CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL AND CITY OF SAN JOSE FINANCING AUTHORITY BOARD

FROM: Julia H. Cooper

SUBJECT: SEE BELOW

DATE: August 13, 2021

Approved Date **8/19/21**

SUBJECT: ACTIONS RELATED TO THE CITY OF SAN JOSE FINANCING AUTHORITY'S COMMERCIAL PAPER PROGRAM

RECOMMENDATION

1. City Council ("Council") adopt a resolution to:
   a. Authorize the execution and delivery of amendments to certain financing documents, including an amendment to a Letter of Credit and Reimbursement Agreement, and authorizing other related actions in connection with the City of San José Financing Authority's Lease Revenue Commercial Paper Notes in order to increase the not-to-exceed aggregate principal amount thereof to $175 million and to extend the expiration date and commitment available under such Letter of Credit and Reimbursement Agreement to March 2025; and

   b. Authorize the negotiation, execution and delivery of one or more additional extensions to the Letter of Credit issued under the Letter of Credit and Reimbursement Agreement or the commitment available under such Letter of Credit and Reimbursement Agreement based on substantially the same terms and conditions for a duration of time that the City Designated Officers deem necessary, advisable or prudent, provided that no such extension shall require an annual fee in excess of 1.00% of the commitment available thereunder.

2. City of San José Financing Authority Board "(Authority Board") adopt a resolution to:
   a. Authorize the execution and delivery of amendments to certain financing documents, including an amendment to a Letter of Credit and Reimbursement Agreement and authorizing other related actions in connection with the City of San José Financing Authority's Lease Revenue Commercial Paper Notes in order to increase the not-to-exceed aggregate principal amount thereof to $175 million and to extend the stated

expiration date and commitment available under such Letter of Credit and Reimbursement Agreement to March 2025;

b. Authorize the negotiation, execution and delivery of one or more additional extensions to the Letter of Credit issued under the Letter of Credit and Reimbursement Agreement or the commitment available under such Letter of Credit and Reimbursement Agreement based on substantially the same terms and conditions for a duration of time that the Authority Designated Officers deem necessary, advisable or prudent, provided that no such extension shall require an annual fee in excess of 1.00% of the commitment available thereunder.

OUTCOME

Approval of these recommendations will result in the execution and delivery of amendments to certain financing documents, including an amendment to a Letter of Credit and Reimbursement Agreement with U.S. Bank National Association, to extend the letter of credit of U.S. Bank National Association ("U.S. Bank") supporting the City of San José Financing Authority Lease Revenue Commercial Paper Notes, Series 2 and Series 2-T for three years from February 2022 to March 2025 and increase the aggregate principal amount of the Commercial Paper Program ("CP Program") from $125 million to $175 million. These amendments are anticipated to be effective on September 23, 2021.

EXECUTIVE SUMMARY

The CP Program is currently supported by two letters of credit issued by State Street Bank and Trust Company ("State Street") and U.S. Bank National Association ("U.S. Bank" and together, the "Banks") which expire in February 2022. The recommended actions include expanding the CP Program capacity from $125 million to $175 million by amending the Letter of Credit and Reimbursement Agreement with U.S. Bank and extending the expiration date of the U.S. Bank's letter of credit for three years from February 2022 to March 2025. The expansion and extension will allow the City to continue to utilize the CP Program as a low cost, short-term financing vehicle for the City and provide sufficient capacity to support anticipated San Jose Clean Energy ("SJCE" or "Clean Energy") operational funding needs approved by Council on June 22, 2021.

BACKGROUND

Commercial Paper Program

The Commercial Paper Program utilizes a lease revenue financing structure. Under this program, the City of San José Financing Authority (the "Authority") issues Lease Revenue Commercial Paper Notes ("CP Notes") at prevailing interest rates for periods of maturity not to exceed 270 days. Although the maturity of a CP Note may not exceed 270 days, the Authority may issue additional CP Notes to pay off the maturing notes instead of repaying the principal and interest owed on the maturing CP Notes.

The CP Notes consist of the Authority's Tax-Exempt Lease Revenue Commercial Paper Notes, Series 1 (the "Series 1 Notes"), Taxable Lease Revenue Commercial Paper Notes, Series 1-T (the "Series 1-T Notes"), Tax-Exempt Lease Revenue Commercial Paper Notes, Series 2 (the "Series 2 Notes"), and Taxable Lease Revenue Commercial Paper Notes, Series 2-T (the "Series 2-T Notes"). The payment of principal and interest on the Series 1 Notes and Series 1-T Notes is currently supported by a direct-pay letter of credit ("LOC") provided by State Street (the "State Street LOC") with a stated amount of $62.5 million, plus interest calculated at the rate of 10% for a period of 270 days. The payment of principal and interest on the Series 2 Notes and Series 2-T Notes is currently supported by an LOC provided by U.S. Bank (the "U.S. Bank LOC"), with a stated amount of $62.5 million, plus interest calculated at the rate of 10% for a period of 270 days. The CP Notes are secured by a pledge of lease revenues payable by the City to the Authority for the lease back of various City real property assets.

The City's CP Program, used by the Authority has provided a low-cost tool for awarding and funding capital projects (e.g. Fire Department Training Facility, Emergency Operations Center and Central Service Yard improvements) and for providing bridge financing until long-term financing is available (e.g. Convention Center - South Hall). The City's CP Program has also provided financing for the purchase of power and other operating costs of SJCE, approved by Council on June 22, 2021[1]. The Authority Board and Council approved the issuance of Commercial Paper Notes by the Authority to finance the costs of purchasing power and other operating costs of the Clean Energy Program in an amount not to exceed $95,000,000 as follows: (i) an amount not to exceed $32,651,000 effective on June 22, 2021; (ii) an additional amount not to exceed $19,200,000 effective on the date the Authority issues the Lease Revenue Bonds for the Fire Training Center/Central Service Yard project when and if approved by Council[2]; and (iii) an additional amount not to exceed $43,149,000 effective from time-to-time, in whole or in part, as (a) outstanding Commercial Paper Notes are paid at maturity with available funds of the City, including proceeds of any lease revenue bonds, other than proceeds of additional Commercial Paper Notes, and (b) as the maximum principal amount of Commercial Paper Notes that may be issued is increased above $125,000,000.

Pursuant to the existing Letter of Credit and Reimbursement Agreements (the "Reimbursement Agreements"), the existing LOCs issued by the Banks are in an aggregate principal amount of $125 million plus interest calculated at the rate of 10% for a period of 270 days, which totals $134,246,575 (i.e. the total commitment amount). The City can currently issue CP Notes of up to $125 million secured by these LOCs. Based on the size of the existing LOCs, the current CP Program has insufficient available borrowing capacity to issue CP Notes projected to be required between now and February 2022 for SJCE to purchase power and fund other operating costs.

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[1] June 22, 2021 City Council Meeting - https://sanjose.legistar.com/LegislationDetail.aspx?ID=4980087&GUID=62F1A065-8718-4987-BF48-8D127C0803E5&Options=&Search=

[2] Council/Authority Board approval anticipated on September 14, 2021.

Based on projections of anticipated SJCE power costs and the variables that may affect SJCE's cash flow, together with considerations regarding the impact on General Fund costs, the Finance Department and the City Manager's Budget Office worked collaboratively and identified the need to increase the CP Program by approximately $50 million. The Finance Department engaged its Municipal Advisor for credit facility renewals, PFM Financial Advisors LLC ("PFM"), to request an increase in the credit facilities from the Banks to facilitate an increase in the commercial paper maximum amount from $125 million to $175 million and extend the expiration dates of the existing LOCs from February 23, 2022 to March 2025. U.S. Bank indicated it was willing to take on the full increased capacity of $175 million with the same structure as the current facility. However, State Street requested to replace the LOC with a line of credit. The Finance Department elected to stay with U.S. Bank as the sole LOC provider for the City's CP Program as the most efficient and lowest cost solution.

Accordingly, staff is seeking authorization to amend the U.S. Bank LOC to increase the commitment amount from $125 million to $175 million and extend its expiration date by three years from February 2022 to March 2025. The U.S. Bank LOC will continue to support only the Series 2 Notes and Series 2-T Notes and the maximum principal amount of Series 1 Notes and Series 1-T Notes that may be outstanding will be reduced to zero dollars. Contemporaneous with the closing of the amendments to the financing documents, including the U.S. Bank LOC (expected on September 23, 2021), the Authority and the City will terminate the State Street LOC. Thereafter, the City's CP Program will be supported by U.S. Bank as the sole letter of credit provider and will have a maximum capacity of $175 million plus interest calculated at the rate of 10% for a period of 270 days, making the commitment amount approximately $187.9 million.

See Attachment A for a description of the mechanics of the Authority's CP Program along with a summary of the program amendments since inception in 2004. See Attachment B for the technical aspects of the mechanics of commercial paper. See Attachment C for the commercial paper program terms with U.S. Bank.

Debt Management Policy and Municipal Code Requirements Related to Lease Financings

Any proposal to issue CP Notes is subject to the City's Debt Management Policy, City Council Policy 1-15 and San Jose Municipal Code Chapter 4.34 related to lease financings. Under Section III (D) of the Debt Management Policy, the Finance Department is required to conduct its due diligence for a proposed lease financing and identify a source of repayment. As discussed below, the source of repayment for the CP Notes is determined prior to authorizing the use of CP. The capacity of the program has been increased to accommodate further borrowing by SJCE but can be made available to other departments if not used, or if the CP Notes are repaid, by SJCE. CP Notes issued on behalf of SJCE will be paid from Clean Energy revenues, as authorized by Council on June 22, 2021.

The Debt Management Policy's provision that requires a feasibility study be performed prior to the issuance of a lease financing is not applicable to the issuance of these CP Notes as a feasibility study is required only when the revenues of the project being financed are the source of repayment. In the case of any borrowing for SJCE, project revenues are not the source of repayment of the CP Notes. While the debt service on the CP Notes issued on behalf of SJCE are payable from the General Fund, the source of repayment for the such CP Notes will ultimately be rate revenues received from SJCE customers. Interest and fee costs for CP Notes issued on behalf of SJCE will be funded by issuing additional notes (known generally as "capitalized interest"). In the event that SJCE cannot repay the CP Notes issued on its behalf, the General Fund will be responsible for repayment.

UNDER BOTH THE DEBT MANAGEMENT POLICY AND SAN JOSE MUNICIPAL CODE SECTION 4.34.200, APPROVAL OF THE ISSUANCE OF THESE NOTES REQUIRES A TWO-THIRDS VOTE BY THE CITY COUNCIL (8 VOTES)

ANALYSIS

The proposed three-year extension and $50 million expansion of the CP Program will have a lower annual LOC fee ("Commitment Fee") than the existing facilities, decreasing from 0.42% to 0.38% paid quarterly in arrears. The fees of the remarketing dealer, Barclays Capital, which remarkets to CP Notes to investors as borrowing is needed, will stay the same at 0.045%.

The expansion of the CP Notes will be effective on September 23, 2021 when the existing CP Notes roll matures. On that date, the following steps will be taken:

- Wells Fargo Bank, National Association, as Issuing and Paying Agent, will draw on the State Street LOC and U.S. Bank LOC to pay the existing CP Notes, respectively.
- A certificate of no outstanding CP Notes will be delivered by the Issuing and Paying Agent to State Street terminating the State Street LOC
- Barclays Capital, as the dealer, will sell only Series 2 Notes and Series 2-T Notes (the tax exempt series and the taxable series, respectively and supported solely by the increased and extended U.S. Bank LOC) in an amount sufficient to reimburse State Street and U.S. Bank for the draws described in the first bullet above.

Uses of the Commercial Paper Program

Approval of the recommended actions will provide additional capacity for the issuance of commercial paper notes to finance the purchase of power and other operating costs of SJCE. While SJCE has an existing revolving credit agreement with Barclays Bank PLC ("Barclays Bank"), that facility is not sufficient to meet the current financial needs of SJCE, and the mechanics of drawing on the line of credit provided by Barclays Bank have made its use impractical for SJCE's current needs. Additionally, the commercial paper interest rates are significantly lower than borrowing under the existing Barclays Bank credit facility. From July 2021 to March 2022 all interest and fees for CP Notes borrowed for SJCE will be capitalized. Thereafter, SJCE will pay the interest and other related CP Notes costs as SJCE's cash position is expected to improve. SJCE plans on repaying the CP Note principal within the next three to five years.

The table on the next page summarizes the amount of CP Notes currently outstanding and the amount authorized, but not issued. On June 22, 2021 Council authorized up to $95 million issuance for SJCE with the expectation that staff would bring forward a renewal of the CP program. The existing capacity of the CP Program either has been issued or is authorized to be issued; none remains unauthorized and unissued. SJCE proformas project a need to request a borrowing from Authority CP Notes each month until February 2022. With the current action, staff is proposing to increase CP Program capacity to provide the necessary source of funding for SJCE future operating costs. Upon analysis of the most current set of projections, actions to adjust the budget for SJCE will be brought forward for City Council consideration as part of the 2020-2021 Annual Report that will be presented to City Council in mid-October.

City Finance staff expects the CP Notes unused capacity to increase by an additional $50.8 million by the end of the fiscal year if Council approves and the City is able to successfully issue, bonds to refund outstanding 2011 Special Hotel Tax Revenue Bonds, 2011A Lease Revenue Bonds and CP Notes issued for Convention Center South Hall site acquisition and Exhibit Hall improvements. In addition, based on proformas provided by SJCE in July, SJCE currently projects using about $68 million of the $95 million authorized for power purchase and operating costs. These pro forma projections depend on many variables, including energy market pricing, weather and other factors beyond the SJCE's control. If the refunding and favorable SJCE outcomes produce excess capacity, the City has flexibility to use the additional capacity for other projects or to reduce the size of the US Bank credit facility. Staff will reassess SJCE and other CP Program needs to potentially reduce the maximum principal amount of the CP Notes below $175 million after SJCE's needs have been met and after additional capacity is freed up.

Commercial Paper Notes Outstanding
(in millions)

Project	Current Amount (as of August 1, 2021)	Amount after Increased Capacity
CP Notes Already Issued		
Central Service Yard Phase II	$ 2.5	$ 2.5
ESCO	7.1	7.1
Convention Center Exhibit Hall	8.4	8.4
Flood Improvements	0.9	0.9
Convention Center - South Hall	42.4	42.4
San José Clean Energy[3]	30.0	30.0
Total Current CP Projects	**$ 91.3**	**$ 91.3**
CP Notes Authorized but Not Issued		
Fire Department Training Center/Emergency Operations Center	$ 23.4	$ 23.4[4]
San José Clean Energy[2]	3.9	53.9[5]
Flood Improvements	6.4	6.4
Total CP Authorized, Not Issued	**$ 33.7**	**$ 83.7**
Total Outstanding and Committed	**$ 125.0**	**$ 175.0**
CP Program Issuance Capacity – Current	*$ 125.0*	*$ 175.0*
Unutilized Issuance Capacity	**$ 0.0**	**$ 0.0**

Risks associated with the CP Program

The CP Program, which after the proposed expansion will consist solely of Series 2 Notes and Series 2-T Notes, is subject to the following risks:

- LOC Renewal Risk - Should U.S. Bank decide not to renew the U.S. Bank LOC upon expiration in March 2025 and no replacement bank or banks are identified, the CP Notes outstanding will need to be repaid in full. The General Fund is ultimately responsible for the repayment of outstanding CP Notes. The U.S. Bank LOC fee is subject to change at future renewal dates based on market conditions.
- Interest Rate Risk - The interest rate for CP Notes may increase significantly depending on the overall financial market conditions.
- Downgrade Risk – U.S. Bank's credit ratings may be downgraded in the future due to changes in the market's perception of the financial health of the Bank. To the extent a downgrade occurs, the CP Notes may become unmarketable. Additionally, if the City is downgraded by any of the credit rating agencies, the annual fees for the U.S. Bank LOC

[3] Council has authorized SJCE to issue up to $95 million per Council approval on June 22, 2021.
[4] $19.2 million will be released upon issuance of CSJFA Lease Revenue Bonds 2021A and $11.1 million will be reassigned to San José Clean Energy
[5] The latest projections from San José Clean Energy (dated July 23, 2021) project $38 million of planned additional borrowing through February 2022.

backing the Series 2 Notes and Series 2-T Notes may be increased based on the schedule agreed to by U.S. Bank, the Authority, and the City (see discussion and table below).

- Marketability Risk - If there is a lack of market demand for Series 2 Notes and Series 2-T Notes due to future changes in the market's perception of the financial health of U.S. Bank as credit provider or other factors impacting the demand for taxable or tax-exempt commercial paper notes, the CP Notes may be tendered back to the Authority and the Authority may not be able to find buyers for these notes.

Document Approvals Related to CP Program Expansion and Extension

The following principal documents must be amended and approved by the Authority and the City Council in order to expand the CP Program and to extend the expiration date of the U.S. Bank LOC.

- Amendment to Sublease. The repayment of the CP Notes is secured by a pledge of lease revenues paid for the use of various City assets. While the City is requesting an increase in the maximum amount available under the CP Program, based on a determination that sufficient rental value exists in the pledged assets, U.S. Bank is not requiring additional facilities be pledged under the Site Lease or Sublease. The facilities currently subject to the Site Lease and Sublease are the Tech Museum, the Animal Care Center, Fire Station No. 1, Fire Station No. 3, Communication Center, and the South San Jose Police Substation. These properties have a combined insured replacement value of approximately $189.5 million on the City's schedule of insured properties. The insured replacement value does not include the land value for each property. If any of the underlying leased assets above are no longer available for the City's continued use and occupancy, replacement assets would need to be identified or the CP Program capacity may be adversely impacted. Replacement assets require approval by U.S. Bank.

  An amendment to the Sublease is required in order to increase the maximum base rental in connection with the increase in the maximum principal of CP Notes (consisting solely of Series 2 Notes and Series 2-T Notes) that may be outstanding from $125 million to $175 million.

- Trust Agreement. The Second Amended and Restated Trust Agreement, as supplemented, requires a Seventh Supplement, to increase the maximum aggregate principal amount of CP Notes (consisting solely of Series 2 Notes and Series 2-T Notes) that may be outstanding from $125 million to $175 million.

- U.S. Bank Letter of Credit and Reimbursement Agreement. The Letter of Credit and Reimbursement Agreement with U.S. Bank (the "U.S. Bank Letter of Credit and Reimbursement Agreement") as previously amended, authorizes the issuance of an irrevocable direct pay letter of credit backing outstanding principal and interest of the Series 2 Notes and the Series 2-T Notes. The proposed Fourth Amendment to the U.S. Bank Letter of Credit and Reimbursement Agreement will increase the total commitment from $67.1 million to approximately $187.9 million. This commitment includes the maximum combined principal amount of $175 million and interest calculated at the rate of 10% for 270 days for the Series 2 Notes and the Series 2-T Notes. The Fourth Amendment also extends the current expiration date of the U.S. Bank LOC from February 2022 to March 2025. Significant terms of this agreement that will not be amended by the Fourth Amendment are described in Attachment C.

- New Fee Letter. In order to memorialize the reduction in fees negotiated on behalf of the City by its Municipal Advisor, PFM, U.S. Bank requires the City and the Authority to execute a fee letter (the "Fee Letter") specifying the commitment and other fees charged for the issuance of the U.S. Bank LOC. The annual rate payable for the U.S. Bank LOC will be decreased from 0.42% to 0.38% (Level I in the chart below) for both the utilized and unutilized portions of the commitment. Based on this reduction of fee, and the $50 million increase in the program, the annual fee payable for the LOC will increase by approximately $151,000. The total annual fee for the U.S. Bank LOC is estimated at $714,200. The annual fee amounts are allocated and payable by each debt service appropriation in accordance with their proportionate share of CP capacity and any unallocated commitment amount is allocated and payable by the General Fund.

  Pursuant to the terms of the Fee Letter, the annual commitment fee increases if the long-term underlying lease revenue bond rating of the Authority is downgraded by any of the three major rating agencies. The current ratings of the Authority's long-term lease revenue bonds with assets that Moody's and Fitch have deemed essential are Aa2/AA/AA by Moody's Investors Service, S&P Global Ratings, and Fitch Ratings, respectively[6].

[6] Moody's and Fitch determine lease revenue bond ratings in part based on "essentiality" of leased asset; bonds secured from rental payments for an essential asset, facilities like City Hall, carry a higher rating (Aa2 or AA) than bonds secured from rental payments for an asset they deem "less essential", such as the Ice Centre (Aa3 or AA-). In the case that rating agencies rate the same bonds at different levels, the Fee letter requires the Level to be based on the lowest rating.

The proposed applicable commitment fee rate is determined by the rating level that includes the ratings as outlined in the table below. The City's CP Program has been and currently remains at Level I.

Level	City Lease Revenue Debt Rating (Moody's/S&P/Fitch)	Commitment Fee Rate
I	Aa2/AA/AA or above	0.38%
II	Aa3/AA-/AA-	0.48%
III	A1/A+/A+	0.63%
IV	A2/A/A	0.83%
V	A3/A-/A-	1.08%
VI	Baa1/BBB+/BBB+	1.33%
VII	Below Baa1/ BBB+ or Rating Suspension, Withdrawal, or Cancellation	2.33%

The Fee Letter also include the following terms:

Amendment/Transfer Fee: $5,000 plus fees of counsel to U.S. Bank

Early Termination Fee: Waived for the first twelve months for reductions down to $125 million. For reductions below $125 million, equal to the Commitment Fee accrued from the date of termination through the end of the Termination Fee Period.

Authorization to Execute Documents

Staff recommends that the Acting Executive Director/Executive Director or Treasurer of the Authority or their designees (the "Authority Designated Officers") be authorized to execute these amendments as posted, on behalf of the Authority and that the Acting City Manager or the Director of Finance or their designees (the "City Designated Officers") be authorized to execute these amendments as posted, on behalf of the City, as applicable, with such modifications as the Authority Designated Officers or the City Designated Officer determines to be desirable or appropriate, upon consultation with the City Attorney.

Staff also recommends that the Designated Officers each be authorized to enter into one or more future extensions of the Letter of Credit and Reimbursement Agreement provided that the annual fees for each extension do not exceed 1.0% of the commitment.

CONCLUSION

Approval of these recommendations will allow for the expansion and extension of the CP Program and provide sufficient capacity to finance the SJCE energy and operating costs and other City projects in need of short-term financing.

EVALUATION AND FOLLOW-UP

This memorandum presents the set of recommendations related to the Council and the Authority Board's approval of various actions related to expanding and extending the Commercial Paper Program.

CLIMATE SMART SAN JOSE

The recommendation in this memo supports the Climate Smart goal of reduced greenhouse gas emissions/increased use of renewable energy through support of SJCE.

PUBLIC OUTREACH

The proposed resolutions of the Council and the Authority Board and various financing documents will be posted to the agenda webpage for the August 31, 2021 joint meeting of the City and the Authority.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Manager's Budget Office and Community Energy Department (San José Clean Energy).

COMMISSION RECOMMENDATION/INPUT

There is no commission recommendation or input associated with this action.

FISCAL/POLICY ALIGNMENT

The proposed financing plan is also consistent with the City's Debt Management Policy to obtain cost-effective access to the capital markets, minimizing debt service and issuance costs; maintaining access to cost-effective borrowing; and ensuring compliance with applicable State and Federal laws.

COST SUMMARY/IMPLICATIONS

The annual commitment fee payable for the U.S. Bank LOC will decrease from 0.42% to 0.38% for both the utilized and unutilized portions of the commitment. Even with the commitment fee rate decreasing, the annual LOC fee will increase by approximately $151,000 due to the increase of the LOC commitment amount. The new total annual fee for the LOC is estimated at $714,200. The annual fee amounts are allocated to each debt service appropriation in accordance with their proportionate share of CP capacity and any unallocated commitment amount, if any, is allocated to the General Fund and the fee is charged accordingly. Should SJCE's fiscal condition improve more quickly than currently estimated or if the City decides it no longer needs the expanded CP capacity, the City has the option to administratively reduce the size of the CP program within the first 12 months without penalty. This action would then reduce the annual fee from $714,200 in proportion to the size of any reduction in the CP capacity, depending on how much capacity is reduced.

The 2021-2022 Adopted Budget allocated $175,000 in the General Fund for unallocated CP fees, which was established prior to inclusion of SJCE into the CP program. With approval of the SJCE authorization, all existing capacity is allocated. Further actions following the expansion of CP capacity will further change CP capacity. The planned issuance of Lease Revenue Bonds for the Fire Department Training Center and Corporate Service Yard project, if approved by Council in September, will remove a portion of the authorization committed to the Fire Training Center/Emergency Operations Center from the CP program. Currently SJCE is authorized to use up to $95 million of capacity and therefore no portion of the program currently is projected to be unallocated and payable from the General Fund, but if SJCE no longer needs the allocation for which it was approved, some portion could be freed up for other Departments to use or remain unallocated. Given the uncertainties in the energy market, and therefore the potential variability of the SJCE projections, program costs will continue to be monitored and any adjustments will be brought forward as part of a future budget action, as appropriate.

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

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

Attachments

Attachment A

Mechanics of City of San José Financing Authority Commercial Paper Program and Summary of Program Amendments since Inception in 2004

The City leases to the City of San José Financing Authority (the "Authority") various City-owned facilities pursuant to a Site Lease (as amended, the "Site Lease"). The Authority subleased these same facilities back to the City pursuant to a Sublease (as amended, the "Sublease") in exchange for the rental payments which support repayment of the CP Notes. The facilities subject to the Site Lease and Sublease are the Animal Care Center, Fire Station No. 1, Fire Station No. 3, the Police Communication Center, the South San José Police Substation, and the Tech Museum.

The Authority issues the CP Notes under the Marks-Roos Local Bond Pooling Act of 1985 pursuant to an Amended and Restated Trust Agreement between the Authority and Wells Fargo Bank, National Association (as amended and supplemented, the "Trust Agreement") and a Second Amended and Restated Issuing and Paying Agent Agreement between the Authority and Wells Fargo Bank, National Association. Barclays Capital, Inc. serves as the current dealer for the CP Notes pursuant to an Amended and Restated Commercial Paper Dealer Agreement. The CP Notes consists of the Authority's Tax-Exempt Lease Revenue Commercial Paper Notes, Series 1 (the "Series 1 Notes"), Taxable Lease Revenue Commercial Paper Notes, Series 1-T (the "Series 1-T Notes"), Tax-Exempt Lease Revenue Commercial Paper Notes, Series 2 (the "Series 2 Notes"), and Taxable Lease Revenue Commercial Paper Notes, Series 2-T (the "Series 2-T Notes").

The payment of principal and interest on the Series 1 Notes and Series 1-T Notes is currently supported by a direct-pay letter of credit ("LOCs") provided by State Street (the "State Street LOC") with a stated amount of $62.5 million, plus interest calculated at the rate of 10% for a period of 270 days. The payment of principal and interest on the Series 2 Notes and Series 2-T Notes is currently supported by an LOC provided by U.S. Bank (the "U.S. Bank LOC"), with a stated amount of $62.5 million, plus interest calculated at the rate of 10% for a period of 270 days.

As noted above, after the proposed expansion and extension of the U.S. Bank LOC, the payment of principal and interest on the Series 2 Notes and Series 2-T Notes will continue to be supported by the U.S. Bank LOC and the maximum principal amount of Series 1 Notes and Series 1-T Notes that may be outstanding will be reduced to zero dollars. Contemporaneous with the closing of the amendments to the financing documents, including the U.S. Bank LOC (on September 23, 2021), the Authority and the City will terminate the State Street LOC. Thereafter, the City's CP Program will be supported by U.S. Bank as the sole letter of credit provider and will have a maximum capacity of $175 million plus interest calculated at the rate of 10% for a period of 270 days, making the commitment amount approximately $187.9 million.

Under the U.S. Bank LOC, U.S .Bank will be responsible for payments on all draws made on the U.S. Bank LOC. The U.S. Bank LOC would be issued in the principal amount of$175,000,000 plus interest calculated at the rate of 10% for a period of 270 days.

The U.S. Bank LOC was issued by U.S. Bank pursuant to a Letter of Credit and Reimbursement Agreement, among U.S. Bank, the City and the Authority (as amended, the "Letter of Credit Agreement").

The CP Program was initially established in January 2004 and has been amended, expanded and contracted through various City Council and Authority Board actions over time. A summary of these actions is provided in the table below.

Date	City Council/City of San José Financing Authority Board Actions
January 13, 2004	Authorized the issuance of tax-exempt CP Notes in an amount not to exceed $98 million to finance public improvements of the City including the offsite parking garage for the new City Hall and non-construction costs for technology, furniture, equipment, and relocation services for the new City Hall.
November 9, 2004	Authorized the issuance of tax-exempt CP Notes to provide additional funding for the "Integrated Utility Billing, Customer Service and Performance Management System" (the "CUSP Project").
June 21, 2005	Authorized the issuance of taxable CP Notes, under the same $98 million not to exceed limitation as the tax-exempt notes. This subsequent authorization permits the Authority to issue taxable CP Notes to pay for expenses otherwise authorized under the CP Program, but ineligible to be paid from tax-exempt CP proceeds.
November 15, 2005	Authorized expanding the capacity of the CP Program from $98 million to $116 million and authorizing the issuance of CP Notes to pay a portion of the costs of the Phase II improvements at the City's Central Service Yard and a portion of the demolition and clean-up costs at the City's Main Service Yard.
May 22, 2007	Authorized the issuance of CP Notes in an amount not to exceed $8.25 million to pay for capital improvements at the City's HP Pavilion.
October 21, 2008	Authorized the issuance of CP Notes to refund bonds and other obligations of the City or the Authority pursuant to Government Code Sections 53570 et seq and 53580 et seq.
December 8, 2009	Authorized staff to amend and renew the Letter of Credit and Reimbursement Agreement supporting the CP Notes in order to extend the term to January 27, 2013.
April 20, 2010	Authorized the issuance of CP Notes to fund a loan to the low and moderate income housing fund and to fund short-term cash flow needs of the City.
March 15, 2011	Authorized the execution and delivery of a Third Amendment to the Site Lease, a Third Amendment to the Sublease, and other related actions pertaining to the Authority's Lease Revenue Commercial Paper Program in order to provide for the substitution of certain components of the property under the Site Lease and the Sublease.
June 19, 2012	Authorized the issuance of CP Notes in an amount not to exceed $10.0 million to provide funding for additional projects for the Convention Center Expansion and Renovation Project.
December 4, 2012	Authorized staff to amend and restate the Letter of Credit and Reimbursement Agreement supporting the CP Notes in order to extend the term to March 15, 2013.

Date	City Council/City of San José Financing Authority Board Actions (cont.)
February 12, 2013	Authorized staff to negotiate two new Letter of Credit and Reimbursement Agreements supporting the CP Notes; and authorized the execution and delivery of a Fourth Amendment to the Site Lease, a Fourth Amendment to the Sublease, and other related actions pertaining to the Authority's Lease Revenue Commercial Paper Program in order to provide for the substitution of certain components of the property under the Site Lease and the Sublease. The facilities currently subject to the Site Lease and Sublease are: the Animal Care Center, Fire Station No. 1, Fire Station No. 3, the Police Communications Center, and the South San José Police Substation.
June 17, 2014	Authorized the Fifth Amendment to the Site Lease, a Fifth Amendment to the Sublease, and other related actions in order to provide for the addition of a component of property (the Tech Museum) under the Site Lease and the Sublease in connection with the City of San José Financing Authority's Lease Revenue Commercial Paper Program to provide additional security.
September 15, 2015	Authorized the issuance of CP Notes in an amount not to exceed $3.5 million to provide funding for the Municipal Water System's Water Meter Replacement Project.
June 21, 2016	Authorized the issuance of CP Notes in an amount not to exceed $10.0 million to provide funding for Energy Conservation Projects.
January 31, 2017	Authorized the issuance of CP Notes in an amount not to exceed $15.0 million to provide funding for the Convention Center Exhibit Hall Project.
August 29, 2017	Authorized the issuance of CP Notes in an amount not to exceed $10.0 million to provide financing for start-up costs for the San José Clean Energy Project.
February 13, 2018	Authorized the issuance of CP Notes in an amount not to exceed $21.0 million to provide financing for the Flood Recovery Project.
August 14, 2018	Authorized the issuance of CP Notes in an amount not to exceed $47.0 million to provide funding for the purchase of Convention Center - South Hall site and amendments of the two Letter of Credits and Reimbursement Agreements
August 14, 2018	Authorized the negotiation, execution, and delivery of amendments to two Letter of Credit and Reimbursement Agreements and authorizing other related actions in connection with the City of San José Financing Authority's Lease Revenue Commercial Paper Notes in order to increase the not-to-exceed aggregate principal amount thereof from $85.0 million to $125.0 million and to extend the stated expiration dates and commitments available under such Letter of Credit and Reimbursement Agreements
January 12, 2021	Authorized the issuance of CP Notes in an amount not to exceed $23.4 million to provide bridge funding for the Fire Training Center and Emergency Operations Relocation project.
June 22, 2021	Authorized the issuance of CP Notes in an amount not to exceed $95.0 million to provide funding for energy costs for the San José Clean Energy department.

Attachment B

Technical Aspects of Commercial Paper

The Mechanics of Commercial Paper

Commercial paper is debt that is sold with a maturity of between 1 and 270 days. The maturity of an individual commercial paper note is determined by the commercial paper dealer and the issuer at the time it is sold. Each commercial paper note bears interest at a fixed rate for the 1-270-day period of time it is outstanding; or is sold at a discount, and such interest or discount is payable when the note matures. (The procedures for the payment of interest on the commercial paper are described below under "Payment of Principal and Interest on Commercial Paper".)

Municipal commercial paper programs typically require the issuer to obtain credit support through one of more letters of credit provided by a commercial bank. Upon each note maturity, the paying agent is authorized and required to draw on the supporting letter of credit in the amount of principal and interest due on that date. The issuer may then "roll over" the commercial paper notes by issuing renewal notes and using the proceeds of the renewal notes to reimburse the draw on the letter of credit. To the extent that the commercial paper dealer is unable to find an investor for the renewal notes, the draw on the letter of credit remains unreimbursed and the issuer is responsible for repaying the bank or banks that provided the letter of credit. The terms and conditions governing the letter(s) of credit and the reimbursement process are memorialized in a reimbursement agreement entered into by and between the issuer and the bank or bank(s) that provided the letter of credit.

The renewal notes may be sold through a commercial paper dealer either to a new investor or to the investor who held the maturing note. The process of rolling over commercial new paper is not considered to be the issuance of additional debt as long as the amount of commercial paper outstanding is not increased as a result of the "roll over." Through the "roll over" mechanism, commercial paper can be kept outstanding indefinitely, as individual commercial paper notes continually mature and new commercial paper notes are issued.

Commercial paper is considered a form of variable-rate debt. Even though the interest rate on each commercial paper note is fixed at the time such note is issued, the rate on each commercial paper note will be based on market conditions at the time. The rates on new commercial paper notes will thus vary from one week or month to another. The actual cost of the program to the issuer will be the average rate on all of its outstanding commercial paper notes over time. Most issuers project such average rates on a quarterly or annual basis. Overall, commercial paper rates tend to be among the lowest available in the tax-exempt and taxable markets for municipal debt.

The buyers of commercial paper are considered short-term investors because their investments in commercial paper mature in 270 days or less. One of the attractive features commercial paper offers to an investor is that the maturities can be matched to the specific timing needs of an investor (such as 27 days, or 112 days). This helps an investor invest amounts for a very precise period of time until such funds are needed for a specific known payment obligation in the future. Buyers of commercial paper include major corporations and money market funds. Commercial paper is attractive to money market funds because it complies with the maturity limitations imposed on such funds, and the flexibility in setting the maturity of commercial paper may help the fund achieve or maintain the average maturity it is seeking. Money market funds are likely to continue to buy a given issue of commercial paper as it rolls over, and thus may own an issue for an extended period of time.

Payment of Principal and Interest on Commercial Paper

Commercial paper is not sold with a fixed principal repayment schedule. Instead, the issuer maintains almost complete flexibility with respect to the timing and amounts in which the principal amount of commercial paper will be repaid. The issuer can repay commercial paper on any date on which a commercial paper note is scheduled to mature by providing the funds to repay such note to the paying agent for the issue. The paying agent uses such funds to pay the holder of the commercial paper. At the same time, the issuer instructs its commercial paper dealer not to attempt to sell new commercial paper to roll over the paper that is maturing. Hence, when such steps are taken, the amount of commercial paper outstanding at the end of the day is reduced.

The individual commercial paper notes are likely to have different maturities, so an issuer repaying a commercial paper program would do so in a series of steps as the individual notes mature. However, since each note would have a maximum maturity of 270 days, an entire program could be repaid at the option of the issuer in not more than 270 days from the time the issuer decided to commence such a repayment. It is likely that an issuer planning to pay a program off in the near future would instruct its commercial paper dealer to issue the paper with short maturities as it rolls over, so that the issuer could retire the commercial paper quickly when it begins the repayment process.

As noted above under "The Mechanics of Commercial Paper," interest or discount is payable on each commercial paper note as it matures. During the construction period for a project, the interest payable can be "capitalized" by adding the amount of interest due on the maturing commercial paper to the amount of new paper being sold. If this approach is used, the principal amount of paper outstanding over time will increase as additional interest is capitalized (subject to the maximum authorized amount of notes permitted to be outstanding at any one time under the program).

Interest on tax-exempt debt generally cannot be capitalized following completion of the projects financed with commercial paper. At that point, the issuer must provide to the paying agent the interest due at the time each note matures. The paying agent then pays such interest to the investor together with the proceeds received from rolling over the principal amount of the commercial paper. Since the interest at that point is being paid by the issuer, and not by increasing the amount of paper being rolled over, the principal amount of commercial paper outstanding will stay constant after the projects are completed. The principal amount outstanding could either be reduced in the future if the issuer decides to repay some, or all, of the program, or increased if the issuer decides to undertake additional projects (which may require an increase in the authorized amount of the program).

Attachment C

Additional Letter of Credit Agreement and Fee Letter Terms

Material terms of the Letter of Credit Agreements that are changing have been highlighted in the memo. Other material terms and covenants of the Letter of Credit Agreements and the Fee Letter **<u>that are not amended</u>** include the following:

Alternative Base Rate	Highest of (i) the Bank's prime rate + 1 %; (ii) Fed Funds Rate +2%; or (iii) SIFMA Rate + 1%; with a minimum Floor Rate of the greater of (a) 7.5% per annum and (b) the rate of interest accruing on the CP Notes. In the current interest rate environment, the Floor Rate is the 7.5% per annum rate.
Advance Rate	(1-30 days after Principal Advance) Alternative Base Rate + 1.0% (31-90 days after Principal Advance) Alternative Base Rate + 2.0% (91-180 days after Principal Advance) Term Loan Rate (181+ days after Principal Advance). This interest rate is charged to the Authority when the commercial paper dealer is unable to find buyers for the outstanding commercial paper notes and the Bank is obligated to provide a Principal Advance to the Authority to purchase these notes from the note owners who no longer wish to hold the notes.
Term Loan Rate	Each Principal Advance remaining unpaid by the Authority after 180 days or the Stated Termination Date, whichever comes first, will be converted to a Term Loan. Each Term Loan will bear interest at the Term Loan Rate. Alternative Base Rate + 3%.
Default Rate	Alternative Base Rate + 4.0%. Applicable in the event of a default.

Subordination of Swap Termination Fees	If the City or Authority enters into any interest rate swap agreement or other derivative contract for any debt with a claim on the general fund, termination fees related to that debt will be subordinate to reimbursement obligations under the Letter of Credit Agreements.
Waiver of Jury Trial	The City, the Authority and the Bank each waives its right to jury trial. Further, the City and the Bank agree that if a waiver of jury trial is unenforceable (which may be the case under California law), the dispute will be adjudicated by a judicial referee per the provisions of California law.
Increased Bank Cost and Capital Adequacy	Increased costs and changes in capital adequacy requirements include changes resulting from the Dodd-Frank Act and Basel III, regardless of the date of enactment.
Repayment of Bank- Plan of Finance Obligation	No later than three years after the Stated Termination Date, the Director of Finance, City Manager and the Executive Director of the Authority shall use their best efforts to bring forward a plan of finance to City Council/Authority Board for the issuance of bonds or certificates of participation sufficient in value to reimburse the Bank for all obligations owed.

As is common in letter of credit agreements, the Letter of Credit Agreement requires the Authority to indemnify U.S. Bank for claims filed by third parties. U.S. Bank wishes to continue this limitation of exposure to third parties for liability and damages including consequential damages under the Letter of Credit Agreement. Consequential damages, also known as special or indirect damages, are one land of two types of damages (the other being direct damages) that may be awarded to a plaintiff in a civil action, where plaintiff claims the terms of an agreement were not honored. Consequential damages include loss of profit or revenues and may be recovered if it is determined that such damages were reasonably foreseeable at the time of the making of the contract. The only exception to the Authority's obligation to indemnify U.S. Bank for third party claims is where the liability or damages results from U.S. Bank's willful misconduct or gross negligence in connection with U.S. Bank's failure to honor a draw on the U.S. Bank LOC.