requirement.

The Airport is restructuring debt service to take advantage of prevailing low interest rates to reduce debt service costs and especially to provide for debt service cost reductions during the COVID-19 pandemic and a potential recovery period following the anticipated end of the COVID-19 pandemic. As a part of the restructuring, the Airport plans to apply a portion of the proceeds of the Series 2021C Bonds to refund the outstanding March 1, 2022 and March 1, 2023 maturities of each of the Series 2014A Bonds, Series 2017A Bonds, and Series 2017B Bonds. The outstanding March 1, 2022 and March 1, 2023 maturities of the Series 2014A Bonds being refunded with proceeds of the Series 2021C Bonds will be defeased on the date of issuance of the Series 2021C Bonds. The outstanding March 1, 2022 and March

1, 2023 maturities of each of the Series 2017A Bonds and Series 2017B Bonds being refunded with proceeds of the Series 2021C Bonds will be defeased on the date of issuance of the Series 2021C Bonds. The Series 2021C Bonds being issued to achieve the restructuring are expected to be structured with principal amortizing from 2035 to 2041 with level annual debt payments in those years.

The moneys required to refund the Refunded Bonds will be derived from the net proceeds of the Series 2021 Bonds and other available funds. The Refunded Bonds will either be redeemed on the delivery date of the Series 2021 Bonds, or defeased until their respective maturity dates.

The Series 2021 Bonds will be issued in not-to-exceed aggregate principal amount of \$521 million. Federal tax law permits the issuance of tax-exempt bonds for either governmental purposes (“non-AMT”) or for specified private activity purposes that are “qualified” as tax-exempt subject to the AMT, including airport terminal projects. The Series 2021A Bonds will be subject to the AMT. The Series 2021B Bonds will be non-AMT bonds and Series 2021C Bonds will be federally taxable. The Series 2021C Bonds are federally taxable due to both the private use of the ConRAC facility by rental car companies, and the refunding of the selected maturities of the Series 2014A Bonds, Series 2017A Bonds, and Series 2017B on a taxable basis. Since the refunding of the Series 2014A Bonds, Series 2017A Bonds, and Series 2017B Bonds is considered an advance refunding (i.e., the refunding escrow will be outstanding for more than 90 days), and tax-exempt advance refundings are currently prohibited under tax law, this portion of the Series 2021C Bonds also must be issued on a taxable basis. The resolution authorizing the issuance of the Series 2021 Bonds authorizes the issuance of multiple series of bonds within the parameters described herein.

Security

The principal of and interest on the proposed Series 2021 Bonds, and all of the City’s Airport Revenue Bonds, are secured solely by the General Airport Revenues and certain other funds held or made available under the Master Trust Agreement, after Maintenance and Operation Costs are paid. In addition, in connection with the Series 2021 Bonds, certain “Other Available Revenues” are pledged under the Trust Agreement. Such amounts include (i) the Rolling Coverage Amount (as defined below), (ii) uncommitted monies from the prior fiscal year held in the General Revenue Fund on the first day of each fiscal year following all transfers of moneys to the Subordinated Debt Account within the Surplus Revenue Fund required under the Trust Agreement for the prior fiscal year, and (iii) all CFC Revenues in an amount not to exceed Annual Debt Service on the portion of the Series 2021C Bonds that refund the Series 2011B Bonds. “Rolling Coverage Amount” is defined under the Trust Agreement as the uncommitted amounts in the Maintenance and Operation Fund or the General Revenue Fund, in an amount not to exceed 25% of Annual Debt Service in any fiscal year, that are available to pay Maintenance and Operation Costs of the Enterprise or Debt Service on Bonds and that are designated as the Rolling Coverage Amount by the City.

The General Fund of the City is not liable, and the credit or taxing power of the City is not pledged, for the payment of the principal of, premium, if any, or interest on the Series 2021 Bonds. The owners of the proposed Series 2021 Bonds will have no right to compel the exercise of any taxing power of the City.

The Master Trust Agreement generally defines General Airport Revenues as all revenues, income, receipts, and moneys derived by the City from the operation of the Airport. General Airport revenues also include all interest, profits or other income derived from the deposit or investment of any moneys in the General Airport Revenue Fund or any account therein established under the Trust Agreement.

Refundings of Airport Revenue Bonds

As stated above, the proposed Series 2021 Bonds are expected to result in a refunding of all or a portion of the outstanding maturities of the Refunded Bonds. The Council-adopted Debt Management Policy specifies a minimum of 3% net present value savings for a refunding to be considered economically viable and provides for consideration of refundings below the 3% threshold on a case-by-case basis, including refundings which achieve City objectives relating to, among other things, achieving a desired debt service profile. As of February 9, 2021, the City's Municipal Advisors have estimated that the proposed refunding is projected to generate aggregate savings of \$163.3 million over the life of the bonds. Measured in current dollars, a measure known as Net Present Value (or "NPV") Savings, the refunding will generate approximately \$135.5 million, or 28.6% as a percent of the amount of bonds refunded, and thus is projected to exceed the 3% savings threshold in the City's Debt Management Policy, in addition to achieving the restructured debt service profile desired by the City. The Series 2021 Bonds are expected to produce significant near-term debt service relief to manage the impacts of the COVID-19 pandemic.

Of the projected \$135.5 million of NPV savings, \$49.2 million is attributable to the refunding of the 2011A Bonds and \$90.7 million of NPV savings is attributable to the 2011B Bonds. While the restructuring of the 2014A, 2017A and 2017B Bonds produces NPV dissavings of approximately \$4.3 million, including these bonds in the refunding and restructuring plan produces an estimated \$26.1 million in debt service relief in fiscal year 2021-22 and \$13.5 million in fiscal year 2022-23, which combined with the other refunding savings produces \$47.8 million in refunding savings in fiscal year 2021-22 and \$33.9 million in refunding savings in fiscal year 2022-23.

Actual savings will be determined based on the interest rates set on the Bonds at the time the Bonds are priced, and actual savings are likely to vary from estimates provided here. Final pricing of the Bonds is based on many factors, including prevailing general economic conditions, Federal interest rate policies, municipal bond supply and investor demand. Staff

will continue to monitor savings estimates for the Bonds through the anticipated bond pricing, currently scheduled for the week of March 22, 2021.

Good Faith Estimate. Pursuant to Government Code Section 5852.1 which became effective on January 1, 2018, by the enactment of Senate Bill 450, certain financial information relating to the Proposed Series 2021 Bonds prepared by the City's co-financial advisor³ has been included as Exhibit A in the Resolution and is attached to this Council Memo as Attachment C, and such information has been disclosed and made public.

General Account of the Bond Reserve Fund

The City anticipates that the Series 2021A Bonds and the Series 2021B Bonds will also be secured by the General Account of the Bond Reserve Fund (the "General Account") for the City's outstanding Airport Revenue Bonds. The General Account currently serves as a common reserve for all of the Airport's outstanding Airport Revenue Bonds except for the Series 2011B Bonds. The City also anticipates that a new subaccount within the Bond Reserve Fund designated the 2021C Account of the Bond Reserve Fund will be created and secure the 2021C Bonds.

As of February 1, 2021, the debt service reserve accounts totaled \$103.7 million, comprised of \$76.2 million in the General Account and \$27.5 million in the Series 2011B reserve account. To date, the Airport has not drawn on any of the debt service reserve accounts. Principal amounts on the City's airport revenue bonds are due on March 1 and final balances in accounts for bond sizing purposes will be based on verified actual balances, including interest, after March 1.

The current estimate is that the Reserve Requirement for the General Account will decrease from its current level of \$74.2 million to \$60.0 million as a result of the issuance of the Series 2021A Bonds and Series 2021B Bonds which will be secured by the General Account. The amount is decreasing since the aggregate debt service on the bonds secured by the General Account will be lower due to savings on the refunding. The excess of the current amount on deposit in the General Account over the new reserve requirement will be contributed as a cash contribution to the refunding accounts and reduce the amount of Series 2021A Bonds and Series 2021B Bonds that must be issued to refund the Refunded Bonds. Similarly, the reserve requirement for the standalone reserve funded from the proceeds of the Series 2021C Bonds is expected to be lower than the current reserve requirement, and that excess amount will be deposited into the refunding escrow for the Series 2021C Bonds.

³ PFM Financial Services and Public Resources Advisory Group are serving jointly as "Financial Advisors" advising the City on matters pertinent to the issuance of the Series 2021 Bonds, such as structure, timing, marketing, fairness of pricing, terms and bond ratings, as defined by the Municipal Securities Rulemaking Board (MSRB). Both Financial Advisors are registered with the Securities and Exchange Commission (SEC) and the MSRB, as "Municipal Advisors" a broader category of registered firms that advise on municipal financial products or issues, that may include guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, swap advisors and financial advisors.

A detailed discussion of the Bond Reserve fund is included in the draft Preliminary Official Statement for the Series 2021 Bonds. This document will be posted on the City's Agenda Services website for the March 9, 2021 Council Meeting, along with other reference financing documents.

Estimated Sources and Uses

The estimated sources and uses of funds for the Series 2021 Bonds are shown in the table below.

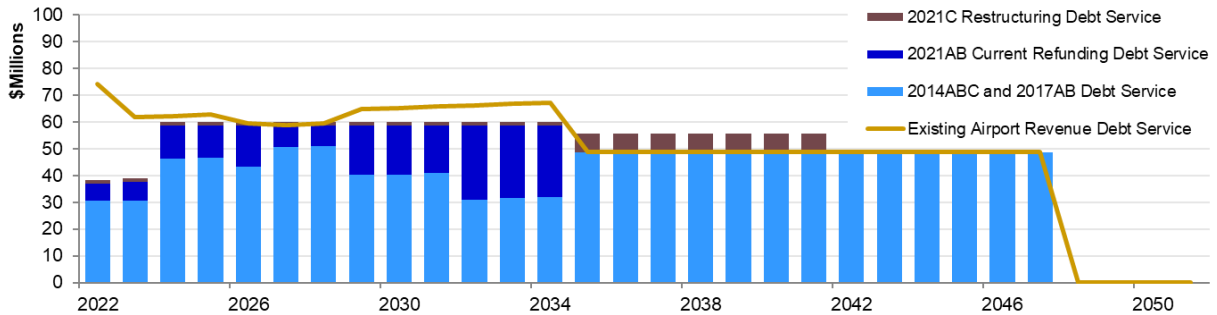
City of San José Airport Revenue Refunding Bonds, Series 2021					
Estimated Sources and Uses of Funds ⁽¹⁾					
	Series 2021A (AMT)	Series 2021B (Non-AMT)	Series 2021C Refunding of 2011B	Series 2021C (Taxable) Restructuring	Total
Sources:					
Par Amount of Bonds	\$ 87,435,000	\$ 49,025,000	\$ 252,180,000	\$ 43,150,000	\$ 431,790,000
Premium	21,541,842	13,759,890	-	-	35,301,732
General Account Reserve	7,046,847	3,951,183	-	3,477,686	14,475,715
Fund Release					
2011B Reserve Account	-	-	26,896,382	-	26,896,382
Total Sources	\$ 116,023,689	\$ 66,736,073	\$ 279,076,382	\$ 46,627,686	\$ 508,463,829
Uses:					
Cash Deposits	\$ 115,522,126	\$ 66,451,706	\$ 254,536,334	\$ 1	\$ 436,510,167
SLGS Purchases	-	-	-	42,427,549	42,427,549
Debt Service Reserve Fund	-	-	23,287,577	3,984,689	27,272,267
Costs of Issuance ⁽²⁾	258,872	148,289	748,111	129,147	1,284,418
Underwriter's Discount	242,691	136,077	504,360	86,300	969,429
Total Uses	\$ 116,023,689	\$ 66,736,073	\$ 279,076,382	\$ 46,627,686	\$ 508,463,829

(1) Preliminary; subject to change. Totals may not add due to independent rounding.

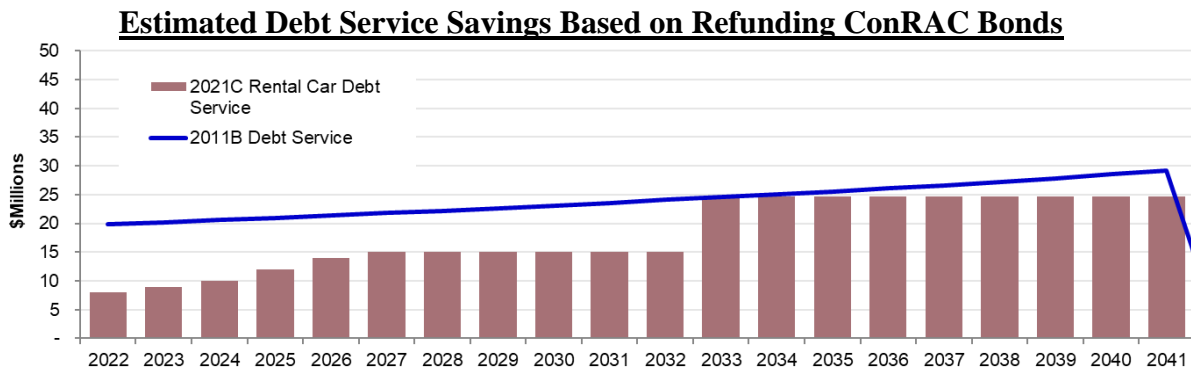
(2) Includes rating agency fees, legal and other professional fees, and other costs of issuing the Series 2021 Bonds. Does not include municipal bond insurance premium, if any.

The graph below illustrates the estimated refunding savings and restructuring of the Airport's debt profile resulting from the issuance of the Series 2021 Bonds, exclusive of the 2021C bonds attributable to the refunding of the 2011B Bonds which are shown on the following graph.

Estimated Debt Service Savings from Refunding Airport Revenue Bonds



The estimated debt service savings created by refunding of the 2011B Bonds (which were issued to fund the ConRAC facility) are shown in the following graph.



Conditions for Issuance of Additional Airport Revenue Bonds

Under the Master Trust Agreement, the City is authorized to issue additional bonds conditioned upon certain tests being met (referred to as the “additional bonds test”). A summary of the City’s outstanding Airport Revenue Bonds, and a brief summary of the authority under which Airport Revenue Bonds are issued, may be found in Attachment A of this memorandum.

The City will comply with the additional bonds test by showing that the Net General Airport Revenues for the most recently completed Fiscal Year, plus certain Other Available Funds pledged to the repayment of the Bonds, are at least equal to 125% of Maximum Annual Debt Service after the Series 2021 Bonds are issued. In order to meet this test, staff expects to pledge certain other available funds as described above pursuant to the Trust Agreement.

Sale Parameters

Staff recommends that the proposed Series 2021 Bonds be sold within certain parameters as described below. The proposed Twenty-first Supplemental Resolution sets forth these parameters.

Principal Amount: The aggregate not-to-exceed principal amount is \$521,000,000, which represents the estimated maximum principal amount needed to refund the currently outstanding Refunded Bonds, fund reserves and pay for the cost of issuance and underwriters' discount.

True Interest Cost: True Interest Cost ("TIC") is a standard method of computing the interest expense to an issuer of bonds, such as the City, and considers the time value of money. It is the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of bonds⁴. The Series 2021 Bonds shall bear interest at fixed interest rates at a true interest cost not to exceed 6% per annum.

Underwriters' Discount: The not-to-exceed total compensation to underwriters is 0.50% of the par value of the Series 2021 Bonds.

Bond Insurance

Staff recommends delegation of authority to the Director of Finance (1) to determine which, if any, of the proposed Series 2021 Bonds shall be supported by bond insurance based on the cost of such bond insurance and the interest savings on the Series 2021 Bonds resulting from such insurance; (2) to purchase any such bond insurance from a municipal bond insurer; and (3) to take all other actions as necessary to ensure the delivery of such bond insurance in connection with the issuance of the proposed Series 2021 Bonds.

Financing Documents

City Council approval is required for several bond financing documents to proceed with the issuance of the proposed Series 2021 Bonds. The documents, in substantially final form, will be posted to the City Council's Agenda website for the March 9, 2021 Council Meeting.

Official Statement: The Official Statement is the public offering statement for the issuance of the Series 2021 Bonds. City staff has worked with Orrick, Herrington & Sutcliffe LLP, ("Orrick") as Disclosure Counsel and Jones Hall, A Professional Law Corporation ("Jones Hall") as Pension Disclosure Counsel in preparing the Preliminary Official Statement for the Series 2021 Bonds. Orrick has the responsibility for assisting staff with the preparation of

⁴ Source: Municipal Securities Rulemaking Board, Glossary of Municipal Securities Terms.
http://www.msrb.org/Glossary/Definition/TRUE-INTEREST-COST-_TIC_.aspx

the Preliminary Official Statement, except the portions of document related to the City's retirement plans. Jones Hall has assisted staff with the preparation of the disclosure related to the City's retirement plans.

The Official Statement describes the purpose of the Series 2021 Bonds, Airport activity information, and the financial condition of the Airport. Detailed financial and activity information regarding the Airport is included in Appendix A to the Preliminary Official Statement and information regarding the City's retirement plans is included in Appendix B. Investors use this information to evaluate the credit quality of the Series 2021 Bonds and to make decisions about whether to purchase the bonds and at what price/interest rate. Following the sale of the Series 2021 Bonds and prior to the closing, Disclosure Counsel and Pension Disclosure Counsel will prepare the final Official Statement for the Series 2021 Bonds.

Staff recommends that the Director of Finance and the Director of Aviation be authorized to sign the final Official Statement for the Series 2021 Bonds on behalf of the City and to make such modifications to these documents as may be necessary upon consultation with the City Attorney's Office. Prior to the distribution of the Preliminary Official Statement and the final Official Statement to investors, staff will update information included in the Preliminary Official Statement to reflect the most recent information available to the City to the extent that the updates could affect the deliberations of a reasonable investor in making the decision to purchase the Series 2021 Bonds.

Staff also recommends that the Director of Finance and the Director of Aviation be authorized to execute certificates regarding these documents as required to comply with securities laws and to authorize the underwriters to distribute these documents for purpose of marketing the Series 2021 Bonds.

Staff has carefully reviewed the information contained in the draft Preliminary Official Statement and believes it to be accurate and complete in all material respects. It has been reviewed and approved for transmittal to the City Council by the "Disclosure Working Group", pursuant to the Disclosure Policies and Procedures which have been prepared pursuant to the City's Debt Management Policy. The Disclosure Working Group includes the City Manager and other senior staff familiar with information, including financial information, related to the City generally and to the Airport specifically. The membership of the Disclosure Working Group members who reviewed the Preliminary Official Statement for the Series 2021 Bonds is listed in Attachment B.

As noted above, the distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Series 2021 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the

deliberations of a reasonable investor when deciding whether to buy or sell the Series 2021 Bonds. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Series 2021 Bonds, and authorizes staff to proceed with the issuance of the Series 2021 Bonds, then one of the actions the City Council will take is to adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been “deemed final.”

As part of the process of issuing new debt, it is important that elected officials read through the Preliminary Official Statement, including Appendices A and B, and all other appendices thereto. The Securities and Exchange Commission (the “SEC”) has issued guidance as to the duties of authorizing boards such as the City Council with respect to its approval of a preliminary official statement. In its *“Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors”* (Release No. 36761 / January 24, 1996) (the “Release”), the SEC stated that, if a member of the authorizing board has knowledge of any facts or circumstances that an investor would want to know prior to investing in bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the preliminary official statement.

In the Release, the SEC stated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts concerning the following areas:

- Purpose of the bond issue
- Sources of repayment of the bonds
- Risks that the sources of repayment may be insufficient to repay the bonds
- Discussion of any other facts or events that could affect the deliberations of a reasonable investor

After such review of the document the following additional elements should be considered:

- Have identified risks, facts and events been brought to the attention of staff, bond counsel and other professionals?
- Have such risks, facts and events been disclosed, and if not, what is the rationale for the non-disclosure?

The information to address these areas in the Preliminary Official Statement can be found in the INTRODUCTION section which describes the purpose of the Series 2021 Bonds and the source of repayment, among other things. An update of the COVID-19 pandemic can be found in the IMPACTS OF THE COVID section. More detailed information on these topics and on the risks related to repayment of the Series 2021 Bonds is provided in the SECURITY FOR THE BONDS, and CERTAIN FACTORS AFFECTING THE AIRPORT, as well as in

Appendix A. Appendix B, which provides detailed information regarding the retirement plans, is included to provide investors an understanding of the impact of retirement costs on Airport operations both currently and in the future.

If any Council member has any personal knowledge that any of the material information in the Preliminary Official Statement, including the appendices, is false or misleading, or that the Official Statement omits to state a fact that would be material to investors, the Council member must raise these issues prior to approval of the distribution of the document.

City staff, Bond Counsel, Disclosure Counsel, Pension Disclosure Counsel, and the financial advisors will be available at the Council meeting on March 9, 2021, to address any questions, issues, and/or concerns.

Staff recommends that the Director of Finance or her authorized designees (“Authorized Representatives”) be authorized to execute each of these agreements described below. As modifications may be required prior to the closing, staff also recommends that the Authorized Representatives be authorized to execute the final version of each of these agreements as may be modified upon consultation with the City Attorney’s Office.

Supplemental Trust Agreement: The Twelfth Supplemental Trust Agreement contains the terms of repayment of the Series 2021 Bonds, as well as the responsibilities and duties of the Trustee and the rights of the bondholders in connection with the Series 2021 Bonds.

Bond Purchase Agreements: The Bond Purchase Agreements are contracts between the City and the underwriters as the purchasers of the Series 2021 Bonds. The Bond Purchase Agreements specify the representations and warranties of the City, the documents to be executed at closing, and the conditions that could allow the purchaser to cancel the purchase of the Series 2021 Bonds. The City will enter into a Bond Purchase Agreement for the Series 2021A Bonds and the Series 2021B Bonds with Citigroup Global Markets Inc. as the Senior Book-Running Manager for the Series 2021A Bonds and the Series 2021B Bonds and representative of the underwriting team, which includes Morgan Stanley & Co. LLC as Co-Senior Manager and UBS Financial Services, Inc. and Samuel A. Ramirez & Co., Inc. as Co-Managers. For the Series 2021C Bonds the City will enter into a Bond Purchase Agreement with Morgan Stanley & Co. LLC as the Senior Book-Running Manager and representative of the underwriting team, which includes Citigroup Global Markets Inc. as Co-Senior Manager and Barclays Capital Inc., Siebert Williams Shank & Co., LLC and Wells Fargo Bank, National Association as Co-Managers.

The underwriters will be paid a takedown for the Series 2021 Bonds, which is estimated at \$2/\$1,000 of the par amount issued. The City will reimburse the senior book-running managing underwriters for each series for their expenses, including underwriters’ counsel as

well as expenses incurred in verifying the City's compliance with its obligations under continuing disclosure agreements for prior bond issues.

Continuing Disclosure Certificate: The Continuing Disclosure Certificate is executed by the City to assist the participating underwriters in complying with Securities and Exchange Commission Rule 15c2-12(b)(5) related to continuing disclosure of information related to the bonds. In executing this document, the City commits to filing certain notices if certain listed events occur, and to file annually an update to certain information contained in the Official Statement. The form of the Continuing Disclosure Certificate related to the Series 2021 Bonds is included in the Preliminary Official Statement as Appendix F.

Professional Contracts

Municipal Advisory Services

On January 12, 2021, the City Council approved a resolution authorizing the City Manager or Director of Finance to negotiate and execute an agreement in an amount not to exceed \$350,000 with PFM Financial Advisors LLC and Public Resources Advisory Group, Inc., for municipal advisor services in connection with the refunding of certain Airport Revenue Bonds with fees to be paid from the cost of issuance of the refunding bonds contingent upon the successful completion of the sale of the bonds.

Bond and Disclosure Counsel Agreement

On January 12, 2021, the City Council approved a resolution authorizing the City Attorney to negotiate an execute an agreement with Orrick, Herrington & Sutcliff, LLP for Bond Counsel and Disclosure Counsel services in connection with the refunding of certain Airport Revenue Bonds, in an amount not to exceed \$380,000, to be paid from the cost of issuance of the refunding bonds contingent upon the successful sale of the bonds.

Pension Disclosure Counsel

The City Attorney's Office has selected Jones Hall to serve as Pension Disclosure Counsel in connection with the Series 2021 Bonds. The compensation to be paid to Jones Hall is within the City Attorney's contract authority. The firm has previously served as bond counsel and disclosure counsel for the issuance of the City's general obligation bonds and the City of San José Financing Authority lease revenue bonds and is familiar with disclosure issues concerning the City's retirement plans. The \$45,000 compensation payable to the firm is contingent on the sale of the 2021 Bonds and is to be paid from bond proceeds.

Financing Team

The financing team participants consist of:

City's Co-Municipal Advisors:	PFM Financial Advisors LLC Public Resources Advisory Group
Bond and Disclosure Counsel:	Orrick Herrington & Sutcliffe LLP
Pension Disclosure Counsel	Jones Hall
Underwriters of 2021A&B:	Senior Manager: Citigroup Global Markets Inc. Co-Senior: Morgan Stanley Co-Managers: UBS Financial Services and Samuel A. Ramirez
Underwriters of 2021C	Senior Manager: Morgan Stanley & Co. Co-Senior: Citigroup Global Markets Inc. Co-Managers: Barclays, Siebert Williams Shank & Co. and Wells Fargo Securities
Underwriters Counsel:	Kutak Rock LLP
Trustee:	The Bank of New York Mellon Trust Company, N.A.

Financing Schedule

The current proposed schedule for the issuance of the Series 2021 Bonds is as follows:

City Council:	March 9, 2021
Bond Pricing:	Week of March 22, 2021
Transaction closing:	Early April 2021

These dates are preliminary and subject to change based on prevailing market conditions.

CONCLUSION

Approval of the recommendation will allow for the issuance of three series of Airport Revenue Refunding Bonds; the Series 2021A Bonds, the Series 2021B Bonds and the Series 2021C Bonds, to refund certain outstanding City of San José Airport Revenue Bonds to restructure the debt service profile and realize debt service savings. The refunding consists of all or a portion of the Series 2011A-1 Bonds and the Series 2011A-2 Bonds, all or a portion of the Series 2011B Bonds, a portion of the outstanding Series 2014A Bonds, a portion of the outstanding Series 2017A Bonds, and a portion of the outstanding Series 2017B Bonds.

EVALUATION AND FOLLOW-UP

This memorandum presents a recommendation for the City Council's approval of various actions related to the issuance of the Series 2021 Bonds and requires no follow-up to the City Council. An informational memo will be provided to the City Council after the bond closing to summarize the results of the bond sale.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

The City Council will hold a public hearing (often referred to as a TEFRA hearing, for the Tax Equity and Fiscal Responsibility Act) on March 9, 2021, as required by Section 147(f)(2) of the Internal Revenue Code of 1986, to consider public input concerning the approval of issuance of the Series 2021A Bonds. The Notice of Public Hearing to be held in conjunction with the approval of the issuance of the bonds will be published in the *San Jose Post Record* on February 23, 2021 announcing the time and location of the public hearing. No such hearing is required for the other series of bonds authorized in the Resolution.

This memorandum and the form of the proposed documents, in substantially final form will be posted on the City's Council Agenda website for the March 9, 2021 Council Meeting

COORDINATION

This report has been prepared by the Finance Department and Airport Department in coordination with the City Attorney's Office, and financing team participants.

COMMISSION RECOMMENDATION/INPUT

This recommendation has not been heard by any commission.

FISCAL/POLICY ALIGNMENT

The proposed financing plan is consistent with the City's Debt Management Policy which establishes objectives in order to obtain cost-effective access to the capital markets, which

includes minimizing debt service and issuance costs (including producing estimated net present value savings that are greater than 3% of the refunded debt); achieving a desired debt service profile; maintaining access to cost-effective borrowing; and ensuring compliance with applicable State and Federal laws.

COST SUMMARY/IMPLICATIONS

Professional services (bond counsel fees, disclosure counsel fees, financial advisor fees, and rating agency fees), bond underwriter fees and other related costs are estimated to be approximately \$2.3 million and will be paid from cost of issuance proceeds from the Series 2021 Bonds. In addition to the bond underwriters, the financial advisor and bond counsel/disclosure counsel work on a contingency basis and are only paid upon the successful sale and close of the Series 2021 Bonds.

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/
JULIA H. COOPER
Director of Finance

/s/
JOHN AITKEN
Director of Aviation

For questions, please contact Nikolai J. Sklaroff, Deputy Director, Debt & Treasury Management at (408) 535-7832.

Attachment A – Summary of Outstanding Airport Revenue Bonds Issuances

Attachment B – Disclosure Working Group – List of Members

Attachment C – Good Faith Estimate

Attachment A

SUMMARY OF OUTSTANDING AIRPORT REVENUE BONDS

The City, pursuant to the City Charter and Municipal Code, has the authority to issue Airport Revenue Bonds. In 2001, the City adopted Supplemental Resolution No. 70532 approving the amendment and restatement of the resolution authorizing the issuance of Airport Revenue Bonds in the form of the Master Trust Agreement dated as of July 1, 2001 (the “Master Trust Agreement”) between the City and BNY Western Trust Company, predecessor in interest to The Bank of New York Mellon Trust Company, N.A., as Trustee (the “Trustee”). Currently, the City has eight outstanding series of Airport Revenue Bonds issued under the Master Trust Agreement as listed in the table below.

Norman Y. Mineta San José International Airport Outstanding Airport Revenue Bonds As of March 2, 2021				
Bond Series	Date of Issuance	Original Issue Amount	Outstanding Principal Amount	Final Maturity Date
Series 2011A-1	July 28, 2011	150,405,000	114,865,000*	March 1, 2034
Series 2011A-2	July 28, 2011	86,380,000	66,115,000*	March 1, 2034
Series 2011B	December 14, 2011	271,820,000	252,895,000*	March 1, 2041
Series 2014A	October 7, 2014	57,350,000	34,480,000*	March 1, 2026
Series 2014B	October 7, 2014	28,010,000	28,010,000	March 1, 2028
Series 2014C	October 7, 2014	40,285,000	40,285,000	March 1, 2031
Series 2017A	April 11, 2017	473,595,000	423,200,000*	March 1, 2047
Series 2017B	April 11, 2017	<u>150,675,000</u>	<u>134,635,000*</u>	March 1, 2047
		\$1,258,520,000	\$1,094,485,000	
* Bonds expected to be refunded fully or in part with the Series 2021 Bonds.				

Attachment B

SERIES 2021 CITY OF SAN JOSE AIRPORT REVENUE REFUNDING BONDS DISCLOSURE WORKING GROUP

The Disclosure Policies and Procedures for Municipal Debt⁵ (“Disclosure Procedures”) provide for a Disclosure Working Group to review a draft Preliminary Official Statement prior to its submission to the City Council. The Disclosure Working Group includes senior officials or their designees identified as the Core Disclosure Working Group: the City Manager, City Attorney, City Budget Director and City Finance Director. In addition to these core members, the Disclosure Working Group includes the Director of Employee Relations, the Director of Aviation (for Airport Revenue Bond transactions) and other senior staff designated by the City Manager in consultation with the City Attorney.

The Disclosure Working Group members listed below received the disclosure package and the meeting was conducted to review the draft Preliminary Official Statement on February 16, 2021. The Disclosure Working Group received the Preliminary Official statement after review by members of the Financing Group and Contributors. Their review was done to accurately report all material information related to the City and the information relating to the City and the Airport has been critically reviewed by an appropriate person.

Disclosure Working Group Airport Revenue Refunding Bonds, Series 2021

<u>Title</u>	<u>Name</u>
<i>City Manager</i>	David Sykes
<i>Assistant City Manager</i>	Jennifer Maguire
<i>City Attorney</i>	Nora Frimann
<i>City Budget Director</i>	Jim Shannon
<i>City Finance Director</i>	Julia H. Cooper
<i>Director of Employee Relations</i>	Jennifer Schembri
<i>Director of Public Works</i>	Matt Cano
<i>Director of Aviation</i>	John Aitken
<i>Director of Retirement Service</i>	Roberto Pena

⁵ Disclosure Policies and Procedures for Municipal Debt as approved by the City Manager and Director of Finance on June 30, 2020 (<https://www.sanjoseca.gov/home/showpublisheddocument?id=61169>)

Attachment C

GOOD FAITH ESTIMATES

The following Good Faith Estimates appear as Exhibit A in the Resolution for the proposed Series 2021 Bonds in compliance with Section 5852.1 of the California Government Code (the “Government Code”). The good faith estimates have been provided to the City by PFM Financial Advisors LLC, as co-Financial Advisor to the City on the proposed Series 2021 Bonds.

EXHIBIT A

REQUIRED GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1*

1. **Estimated Principal Amount.** The aggregate principal amount of 2021 Bonds estimated to be sold: \$431,790,000.
2. **True Interest Cost.** As defined in Section 5852.1(a)(1)(A) of the Government Code: 2.935%.
3. **Finance Charge.** As defined in Section 5852.1(a)(1)(B) of the Government Code, the sum of all fees and charges paid to third parties (being costs of issuance of approximately \$1,284,369.19 plus estimated underwriter’s compensation of \$969,428.53): \$2,253,798.72.
4. **Amount of Proceeds to be Received.** As described in Section 5852.1(a)(1)(C) of the Government Code, the proceeds to be received by the City for sale of the 2021 Bonds, less the finance charge for the 2021 Bonds described in (3) above and any reserves or capitalized interest paid or funded with proceeds of the 2021 Bonds: \$437,565,619.
5. **Total Payment Amount.** As defined in Section 5852.1(a)(1)(D) of the Government Code, being the sum of (a) all payments the City will make to pay debt service on the 2021 Bonds to final maturity, plus (b) the finance charge described for the 2021 Bonds described in (3) above not paid from proceeds of the 2021 Bonds: \$637,288,184.

** All amounts and percentages are good faith estimates only, based on information available as of the date such estimates have been prepared. Actual results may differ from such good faith estimates based on a variety of reasons, including, without limitation, due to the market conditions prevailing on the actual date of the sale of the 2021 Bonds being different than the market conditions prevailing at the time of preparation of the estimates by PFM Financial Advisors LLC, alterations in the City’s financing plan, or a combination of these and other factors.*