

# City of San Bernardino Recovery Plan and Plan of Adjustment

San Bernardino Mayor and  
Common Council

January 5, 2014

# This Presentation Covers

- Overview of Situation and the Bankruptcy
- Explanation of Plan of Adjustment and Process for Developing it
- Important Planning Milestones and Community Engagement

# Overview of Plan of Adjustment

# Bankruptcy Recap

- *August 2012 - City files for bankruptcy protection*
- *November 2012 - Pendency plan adopted*
- *August 2013 - City ruled eligible for bankruptcy protection*
- *November 2014 - City given deadline to file plan for exiting bankruptcy by May 30, 2015*
- *December 2014 – Confidentiality expanded to include Common Council for Development of Plan of Adjustment*
- *January 2015 – Councilmembers and public briefed on plan for development of Plan of Adjustment*

# City Prepares Restructuring Plan Under Bankruptcy Law

<b>Chapter 11/13 Private Sector</b>	<b>Chapter 9 Public Sector</b>
Court can direct policy major business decisions & budget cuts	City Council sets policy & budget; Court does not interfere with policy or budget but has role in approving/rejecting Plan of Adjustment
Company can be dissolved and assets liquidated—creates pressure on creditors to negotiate	City must remain a going concern, continue to provide adequate services—less pressure on creditors to negotiate and more pressure on mediation, litigation and efficacy of Plan
Creditors, or a trustee may submit restructuring plans	Creditors cannot submit restructuring plans; City prepares restructuring plan (Plan of Adjustment)

# Solvency Status

- The City continues to be insolvent from a budget and service standpoint and absent bankruptcy protection would be pushed to cash insolvency
- The City has a fiscal model which allows us to evaluate options and design the Plan of Adjustment; so the City can emerge, recover and operate in a solvent fashion
- Recovery to operate as a solvent municipal service provider will require hard choices; business as usual is not an option and all stakeholders will need to participate in a solution

# Unfunded Needs & Liabilities Must be Addressed to Achieve Sustainable Budget

- Supporting baseline expense alone is not enough
- Unfunded needs for long-term sustainability still being evaluated
- Range of needs which the City faces is considerable
  - Under-investment in public buildings, parks, streets, drainage (maintaining public infrastructure)
  - Inadequate replacement funds for technology, fleet, equipment, insurance reserves (internal services)
  - Inadequate service levels in many areas
  - Core staffing to maintain public safety, other services, proper management and financial accountability
  - Payments to secured and unsecured creditors
  - Economic development (post-redevelopment efforts to retain & recruit new businesses to bolster tax base)

# Plan of Adjustment

- A plan for regaining fiscal solvency and exiting bankruptcy
- Must be feasible, and City must be willing and able to implement
- A plan for restoring fiscal sanity and rebuilding San Bernardino
  - Meet unfunded needs & liabilities -- City must not exit Chapter 9 unable to sustain itself in future years
  - Maintain a prudent reserve for economic uncertainties, contingencies
- Because of the above it will require painful choices

# It Must Be Done

- City cannot stay in bankruptcy protection. The law does not permit it
- City cannot afford to have case dismissed, in current condition this would lead to chaos
- California permits municipal reorganization via bankruptcy; no emergency manager or State takeover as in other states
- Reorganization must be done and can lead to long term recovery for a City which has been in economic decline for a long time

# How do we get the Plan of Adjustment Done?

# Plan of Adjustment and How Does it Work?

- A Plan for the City To Be Viable Again & Exit Bankruptcy
  - Stipulates how the City will regain solvency and operational viability
  - Has feasible and measurable implementation steps
  - Specifies treatment of creditor obligations (MOU's, debt agreements, etc.)
  - Document on which Court gets to decide on approval or rejection, while listening to creditors whom ultimately have to decide to settle or litigate
  - May be contingent on voter approval of certain changes

# Plan of Adjustment and How Does it Work?

- Timeline and Approval
  - Must be submitted by May 30, 2015
  - The Plan must be developed in parallel with ongoing mediation
  - While negotiations are confidential, and must remain so or the City will simply negotiate against itself, the plan for how the City will operate post bankruptcy is an issue of public concern
  - Common Council must approve the Plan of Adjustment at public meeting before it can be submitted to Court

# Preliminary Guiding Principles for the Plan of Adjustment

1. The outcome must be a sustainable City government that provides for health, safety and welfare of the community
2. Plan must be balanced among interested parties in an equitable manner consistent with continued delivery of basic municipal services
3. Financial stability will be achieved over at least 10 years; General Fund must get immediate relief and have reduced risk for future
4. Protect essential assets – collateral counts

# Process For Developing the Plan of Adjustment

- Develop San Bernardino's Recovery Plan
  - What services and at what level must the City provide to achieve service solvency and competitiveness?
  - How should these services be provided?
  - How much will it cost over time, and what phasing is possible?
  - How do we fund it and is it reasonable?
  - Will have components of a City Strategic Plan, but we don't have sufficient time for a typical process

# Process For Developing Plan

- Develop Funding Plan For San Bernardino's Recovery via the Plan of Adjustment
  - Will need to search for efficiencies and cost savings
  - Benchmarking with other similar cities will help inform the plan
  - Efficiency Study—Management Partners will bring in team to evaluate services and possible alternatives
  - Debt / obligation restructuring will be evaluated
  - Revenue or other voter-approved options

# Process For Developing Plan

- Additional Steps For Developing Recovery Plan
  - Develop financial model for current organization
  - Management Partners will interview Mayor & each Common Council member for concerns & preferences
  - Working with partner institutions (school district, county, universities), an abbreviated community engagement and strategic planning process will run concurrently with the City's internal Recovery Plan work.
    - The two processes will iteratively impact and feed each other, with the end result being integrated in the preliminary Plan

# Additional Points on Plan Development

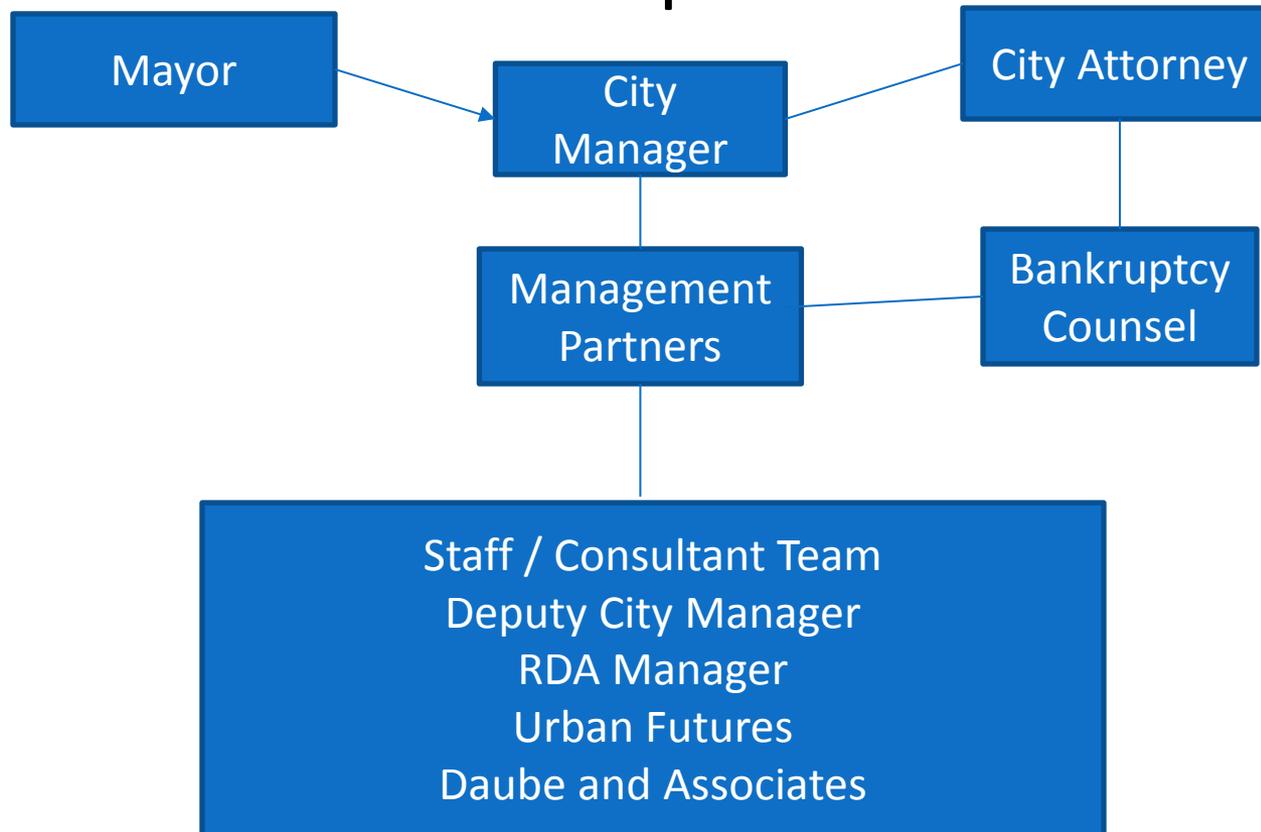
- The Common Council will be briefed and will provide direction on all the major components of the Plan
- It must be a Plan that at minimum a majority of the Common Council can approve and implement
- It provides a unique opportunity to provide direction and guide the City forward towards a sustainable and better future
- It allows San Bernardino to learn from and emulate successful approaches taken in other cities

# Overview of Bankruptcy Team

- City staff and experienced consultants along with bankruptcy counsel
- Mayor and City Attorney participate in their corporate roles
- Charged with developing plan of adjustment, securing Council approval and gaining court approval

# Organization of SBT

## With Respect to Bankruptcy and Plan Development



# Role of the Mayor and Common Council

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- The Mayor and Common Council are the most important people in the Plan of Adjustment process as you must approve of the Plan. The residents of the City will live with the results for many years to come.
- The Plan of Adjustment will be developed based on some overarching principles, public sector best practices and business principles.
- Mayor and Common Council are policy makers and will help shape the Plan so it is in the best public interest.
- Community to be involved but there are practical limits due to time. There will be additional opportunities after 5/30 .
- Negotiations are not public and Common Council not involved in day-to-day negotiation but will provide direction.
- Council participation in the community engagement process is critical. To the extent practical, one consistent message is beneficial to support negotiations and potential voter approval, if needed.

# Important Planning Milestones and Community Engagement

# This is a Complex Undertaking

- Because of the reality of San Bernardino's circumstances we face a number of significant complications
  - Negotiations and even settlements have gone forward without an overall recovery plan
  - The City does not have the benefit of a current strategic plan
  - We need to develop the Plan of Adjustment while getting community engagement, developing a strategic vision and building stakeholder support... all at the same time
  - We do not have all the answers on how to do this yet, need to leverage with community leaders

# Important Milestones

- January and February
  - Brief mediation judge
  - Assessment of City organization
  - Benchmarking against other similar cities
  - Develop staff recommendations for Recovery Plan
  - Refine Cost of Recovery Plan
  - Develop components of Plan of Adjustment
  - Check In with Common Council collectively and individually
  - Begin community engagement and strategic planning process
  - Mediation and negotiation with creditors
- March
  - Finalize strategic planning/community engagement, and integrate results with preliminary Plan of Adjustment
  - Mediation and negotiation with creditors

# Important Milestones

- April
  - Presentation of draft Plan of Adjustment to Common Council in closed session
  - Refinement of Plan of Adjustment
  - Mediation and negotiation with creditors
  - Ongoing public communication regarding Plan of Adjustment process
- May
  - Hold a public hearing on Plan of Adjustment and adopt the Plan of Adjustment
  - Submit the Plan of Adjustment to bankruptcy court