

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING REVISIONS TO COUNCIL POLICY 1-18 TO REVISE SECTION 22 (REAL PROPERTY TRANSFER TAX REVENUES) TO MODIFY THE SPENDING PRIORITIES AND ALLOCATION OF REAL PROPERTY TRANSFER TAX REVENUE**

**WHEREAS**, the City Council of the City of San José (“City”) initially adopted City Council Policy 1-18, “Operating Budget and Capital Improvement Program Policy” by City Council action on October 24, 2004, which policy has since been amended by the City Council on March 20, 2007, October 21, 2008, October 20, 2009, December 15, 2009, June 17, 2010, June 11, 2013, June 10, 2014, December 16, 2014, June 9, 2015, June 11, 2019, September 10, 2019, June 16, 2020, and June 15, 2021 (“Policy”); and

**WHEREAS**, on December 3, 2019, the City Council voted to place a new real property transfer tax on the March 3, 2020 ballot (“Measure E”) which funds general City of San José services and is set at the following rates: Transfers valued under \$2 million: exempt (adjusted for inflation); Transfers from \$2 million to \$5 million: 0.75%; Transfers from \$5,000,000.01 to \$10 million: 1.0%; and Transfers over \$10 million: 1.5%; and

**WHEREAS**, on March 3, 2020, Measure E was approved with overall 53% support by San Jose voters; and

**WHEREAS**, on December 10, 2019, the City Council discussed and considered certain spending priorities for the potential general fund transfer tax revenues from the proposed real property transfer tax measure if approved by a majority of the voters voting on March 3, 2020 and directed staff to return to the City Council with the necessary amendments to Council Policy 1-18 (“Policy”) incorporating the outcome of the City Council’s deliberations; and

**WHEREAS**, in June 2020, the City Council amended the Policy to include a new Section 22 which specifies spending priorities for Measure E real property transfer tax revenue (“Measure E revenue”) and a process for making changes to the priorities. The policy states “the City Council intends for the revenues to be allocated towards addressing the homelessness crisis and the City’s most urgent issues including, but not limited to, homeless prevention and developing new affordable housing.”; and

**WHEREAS**, Section 22 of the Policy outlines a process for making changes to the spending priorities. Any modification to the percentage allocations requires 60-day public notice in advance of the effective date of the proposed allocation change, at least two public hearings prior to City Council action, and two-thirds vote of the City Council; and

**WHEREAS**, the City of San José continues to face both a homeless and an affordable housing crisis. Given the inevitable total consumption of available County of Santa Clara Measure A funding and the unexpected surplus of Measure E revenues in the current fiscal year and stronger revenues preliminarily forecasted in the future, staff explored opportunities to resolve multiple facets of the City’s affordable housing and homeless crisis through the use of Measure E revenues; and

**WHEREAS**, On February 15, 2022, the City Council held the first public hearing to consider proposed changes to Measure E revenue spending priorities and allocations. At the meeting, the City Council directed staff to make the following adjustments to the spending priorities under Section 22 of the Policy: 40% for creation of new affordable housing for extremely low-income households; 30% for creation of new affordable housing for low-income households; 5% for creation of new affordable housing for moderate-income households; 10% for homeless prevention and rental assistance; and 15% for homeless support programs including shelter construction and operations; and

**WHEREAS**, a new spending priority is being created for homeless support programs including shelter construction and operations. The proposed use of funds in this category is for programs and services targeting people who are homeless or at-risk of becoming homeless including, but not limited to, case management, outreach teams, encampment services, safe parking, homeless shelters, and interim housing construction and operations; and

**WHEREAS**, the City Council desires to amend the Policy to revise Section 22 to update the Measure E revenue spending priorities to include: 1) the additional priority for homeless support programs including shelter construction and operations and allocate 15% of Measure E revenues for funding; and 2) modify the revenue percentage allocations of each spending priority as follows: 40% for creation of new affordable housing for extremely low-income households, 30% for creation of new affordable housing for lower income households, 5% for creation of new affordable housing for Moderate-Income households, 10% for homeless prevention and rental assistance, and 15% for homeless support programs including shelter construction and operations; and

**WHEREAS**, this Policy supersedes the policy approved on June 15, 2021 in Resolution No. 80094 of the Council of the City of San José;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The revised City Council Policy, entitled “Operating Budget and Capital Improvement Program Policy,” which revised Policy is attached hereto as Exhibit “A” and incorporated herein by this reference as though fully set forth herein, is hereby approved and shall replace City Council Policy 1-18, initially approved by the City Council on October 24, 2004 and revised on March 20, 2007, October 21, 2008, October 20, 2009, December

15, 2009, June 17, 2010, June 11, 2013, June 10, 2014, December 16, 2014, June 9, 2015, June 11, 2019, September 10, 2019, June 16, 2020, and June 15, 2021.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

COUNCIL POLICY

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<b>EFFECTIVE DATE</b> October 24, 2004	<b>REVISED DATE</b> June 15, 2021	

**APPROVED BY COUNCIL ACTION** Revised 3/20/2007; 10/21/2008, Item 3.4(c), Res. No. 74627; 10/20/2009, Item 3.4(c), Res. No. 75134; 12/15/2009, Item 2.15(a), Res. No. 75229; 6/17/2010, Item 3.13(f), Res. No. 75444; 06/11/13, Item 3.9(c), Res. No. 76664; 6/10/14, Item 3.6(e), Res. No. 77021; 12/16/14, Item 2.21, Resolution No. 77252; 06/09/15, Item 3.8(c), Resolution No. 77383; 6/11/2019, 3.7(c), Resolution No. 79139; 9/10/2019, 3.4(c), Resolution No. 79230; 6/16/2020, Item 3.5(c), Resolution No. 79581; 6/15/21, Item 3.8(d).

PURPOSE

It is the purpose of this policy to set forth the guiding principles for the preparation and administration of the Operating Budget and Capital Improvement Program. This policy also includes the guiding principles on General Fund budget reserves and the ending fund balance in order to maintain our current level of budget performance, subject to the requirements of the San José City Charter and the San José Municipal Code. This Policy provides for general guiding principles and is not intended to supersede specific policies and procedures adopted by the City Council.

POLICY

The Operating and Capital Budgets and the Capital Improvement Program are prepared and administered in accordance with several sources of policy direction.

1. The City Charter requires that the budgets be balanced, include a complete financial plan for all City funds, and meet certain legal deadlines for submittal.
2. The City Council has established budget policies. These policies include guidelines, standards, and requirements for preparation and monitoring of both the Operating and Capital Budgets. The complete text of the adopted budget policies follows.
3. The budgets are developed in accordance with the Mayor’s budget priorities and direction as approved by the City Council in March and June of each year.
4. Recommendations of special studies by Council-appointed task forces, boards, commissions, and committees may be considered upon the direction of the City Council.
5. Public input is considered throughout the process, with scheduled public hearings at key Council decision points.

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## **OPERATING BUDGET**

### **1. General**

The budget should be a performance, financing, and spending plan agreed to by the Mayor, City Council, City Manager, and other Council Appointees. It should contain information and data regarding expected revenues and resources (inputs), expected expenditures, and expected performance (outcomes). During the fiscal year, actual experience (revenues, expenditures, and performance) will be periodically measured against the plan.

The City will prepare and annually refine written goals and policies to guide the preparation of financing, spending, and performance plans for the City budget. Proposed budgets will comply with the adopted budget policies and Council priorities.

The City uses a performance-based budget. The core service is the lowest level in the organization for which budgets are prepared. Each core service budget will include financing and spending plans. Each core service will also propose an annual performance plan. The plan must identify ongoing performance targets and corresponding indicators, which measure performance. The plan should also include specific performance targets, which will have results during the budget year. All performance at the core service level must be consistent with the mission statements at the department level and the outcomes of the City Service Area at the City level, meeting the performance as well as budget goals and policies established by the Mayor and City Council.

Department and program managers will not exceed the Council-approved appropriations in any fund. Appropriations for departmental operations are approved by the City Council in two categories: Personal Services and Non-Personal/Equipment. These appropriations are shown in the departmental budgets. In addition, appropriations are approved for Capital Projects, Citywide projects, and other targeted functions with special and capital funds. The City Council may approve modifications to these appropriations throughout the year as warranted by revenue collections and activity demands.

### **2. Fiscal Integrity**

The City will maintain the fiscal integrity of its operating, debt service, and capital improvement budgets, which provide services and maintain public facilities, streets, and utilities.

Ongoing operating program costs will not exceed the amount of ongoing revenue to finance those costs. Interfund loans will not be used as a funding mechanism to address ongoing gaps between revenues and costs. If a new program is added on an ongoing basis, an ongoing revenue source will be identified to fund the program costs. Any available carryover balance will only be used to offset one-time costs.

### **3. Contingency Funds or Accounts**

Several different contingency funds or accounts are established:

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a) General Purpose Reserves

Within the General Fund, unrestricted reserves shall be set aside as a safety net for general city operations. Currently, the Contingency Reserve, Budget Stabilization Reserve, and Workers' Compensation/General Liability Catastrophic Reserve are available for general purposes. The combined funding goal for these reserves in the aggregate shall be 10 percent of General Fund Operating Budget expenditures. Within capital and special funds, reserves may be set aside as a safety net for city operations pertaining to the respective fund or to provide stability for customer rates when there are fluctuations to revenue and expenditures.

- 1) Contingency Reserve – Within the General Fund, a contingency reserve, which is a minimum of 3% of the General Fund operating budget, is established. The purpose of this reserve is to meet unexpected circumstances arising from financial and/or public emergencies that require immediate funding that cannot be met by any other means. Any use of the General Fund Contingency Reserve shall require two-thirds vote of approval by the City Council. The Contingency Reserve shall be budgeted at a minimum of 3 percent of the General Fund operating budget in the annual Adopted Budget. This allocation will include replenishment of any amounts expended or appropriated to another fund during the previous year.

Appropriate levels of contingency funds will be determined and maintained in the capital and special funds as part of the City Council's adoption of the annual Capital Budget or the Operating Budget, as applicable.

- 2) Budget Stabilization Reserve - Within the General Fund, a Budget Stabilization Reserve may be maintained at a level as determined by the City Council to be adequate. The purpose of this reserve is to provide budget stability when there are fluctuations that result in lower than projected revenues and/or higher than projected expenditures that cannot be re-balanced within existing budget resources in any given year. This reserve is intended to provide a buffer, or bridge funding, to protect against reducing service levels when these fluctuations occur. Any use of the General Fund Budget Stabilization reserve shall require majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually as part of the City Council's adoption of the Operating Budget. The replenishment or use of this reserve shall be incorporated into the annual Adopted Operating Budget as resources are available to replenish and/or increase this reserve, or as funds are needed to address a budget shortfall.

Appropriate levels of Budget Stabilization Reserve funds will be determined and maintained in the capital and special funds, as applicable.

- 3) Workers' Compensation/General Liability Catastrophic Reserve –Within the General Fund, a Workers' Compensation/General Liability Catastrophic Reserve may be maintained at a level as determined by the City Council to be adequate. The purpose of this reserve is to provide funding for potential

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workers' compensation or general liability claims that exceed the budgeted amounts as the City, for the most part, is self-insured. Any use of the General Fund Workers' Compensation/General Liability Catastrophic Reserve shall require majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually as part of the City Council's adoption of the Operating Budget. The replenishment of this reserve shall be incorporated into the annual Adopted Operating Budget as resources are available to replenish and/or increase this reserve.

Appropriate levels of Workers' Compensation and/or General Liability Catastrophic Reserves will be determined and maintained in the capital and special funds, as applicable.

b) Cash Reserve Fund

An adequate revolving fund (Cash Reserve Fund 002), as mandated by the City Charter, shall be determined and maintained at an adequate level as determined by the City Council. The purpose of this reserve fund is for the payment of any authorized expenditures of the City for any fiscal year in anticipation of and before the collection of taxes and other revenues of the City for such fiscal year.

c) Emergency Reserve Fund

An adequate emergency reserve fund (Emergency Reserve Fund 406), as mandated by the City Charter, shall be determined and maintained at an adequate level as determined by the City Council. The purpose of this reserve fund is to meet any public emergency involving or threatening the lives, property, or welfare of the people of the City or property of the City.

**4. Fund Balance**

The appropriation of carryover fund balances must be approved judiciously. This should ensure that ongoing expenditures will be budgeted only to the extent that proven revenue streams exist.

In the annual budget, and in subsequent reports, there will be a presentation on fund balances and their anticipated uses.

- a) The first increment of any General Fund "Ending Fund Balance" identified in the City Manager's Annual Report shall be allocated to offset any projected deficit for the following fiscal year, after necessary appropriation adjustment actions to re-budget funds, correct errors, or reflect updated cost information have been accounted for in the fund balance reconciliation.
- b) After setting aside funding to address the projected deficit for the following year, the remaining funds shall be allocated for the following uses:

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- 1) Budget Stabilization Reserve and/or Contingency Reserve.
  - 2) Unmet/deferred infrastructure and maintenance needs.
  - 3) Other one-time urgent funding needs.
- c) Annual surplus funds shall not be used for ongoing expenditures, unless those expenditures can be accommodated in Year Two and possibly Year Three of the five-year financial forecast. Any available carryover balance should only be used to offset one-time costs or to increase revenues.

### **5. Mid-Year Adjustments**

Mid-year budget adjustments recommended by Council committees, task forces, or the full Council, should be referred to the Mid-Year Budget Review or the annual budget process for consideration along with other competing budgets needs and priorities. In general, ongoing budget changes should be dealt with during the annual budget process while one-time budget changes may be considered during either the Mid-Year Budget Review or during the annual budget process.

The authority to make expenditures in accordance with a City Council-approved spending plan is only valid as long as revenue for the budgets is equal to or greater than estimated expenditures.

All appropriation amendments and revenue estimate changes will be reported in the monthly financial report.

### **6. Overhead Cost Allocation**

All overhead costs shall be allocated to the appropriate program within the limits of local, State and federal laws. The City utilizes a two step method (double step down method) where costs are first allocated among the central service support programs to arrive at the total cost of the central service programs. These total costs are then allocated down in priority order to the departments and funds that are benefiting from their services. The allocating support program costs are charged to the associated departmental funding source and corresponding revenue is received by the General Fund.

### **7. Budget System**

The City will maintain a budget control system to adhere to the budget.

There will be delivery of a Proposed Budget, in accordance with the Adopted Budget schedule, that accurately depicts the financial condition and goals of the City. This budget should be in a form that enables decision makers to set the direction and policy of the City.

The Proposed Budget will illustrate the General Fund, special funds, and capital funds so that the entire resources of the City may be viewed comprehensively for decision-making. Decision-making for capital improvements will be coordinated with the operating budget to make effective use of the City's overall resources for operating and maintaining facilities.

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The adoption of the annual appropriations ordinance will coincide with the adoption of the resolution setting forth the annual revenue estimates.

Budget detail shall contain line-item detail for the core service spending plan, a personnel summary report listing the types of positions for each department, and a corresponding core service performance plan. It shall also contain department and fund summaries for spending and personnel as well as a detailed financing plan for the core service.

## **8. Debt**

The City Council adopted a Debt Management Policy (Council Policy 1-15) that establishes the following equally important objectives:

- a) Minimize debt service and issuance costs.
- b) Maintain access to cost-effective borrowing.
- c) Achieve the highest practical credit rating.
- d) Full and timely repayment of debt.
- e) Maintain full and complete financial disclosure and reporting.
- f) Ensure compliance with applicable State and Federal laws.

As described in Council Policy 1-15, prior to bringing forward a lease financing (financing the acquisition, construction, or improvement by the City of real property or equipment) to the City Council for approval, the Finance Department shall perform initial due diligence on the project to be financed. The due diligence will include identifying the revenue source for repayment, and performing a feasibility study to determine the volatility of the revenue and provide a sensitivity analysis on project revenue projections, including worst/best case scenarios and the impact on any repayment source identified as the backstop to the project revenues. In order to proceed with the preparation of the documents necessary for the lease financing, two-thirds majority approval by the City Council of the proposed plan of finance is required. When the lease financing is brought forward for City Council approval, the Finance Department will provide the City Council with an update to the due diligence report and any feasibility study. Approval of the lease financing will require two-thirds majority approval by the City Council. These provisions do not apply to a refunding of a lease financing transaction.

In order to reduce the principal on outstanding debt and minimize debt service costs, one-time savings generated from debt restructurings and refundings should be used to pay down the outstanding principal of other existing City debt, whenever possible, taking into consideration any fund restrictions.

## **9. Self Insurance**

The budget will provide for the adequate funding for the City's self-insurance programs.

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### **10. Capital and Equipment Maintenance**

The budget will provide for the adequate maintenance and orderly replacement of capital, plant, and equipment.

### **11. Retirement**

The budget will provide for the adequate funding of all retirement systems.

### **12. Monthly Report**

The Administration will prepare regular monthly reports comparing actual revenues and expenditures to budgeted amounts.

The budget will be produced so that it can be directly compared to the actual results of the fiscal year and presented in a timely monthly report.

All budget amendments, both for revenues and expenditures, will be noted in the monthly report.

### **13. Multi-Year Estimates**

Each year the City will update expenditure and revenue projections for the next five years. Projections will include estimated maintenance and operating costs of future capital improvements that are included in the capital budget.

This budget data will be presented to elected officials in a form that will facilitate annual budget decisions, based on a multi-year strategic planning perspective.

### **14. Performance and Productivity**

The City will integrate performance measurement and productivity indicators within the budget. Prior to implementation, performance objectives and service levels will be submitted for all new and existing programs established during the budget process. The selection of performance standards should be made on the basis of information reliability, relevance to current year budget change proposals, value to Mayor/Council decision making, and utility for program management

The City will promote the understanding that City employees are the most valuable resource of the City and that their understanding and involvement in the budget process is crucial to the City's continuing success on behalf of the community.

The City will employ good management practices when planning for service delivery by including money in budget requests to pursue activities such as:

- a) office automation and computer applications that increase productivity;
- b) equipment modernization;
- c) work-flow simplification;

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- d) risk management, exposure reduction, and employee safety;
- e) preventive maintenance;
- f) energy conservation;
- g) life-cycle costing in purchasing of equipment;
- h) lease-purchase options for high-cost equipment and purchases that reduce operating expenses;
- i) performance planning, reporting, and evaluation; and
- j) employee training.

The City will prepare and evaluate program performance plans that relate to financing and spending plans in the annual City budget.

### **15. Public Involvement**

Public involvement shall be encouraged in the annual budget decision-making process through public hearings, public outreach and information, and informal meetings.

For ballot measures approved by the voters that result in increased tax revenues available to be spent for any governmental purpose, the Neighborhoods Commission shall serve as the primary resident oversight body over how such revenues are allocated by the City Council within the General Fund on an annual basis. Subsequent to the release of the City Manager's Annual Report, the Neighborhoods Commission will perform the following tasks for each ballot measure identified by the City Council to be reviewed by the Neighborhoods Commission:

- a) Compare the actual revenue received with the budgeted estimate.
- b) If the City Council approved specific uses for the revenue through a budget action, compare the actual expenses with the budgeted amount.
- c) If the City Council did not approve specific uses of the revenue through a budget action, provide a high-level review of the General Fund budget to assess how the increased revenues from the ballot measure were allocated to support and make a positive impact on community priorities.
- d) Produce a report to the City Council summarizing all findings and stating whether and how the revenues were used to support previously identified uses and/or community priorities.

As deemed appropriate, the City Council may designate a separate commission or other body of San José residents to provide oversight of ballot measures that increase City revenues.

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**16. “Distinguished Budget” Presentation**

The approved budget shall be submitted to the Government Finance Officers Association and the California State Municipal Finance Officers for consideration for professional awards and recognition for Distinguished Budget Presentation.

**17. Fees**

Fees shall be set to cover 100% of the cost of service delivery, unless such amount prevents residents from obtaining an essential service. Fees or service charges should not be established to generate money in excess of the costs of providing services.

Fees may be less than 100% if Council determines that other factors (e.g. market forces, competitive position, etc.) need to be recognized.

**18. Non-profit Organizations**

Future funding decisions regarding non-profit organizations will be based on guidelines, policies and priorities determined by the Mayor/City Council and availability of funding based on spending priorities.

The City shall execute performance contracts with those agencies that receive City funding.

**19. Master Plans**

Master plans for specific service areas brought forward for Council consideration shall include options for capital and operating financing. Master plans shall be required to propose funding mechanisms for all recommendations.

**20. Office of the Mayor and City Council District Office Budgets in Transition Years**

For fiscal years in which the term of office of the Mayor or Councilmember(s) will expire and, as a result, the official may leave office due to election results or term limits (a “Transition Year”), two separate appropriations to maintain separate budget allocations for the outgoing and incoming elected officials shall be established. The total budget allocation will include: (a) office general budget; (b) constituent outreach budget; and (c) any carryover available from the prior fiscal year, from both office general and constituent outreach budgets. The first appropriation shall be for the July through December period for the Mayor and Councilmember(s) whose terms expire in December of that year, representing 50% of the total allocation. The second appropriation shall be for the January through June period for the newly elected Mayor and Councilmember(s), representing the remaining 50% of the total allocation. Outgoing Mayor and Councilmember(s) shall take into account the costs associated with any contracts entered into and all of their office’s personnel costs, including leave balance payouts for their staff so as not to reduce the amount budgeted for the incoming official. Any remaining budget allocation at the conclusion of the first appropriation shall be reappropriated to the second appropriation for that specific office as part of the annual Mid-Year Budget Review process. Should an election result in no change in the office holder, as part of the Mid-Year Budget Review process, the second appropriation shall be combined into the first for continuity of operations.

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## **21. Interfund Loans**

Interfund loans are loans from one City fund to another City fund for a designated purpose. To ensure that all interfund loans are appropriate, properly documented, and not established to the detriment of the fund issuing the loan, the following interfund loan eligibility and documentation requirements are established.

- a) Interfund Loan Eligibility Requirements—Interfund loans may not be used to solve ongoing structural budget problems. Interfund loans must have an identified repayment source and date; include an interest component that equals the investment earnings the fund would have received had the loan not occurred; and be immediately due and payable if needed by the fund that provided the loan.
- b) Interfund Loan Documentation Requirements- Loan amount, term, and repayment source will be identified any time a loan is recommended. Loans will be coordinated with the City Attorney’s Office to ensure compliance with the Municipal Code and will be approved by the City Council. Payments made on outstanding loans shall be reflected in the Proposed and Adopted Budget and Annual Report, as applicable. A summary of all outstanding loans will also be included in the annual Proposed and Adopted Operating Budget and the Comprehensive Annual Financial Report (CAFR). The CAFR will also consistently include the loan term, rate of interest, and the interest amount due in its calculation of the total liability associated with the loan.

## **22. Real Property Transfer Tax Revenues**

On March 3, 2020, the voters of San José passed Measure E to enact a new real property transfer tax (“Transfer Tax”) on the transfer of certain real property in the City. The provisions of this section shall apply to the budgeting of Transfer Tax revenues. The Transfer Tax is a general tax and the revenues derived from the tax are unrestricted, which means the City can use the Transfer Tax revenues for any governmental purpose. While these revenues are deposited in the General Fund and can be used for any governmental purpose, the City Council intends for the revenues to be allocated towards addressing the homelessness crisis and the City’s most urgent issues including, but not limited to, homeless prevention and developing new affordable housing. The approach for estimating and budgeting Transfer Tax revenues is described below.

- a) Estimating Revenue from the Transfer Tax – Due to the volatile nature of a real property transfer tax such as the Transfer Tax, the City will conservatively estimate revenue from the Transfer Tax as part of the Proposed Budget process. During the course of the fiscal year, revisions to the Transfer Tax revenue estimate may be recommended to the City Council to align with the pace of actual collections.
- b) Spending Allocations of Transfer Tax – The spending priorities for the Transfer Tax are listed below.
  - 1) Up to 5% of the revenues may be allocated for the administration of funding related to increased workload resulting from more robust homeless prevention efforts and

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the creation of more affordable housing, including, but not limited to, financial, legal, or administrative and policy programmatic support.

2) The remaining revenue is allocated as follows:

- i. 10% for homelessness prevention, gender-based violence programs, legal services, and rental assistance;
- ii. ~~45% for permanent supportive and affordable rental housing for extremely low-income (ELI) households earning less than 30% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development; 40% for creation of new affordable housing for Extremely Low-Income (ELI) -households earning less than 30% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;~~
- iii. ~~35% for affordable rental housing for 30%–80% AMI households; 30% for creation of new affordable housing for Low-Income households earning less than 80% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;~~
- iv. ~~10%–5% for creation of new affordable housing below market rate for sale housing and for moderate-income rental housing up to and including 120% AMI, including but not limited to, rent-restricted Accessory Dwelling Units (ADU) forgivable loans, down payment assistance, land trusts, shared equity programs, and first-time homeownership opportunities for households up to 120% AMI; and~~
- ~~iv-v. 15% for homeless support programs, shelter construction and operations, that may include, but is not limited to, case management, outreach teams, encampment services, safe parking, homeless shelters and interim housing construction and operations.~~

c) Modifications to Spending Allocation – Any revisions to the revenue estimate, as well as a reconciliation of year-end actuals to budgeted estimates, will be proportionally applied to the spending categories described above. Modifying the percentage allocations during the Proposed Budget process or during the year requires:

- 1) A 60-day notice in advance of the effective date of the proposed allocation change posted on the City’s website and at least two public hearings prior to City Council action on the proposed allocation change, with a notice of each public hearing posted on the City’s website at least 10 days in advance of the public hearing; and
- 2) A two-thirds vote of the City Council.

## CAPITAL IMPROVEMENT PROGRAM

### 1. Fiscal Policies

- a) Capital project proposals should include complete, reliable, and attainable cost estimates. Based upon a thorough analysis of the project, project cost estimates for

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the Five-Year Capital Improvement Plan will vary in reliability depending upon whether they are to be undertaken in the first or fifth year of the Plan. Project estimates for the Five-Year Capital Improvement Plan should include the basis on which the project costs were prepared (conceptual design, master plan, etc.), and the relative reliability of those estimated costs.

- b) Capital project proposals should include a comprehensive resource plan. This plan should include the amount and type of resources required, and the funding and financing strategies to be employed. The specific fund and timing should be outlined. The plan should indicate resources needed to complete any given phase of a project in addition to the total project. The City Manager's Office is responsible and accountable for providing Council with an accurate, comprehensive resource plan.
- c) Changes in project estimates for the comprehensive resource plan shall be fully reported to the City Council for review and approval.
- d) Project proposals should indicate the project impact on the operating budget. Each project that is proposed in any year of the 5-year Capital Improvement Program shall have an estimate of the costs for furniture, fixtures, equipment, and technology and the annual operations and maintenance costs in the appropriate year of the Operating Budget or in the Five Year Forecast and Revenue Projections.
- e) During the Annual Capital Budget process for multi-year budgeted projects, the City Manager will provide the Council with more information regarding the project including the original budget, budget addendums, and the projected schedule in spreadsheet format.
- f) At the time of award of the construction contract, each project shall include reasonable provision for contingencies.
- g) At the time of award of the construction contract, each project shall include reasonable provisions for furniture, fixtures, equipment, and technology that are separately identified in a line item or items in the construction budget and those costs shall be noted in the staff report to the Council.
- h) At the time of award of the construction contract, each project's estimated annual operating and maintenance costs shall be identified in the staff report to the Council and shall be included in the Operating Budget or in the Five Year Forecast and Revenue Projections for projects expected to be completed after the end of the budget year.
- i) The contingency amounts to be used for various types of projects are set forth in Section 27.04.050 of the San Jose Municipal Code.
- j) Project contingencies may, unless otherwise determined by the City Council, be used only as set forth in Chapter 27.30 of Title 27 of the San Jose Municipal Code.
- k) For budgeting purposes, project contingencies are a reasonable estimating tool. At the time of contract award, the project's budgeted appropriation, including

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contingency, will be replaced with a new appropriation equal to the approved project contract contingency developed in the manner described above.

- l) The City Administration shall seek ways of ensuring that administrative costs of carrying out the Capital Improvement Program are kept at appropriate levels.
- m) The Annual Capital Budget shall include only those projects that can reasonably be accomplished in the indicated timeframe. Multi-year budgeting of projects shall be used to ensure a reasonable timeframe for projecting costs. The detail sheet for each budgeted capital project should include a projected schedule.
- n) The status of all capital projects, and the entire Capital Budget, will be monitored by the Mayor/Council as part of the Mid-Year Budget Review. Large projects of crucial importance may be monitored on a more frequent basis as determined by the City Council.
- o) Capital projects that are not encumbered or completed during the fiscal year will be re-budgeted to the next fiscal year except as reported to and subsequently approved by the City Council. All re-budgeted capital projects should be so noted in the Proposed Capital Budget.

## **2. Capital Improvement Plan Policies**

Public participation in the Capital Improvement Program is a priority concern for the City. Among the activities conducted to address this need are the following:

- a) The Capital Improvement Plan shall be provided to the City Council in a timely manner as required by the City Charter to allow for Council members to review the proposal with constituents before it is considered for adoption.
- b) Council budget review study sessions on the Capital Improvement Plan shall be open to the public and advertised sufficiently in advance of the meetings to allow for public attendance.
- c) Prior to the adoption of the Capital Improvement Plan, the City Council shall hold noticed public hearings to provide an opportunity for residents to express their opinions on the proposed plan.
- d) The City Planning Commission shall review the proposed Capital Improvement Plan and provide their comments on its contents before the City Council considers the plan for final adoption.
- e) All projects included in the Capital Improvement Program shall be consistent with the City's General Plan and the City's Energy and Water Policies. The goals and policies within the General Plan relating to community development, housing, services and facilities, transportation, solid waste, aesthetic, cultural and recreational resources, natural resources, and hazards should be followed in the development of the Capital Improvement Plan. The General Plan service-level goals will be clearly stated in the Capital Improvement Program.

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- f) Capital projects shall be financed to the greatest extent possible through user fees and benefit districts where the construction of the project results in direct benefit to users.
- g) The Council will annually review and establish criteria for measuring proposed capital improvement projects. Among the factors that will be considered for priority ranking are the following:
  - Projects that have a positive impact on the operating budget, such as reduced expenditures or increased revenues.
  - Projects that are programmed in the Five-Year Operating Budget Forecast.
  - Projects that can be completed or significantly advanced during the Five-Year Capital Improvement Plan.
  - Projects that can realistically be accomplished during the year they are scheduled.
  - Projects that implement prior Council-adopted reports and strategies.
- h) Projects that involve inter-governmental cooperation in planning and funding should be established by an agreement that sets forth the basic responsibilities of the parties involved.

### **3. Debt**

The City Council has adopted a Debt Management Policy (Council Policy 1-15) that establishes the following equally important objectives:

- a) Minimize debt service and issuance costs.
- b) Maintain access to cost-effective borrowing.
- c) Achieve the highest practical credit rating.
- d) Full and timely repayment of debt.
- e) Maintain full and complete financial disclosure and reporting.
- f) Ensure compliance with applicable state and federal laws.

As described in Council Policy 1-15, prior to bringing forward a lease financing (financing the acquisition, construction, or improvement by the City of real property or equipment) to the City Council for approval, the Finance Department shall perform initial due diligence on the project to be financed. The due diligence will include identifying the revenue source for repayment, and performing a feasibility study to determine the volatility of the revenue and provide a sensitivity analysis on project revenue projections, including worst/best case scenarios and the impact on any repayment source identified as the backstop to the project revenues. In order to proceed with the preparation of the documents necessary for the lease financing, two-thirds majority approval by the City Council of the proposed plan of finance is required. When the lease financing is brought forward for City Council approval, the Finance Department will provide the City Council with an update to the due diligence report and any feasibility study. Approval of the lease financing will require two-thirds

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majority approval by the City Council. These provisions do not apply to a refunding of a lease financing transaction.

In order to reduce the principal on outstanding debt and minimize debt service costs, one-time savings generated from debt restructurings and refundings should be used to pay down the outstanding principal of other existing City debt, whenever possible, taking into consideration any fund restrictions.