



# CITY COUNCIL MEETING

## Agenda

**Tuesday, April 16, 2024**  
**1:30 PM**

**LOCATION:**  
**Council Chambers - 200 E. Santa Clara Street**

Interpretation is available in Spanish and Vietnamese. In your webinar controls, select “Interpretation.” Click the language you would like to hear. (Zoom only)

Se dispone de interpretación en español y vietnamita. En los controles de su seminario web, seleccione "Interpretation" (Interpretación). (Zoom solo)

Thông dịch có sẵn bằng tiếng Tây Ban Nha và tiếng Việt. Trong các điều khiển hội thảo trên web của bạn, hãy chọn “Interpretation” (Phiên dịch). (Zoom chỉ một)

To request interpretation in other languages, please email [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov) four days prior to the meeting.

### **Public Comment in Person Only**

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MATT MAHAN, MAYOR  
ROSEMARY KAMEI, VICE MAYOR, DISTRICT 1  
SERGIO JIMENEZ, DISTRICT 2  
OMAR TORRES, DISTRICT 3  
DAVID COHEN, DISTRICT 4  
PETER ORTIZ, DISTRICT 5  
DEV DAVIS, DISTRICT 6  
BIEN DOAN, DISTRICT 7  
DOMINGO CANDELAS, DISTRICT 8  
PAM FOLEY, DISTRICT 9  
ARJUN BATRA, DISTRICT 10

*Please scroll to the end for information about the City Council Agenda and for the Rules of Conduct of the meeting.*

**American Disability Act:** To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

**Accommodations:** Any member of the public who needs accommodations should email the ADA Coordinator at [ADA@sanjoseca.gov](mailto:ADA@sanjoseca.gov) or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

- Adaptaciones para discapacitados serán proporcionadas a pedido. Mandé correo electrónico [ADA@sanjoseca.gov](mailto:ADA@sanjoseca.gov); Llame (408) 535-8430
- Nhu cầu cho người khuyết tật được cung cấp theo yêu cầu. Email [ADA@sanjoseca.gov](mailto:ADA@sanjoseca.gov); Gọi (408) 535-8430
- 應要求提供殘疾人便利設施. 電子郵件 [ADA@sanjoseca.gov](mailto:ADA@sanjoseca.gov); 致電 (408) 535-8430

### **THE LEVINE ACT**

The Levine Act requires a Party in a Proceeding before the City of San José that involves any action related to their contract, license, permit, or use entitlement to disclose any campaign contributions to City elected or appointed officials totaling more than \$250 within the 12 months prior to the City decision. A Participant to a Proceeding may voluntarily report a campaign contribution. Please visit <https://sanjoseca.gov/your-government/appointees/city-clerk/levine-act> for updated forms and information.

#### **How to observe the Meeting (no public comment):**

- 1) Cable Channel 26.
- 2) <https://sanjoseca.gov/news-stories/watch-a-meeting>.
- 3) <https://youtube.com/CityofSanJoseCalifornia>
- 4) By Phone: (888) 475 4499. Webinar ID is 94558095100. Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free).
- 5) Online at: <https://sanjoseca.zoom.us/j/94558095100>  
Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.

#### **How to submit written Public Comment before the City Council Meeting:**

By email to [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov) by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under “Letters from the Public.” Please identify the Agenda Item Number in the subject line of your email.

#### **How to provide spoken Public Comment during the City Council Meeting:**

*You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.*

*Each speaker generally has two minutes to speak per item. The total amount of time allocated for public testimony for each public speakers or for an agenda item may be limited at the Mayor’s discretion, depending on the number of speakers or the length of the agenda. (California Government Code Section 54954.3; Council Policy 0-37)*

Fill out a Yellow Speaker's Card and submit it to boxes at the bottom of the Chambers. Do this before the meeting or before the item is heard. This will ensure that the name on the card is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants by calling speakers in an orderly manner. You may remain anonymous, but please fill out a card so we may call you. You can put "anonymous speaker" or "no name" on the card. When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table. To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

## • Call to Order and Roll Call

9:30 a.m. - Closed Session, Call to Order in Council Chambers  
Open Session, Labor Negotiations Update (See Item 3.2)  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
See Separate Agenda  
1:30 p.m. - Regular Session, Council Chambers, City Hall

## • Pledge of Allegiance

## • Invocation (District 4)

Alum Rock Youth Science Institute

## • Orders of the Day

To be heard after Ceremonial Items

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

## • Adjournment

## • Closed Session Report

To be heard after Ceremonial Items

## 1. **CEREMONIAL ITEMS**

1.1 Presentation of a commendation to Opera San José for their 40th anniversary and irreplaceable contributions to the arts and culture in the City of San José. (Jimenez & Torres)

1.2 Presentation of a commendation to the 2024 Climate Smart Champion Award Recipients for providing outstanding community service in the advancement of San José's Climate Smart goals. (Cohen/ESD)

1.3 Presentation of a commendation to the Silicon Valley Chapter of the Red Cross in recognition of their dedicated team of staff and volunteers, community partners, and donors who help the City of San José prepare for, respond to, and recover from disasters. (Mayor)

## 2. **CONSENT CALENDAR**

**Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.**

2.1 **Approval of City Council Minutes.**

2.2 **Final Adoption of Ordinances.**

2.3 **Approval of Council Committee Minutes.**

2.4 **Mayor and Council Excused Absence Requests.**

2.5 **City Council Travel Reports.**

2.6 **Report from the Council Liaison to the Retirement Boards.**

2.7 **Actions Related to the Purchase Order with Tucker Construction, Inc. for Concrete and Expansion Joint Maintenance and Repair Services.**

### **Recommendation:**

Adopt a resolution authorizing the City Manager or her designee to:

- (a) Amend purchase order OP 64346 with Tucker Construction, Inc. (San José, CA) for concrete and expansion joint maintenance and repair services to increase the total compensation by \$150,000 for a revised maximum compensation not-to-exceed \$250,000 for the period ending on June 29, 2024; and
- (b) Exercise up to three one-year options to extend the term of the purchase order with the last option year ending on or about June 29, 2027, subject to appropriation of funds.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

[Deferred from 3/19/2024 – Item 2.8]

**2.8 Actions Related to the Purchase Order with Judge Netting, Inc. for As-Required Sports Netting Repairs and Installation Services.**

**Recommendation:**

Adopt a resolution authorizing the City Manager or her designee to exercise up to six one-year options to extend the term of the purchase order with Judge Netting, Inc. (Garden Grove, CA) for as-required sports netting repairs and installation services, with the last option ending on or about December 13, 2030, subject to the appropriation of funds.

CEQA: Categorically Exempt, File No. ER24-056, CEQA Guidelines Section 15301(d), Existing Facilities. (Finance)

**2.9 First Amendment to the Agreement with SinWaves, Inc. dba LYT for Centralized Transit Signal Priority Solution.**

**Recommendation:**

Adopt a resolution authorizing the City Manager or her designee to negotiate and execute the First Amendment to the Agreement with SinWaves, Inc. dba LYT (Santa Clara, CA) for Centralized Transit Signal Priority Solution to increase the maximum compensation of the agreement to \$4,000,000, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

**2.10 Report on Bid and Award of Contract for the 10081 – Miscellaneous Sanitary Sewer Repairs FY 2022-2023 Package III Project.**

**Recommendation:**

(a) Report on bids and award of a contract for the construction of 10081 – Miscellaneous Sanitary Sewer Repairs FY 2022-2023 Package III Project to the lowest responsive, responsible bidder, Pacific Underground Construction, Inc., in the amount of \$1,467,760; and

(b) Approve a 10% contingency in the amount of \$146,776.

CEQA: Exempt, File No. ER23-189. CEQA Guidelines Sections 15301(b) Existing Facilities and 15302(c) Replacement or Reconstruction. Council Districts 3, 5, 6, 7, and 10. (Public Works)

**3. STRATEGIC SUPPORT**

**3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)**

**3.2 Labor Negotiations Update.**

**Accept Labor Negotiations Update.  
TO BE HEARD AT 9:30 A.M.**

### **3.3 Tax Equity and Fiscal Responsibility Act Hearing and Approval of the Sale and Issuance of San José Airport Revenue Refunding Bonds and Related Bond Documents, Series 2024A.**

#### **Recommendation:**

(a) Hold a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing with respect to (i) the proposed issuance by the City of one or more issues of tax-exempt Series B subordinated commercial paper notes in an aggregate principal amount not to exceed \$600,000,000, pursuant to a plan of finance to provide proceeds to pay or reimburse all or a portion of the costs of acquisition, construction, equipping, financing, reconstruction, development, and modification of airport terminal and ancillary facilities that are included in or are consistent with the Airport Master Plan for the San José Mineta International Airport and (ii) the proposed issuance by the City of tax-exempt revenue refunding bonds in an aggregate principal amount not to exceed \$85,000,000, designated as the City of San José Airport Revenue Refunding Bonds, Series 2024A (AMT) for the refunding of all or a portion of the outstanding City of San José Airport Revenue Refunding Bonds, Series 2014A (AMT), all or a portion of the outstanding City of San José Airport Revenue Refunding Bonds, Series 2014B (Non-AMT), and all or a portion of the outstanding City of San José Airport Revenue Refunding Bonds, Series 2014C (Non-AMT).

(b) Adopt the Twenty-Second Supplemental Resolution of the City Council authorizing the execution and delivery of one or more Supplemental Trust Agreements, and one or more Purchase and Continuing Covenant Agreements; providing for the issuance of City of San José Airport Revenue Refunding Bonds, in one or more series in an aggregate principal amount not to exceed \$85,000,000; prescribing the terms, conditions and form of said series of bonds; and authorizing and approving other related actions.

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. (Finance/Airport)

### **3.4 Retirement Boards of Administration's Adoption of City Policies and Recommended Policies for City's Adoption for Office of Retirement Service Operations.**

#### **Recommendation:**

Approve policies recommended from the Retirement Boards of Administration to remedy gap in City Policies on issues regarding disciplinary matters and financial procedures for the operation of the Office of Retirement Services.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Retirement Services)

### **3.5 Audit of Retirement Services Procurement Process.**

#### **Recommendation:**

Accept the report on the Retirement Services procurement process audit.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Auditor)

## **4. PUBLIC SAFETY**

**4.1 Independent Police Auditor 2023 Year End Report.****Recommendation:**

(a) Accept the 2023 Independent Police Auditor Year End Report.

(b) Accept the San José Police Department's response to the recommendations contained in the 2023 Independent Police Auditor Year End Report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Independent Police Auditor)

**4.2 San José Police Department Internal Affairs Unit 2023 Department Initiated Investigations Report.****Recommendation:**

Accept the San José Police Department's Internal Affairs Unit report on Department Initiated Investigations for calendar year 2023.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Police)

**5. TRANSPORTATION & AVIATION SERVICES****6. ENVIRONMENTAL & UTILITY SERVICES****7. NEIGHBORHOOD SERVICES****8. COMMUNITY & ECONOMIC DEVELOPMENT**

## 8.1 Actions Related to the Mobile Interim Housing Project Located at the Via Del Oro Site.

### **Recommendation:**

(a) Adopt a resolution:

(1) Authorizing the City Manager, or her designee, to negotiate and execute a lease agreement, and all other necessary documents, for 10 years, in the amount of \$1 per year with the Sobrato Family Foundation to build and operate an Interim Housing project at the Via del Oro site (APN: 706-09-038);

(2) Determining the City may award a Project Delivery Agreement to DignityMoves to deliver the Interim Housing project at Via del Oro without a competitive procurement under the “idle act” exception in Section 1217(i)(6) of the City of San José Charter;

(3) Authorizing the Director of Public Works to negotiate, award and execute a Project Delivery Agreement at a maximum guaranteed amount not to exceed \$10,700,000 for the development of an Interim Housing project at Via del Oro with DignityMoves, in accordance with the requirements of this memorandum; and

(4) Authorizing the Director of Public Works to approve a 10% contingency for the project.

(b) Adopt the following 2023-2024 Appropriation Ordinance Amendments in the General Fund:

(1) Decrease the Emergency Interim Housing Construction and Operation City-Wide Expenses appropriation to the Housing Department by \$3,500,000;

(2) Decrease the Measure E – Interim Housing Constructions and Operations Reserve (15% HSP) appropriation to the Housing Department by \$4,000,000;

(3) Decrease the Berryessa Supportive Parking Capital Contributions appropriation to the Public Works Department by \$5,929,000; and

(4) Establish the Interim Housing - Via del Oro Capital Contributions appropriation to the Public Works Department in the amount of \$13,429,000.

CEQA Determination of Consistency with the Mitigated Negative Declaration for the Emergency Interim Housing Programs project (Resolution No. 2023-380), File No. ER24-015 (Via del Oro Site). Council District 6. (Public Works/Housing/City Manager)

## 9. **REDEVELOPMENT – SUCCESSOR AGENCY**

## 10. **LAND USE**

**Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.**

**10.1 Land Use on Consent Calendar**

- (a) **CPA19-005-01 & ER23-166 - Conditional Use Permit Amendment and Determination of Public Convenience or Necessity for Certain Real Property Located at 2701 McKee Road. - TO BE HEARD IMMEDIATELY AFTER CONSENT**

**Recommendation:**

Adopt a resolution approving, subject to conditions, a Conditional Use Permit Amendment and Determination of Public Convenience or Necessity (PCN) to allow the off-sale of alcohol (Type 20 – Beer and Wine) at an approximately 3,167-square-foot fuel station convenience store on an approximately 0.91-gross-acre site.

CEQA: Categorical Exemption pursuant to CEQA Guidelines Section 15301(a), Existing Facilities. Planning Commission recommends approval (8-2-1, Barocio and Ornelas-Wise opposed, Garcia absent), Planning Commission Agenda item 4.a., on 3/13/2024. Council District 5. (Planning, Building, and Code Enforcement)

**TO BE HEARD IMMEDIATELY AFTER CONSENT**

**END OF CONSENT CALENDAR****10. Land Use - Regular Agenda****• Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

**• Adjournment**

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection online at <https://sanjoseca.primegov.com/public/portal?fromiframe=1> or at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov).

## ABOUT THE AGENDA

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://sanjoseca.primegov.com/public/portal?fromiframe=1>. Council Meetings are televised live and rebroadcast on Channel 26.

## CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### 1. Public Meeting Decorum:

- (a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- (b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- (c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- (d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- (e) Persons in the audience will not place their feet on the seats in front of them.
- (f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- (g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### 2. Signs, Objects or Symbolic Material:

- (a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- (b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- (c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

### 3. Addressing the Council, Committee, Board or Commission:

- (a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- (b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the total amount of time allocated for public testimony for each public speaker or for an agenda item is in the discretion of the Chair of the meeting and may be limited when appropriate.

(California Government Code Section 54954.3; Council Policy 0-37) Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.

- (c) Speakers should discuss only the agenda item when called to speak for that item, and only topics related to City business when called to speak during open forum on the agenda.
- (d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- (e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- (f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- (g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.