

## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 4, 2018

The Council of the City of San José convened in Regular Session at 9:35 a.m. in the Council Chambers at City Hall.

**9:38 a.m.-** Closed Session, Call to Order in Council Chambers  
**Absent Councilmembers: All Present.**

**1:31 p.m.-** Regular Session, Council Chambers, City Hall  
**Absent Councilmembers: All Present.**

**6:00 p.m.-** Evening Session, Council Chambers, City Hall  
**Absent Councilmembers: All Present.**

### CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room W133; (A) to discuss Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Department or Agency: Police; Title: Independent Police Auditor; (B) to Confer with Legal Counsel, Anticipated Litigation, pursuant to Section 54956.9(d)(4) of the Government Code: Number of matters to be discussed: 3; (C) to Confer with Legal Counsel, Anticipated Litigation: Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code: Number of matters to be discussed: 2; (C) Confer with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1): (1) City of San José and Black Alliance for Just Immigration v. Wilbur L. Ross, Jr., et al.; Names Of Partie(s) Involved: City of San José; Black Alliance for Just Immigration; Wilbur L. Ross, Jr.; U.S. Department of Commerce; Ron Jarmin; U.S. Census Bureau; Court: U.S. District Court, Northern District of California, San Francisco Division; Case No. 3:18-CV-02279-RS; Amount of Money or Other Relief Sought: Declaratory and Injunctive Relief; (2) City of San José v. Trump, et al.; Names Of Partie(s) Involved: City of San José, Donald Trump, Elaine Duke, United States of America; Court: U.S. District Court, Northern District of California; Case No. 3:18-CV-05329-WHA; Amount of Money or Other Relief Sought: Civil Penalties and damages according to proof; (D) Conference Regarding Potential Threat to Public Services or Facilities Pursuant to Government Code Section 54957(a): Consultation with: Police; (E) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/city> or <http://www.sanjoseca.gov/civiccentertv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.

## **CLOSED SESSION (Cont'd.)**

of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI; (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of negotiations: wages/salaries, hours, working conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement - City of San José and San José Police Association; (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from Closed Session at 10:15 a.m.; Council reconvened to Regular Session at 1:31 p.m. in the Council Chambers.

Present: Councilmembers: Arenas, Carrasco, Davis, Diep, Jimenez, Jones, Khamis, Nguyen, Peralez, Rocha; Liccardo.

Absent Councilmembers: All Present.

## **INVOCATION (District 8)**

Rabbi Laurie Hahn Tapper provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Donald Rocha and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 10.1(c) dropped per Staff's recommendation. (10-0-1. Absent: Diep.)

## CLOSED SESSION REPORT

Mayor Sam Liccardo announced the unanimous approval of Shivaun Nurrier as Independent Police Auditor.

## CEREMONIAL ITEMS

- 1.1 Mayor Sam Liccardo presented a commendation to the South Bay Clean Creeks Coalition, Trash Punx and Echo.Church for conducting a record-breaking cleanup along Coyote Creek. (Mayor)
- 1.2 Mayor Sam Liccardo and Councilmember Donald Rocha presented a commendation to the San José Sports Authority for their outstanding contributions to our community, promoting economic prosperity and civic pride through sports in San José. (Rocha)
- 1.3 Presentation of a commendation to Legends Futsal. (Carrasco)  
**Deferred per Administration.**
- 1.4 Presentation of a commendation to Paulina Cortes for her valiant effort to protect and advocate for farmworkers during the recent wildfires in Northern California by distributing protective masks. (Mayor)  
**Deferred per Administration.**
- 1.5 Mayor Sam Liccardo and Councilmember Donald Rocha presented a commendation to the Branham High School SPARE Club for promoting environmental awareness and activism in their school and greater San José community. (Rocha)  
*Heard in the Evening.*

## CONSENT CALENDAR

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Don Rocha and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

### 2.1 Approval of City Council Minutes.

None provided.

## **2.2 Final Adoption of Ordinances.**

### **(a) 18-1655 Final Adoption of Ordinances.**

(a) Ord. No. 30183 - An Ordinance of the City of San José Amending Various Sections of Chapters 3.28 and 3.36 of Title 3 of the San José Municipal Code to Implement the Terms of the Alternative Pension Reform Settlement Framework Agreement with City Employee Bargaining Groups.

Action: Ordinance No. 30183 was adopted. (11-0.)

## **2.3 Approval of Council Committee Minutes.**

### **(a) 18-1620 Approval of Council Committee Minutes.**

(a) Regular Joint Meeting for the Rules and Open Government Committee of October 17, 2018.

(b) Regular Neighborhood Services & Education Committee Meeting Minutes of November 8, 2018.

(c) Regular Joint Meeting for the Rules and Open Government Committee of November 14, 2018.

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

Documents Filed: (1) Rules and Open Government Committee Meeting Minutes, dated October 17, 2018 and November 14, 2018. (2) Neighborhood Services & Education Committee Meeting Minutes, dated November 8, 2018.

Action: The Council Committee Meeting Minutes were approved. (11-0.)

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

None provided.

## **2.5 City Council Travel Reports.**

Vice Mayor Magdalena Carrasco provided an update on her trip to Austin, Texas where she and other City of San José staff attended a conference for All-In Cities Anti-Displacement Policy Network, which seeks to develop a comprehensive anti-displacement policy agenda.

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Dev Davis and carried unanimously, the City Council Travel Report was accepted. (11-0.)

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

None provided.

### 2.7 18-1588 **Actions Related to the Master Service Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch Program.**

(a) Adopt a resolution authorizing the City Manager to negotiate and execute:

(1) A second Contract Change Order to the Master Service Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program through January 25, 2020; and

(2) An associated Contract Work Authorization with Pacific Gas and Electric Company for the Silicon Valley Energy Watch program in an amount up to \$436,064 through January 25, 2020.

(b) Adopt the following 2018-2019 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

(1) Increase the Estimate for Other Revenue by \$218,032; and

(2) Establish a new City-Wide appropriation to the Environmental Services Department for Silicon Valley Energy Watch 2019 in the amount of \$218,032.

(c) Extend the term limit date for 2.0 Environmental Services Specialist positions assigned to the Environmental Services Department from March 31, 2019 through January 25, 2020.

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

Documents Filed: Joint memorandum from Director, Environmental Services, Kerrie Romanow, and Budget Director Margaret McCahan, dated November 13, 2018, recommending adopting of a resolution and adoption of an appropriation ordinance and funding sources resolution amendment.

Action: Resolution No. 78879, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute 1) A Second Contract Change Order to the Master Service Agreement with Pacific Gas and Electric Company for the Silicon Valley Energy Watch Program through January 25, 2020; and 2) An Associated Contract Work Authorization with Pacific Gas And Electric Company for the Silicon Valley Energy Watch Program in an Amount up to \$436,064 through January 25, 2020; Resolution No. 78880, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 78672 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2018-2019 to Adjust Revenues in the General Fund; and Ordinance No. 30191, entitled “An Ordinance of the City of San José Amending Ordinance No. 30124 to Appropriate Moneys in the General Fund for the Silicon Valley Energy Watch 2019; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

**2.8 18-1589 First Quarter Financial Reports for Fiscal Year 2018-2019.**

As recommended by the Public Safety, Finance, & Strategic Support Committee on November 15, 2018:

(a) Accept the following First Quarter (period ending September 30, 2018) Financial Reports for the Fiscal Year 2018-2019 the following programs:

- (1) Debt Management;
- (2) Investment Management; and
- (3) Revenue Management.

(b) Adopt a resolution authorizing the Director of Finance to write-off uncollectible debts in an amount up to \$99,605.19.

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

[Public Safety, Finance and Strategic Support Committee referral  
11/15/18 - item (c)1]

Documents Filed: Memorandum from Director of Finance Julia H. Cooper, dated October 31, 2018, recommending approval of the Investment Report.

Action: The First Quarter Financial Reports were accepted, and Resolution No. 78881, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Write Off Uncollectible Accounts”, was adopted. (11-0.)

**2.9 18-1590 Actions Related to the Happy Hollow Park and Zoo Security Improvements Project.**

Adopt the following Appropriation Ordinance amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes:

- (a) Decrease the Ending Fund Balance by \$114,000; and
- (b) Increase the Happy Hollow Park and Zoo Security Improvements appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$114,000.

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. (Public Works/Parks, Recreation and Neighborhood Services/City Manager)

Documents Filed: Joint memorandum from Director of Public Works, Matt Cano, Assistant Director of Public Works John Cicirelli and Budget Director Margaret McCahan, dated November 13, 2018, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 30192, entitled “An Ordinance of the City of San José, Amending Ordinance No. 30124 to Appropriate Moneys in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the Happy Hollow Park and Zoo Security Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

**2.10 18-1661 Amendment to the Agreement with H.T. Harvey and Associates for Park and Trail Projects.**

Approve the First Amendment to the agreement between the City of San José and H.T. Harvey and Associates for a Master Consultant Agreement providing mitigation, monitoring, maintenance and reporting for park and trail projects. This amendment will extend the term of the agreement from December 31, 2023 to December 31, 2027, and increase the maximum total compensation by \$1,125,000 from \$2,000,000 to \$3,125,000.

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action. (Parks, Recreation and Neighborhood Services)

[Deferred from City Council meeting 11/27/18 - Item 2.9 (18-1549)]  
**Deferred to December 18, 2018 per Administration**

**2.11 18-1666 Approval of Trash Talk Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on November 28, 2018:

- (a) Approve the Trash Talk scheduled on December 7, 2018 as a City Council sponsored Special Event and approve the expenditure of funds;
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Davis)

Documents Filed: Memorandum from Councilmember Dev Davis, dated November 21, 2018, recommending approval of a City Council sponsored special event.

Action: The City Council Sponsored Special Event was approved. (11-0.)

**2.12 18-1668 VEBA Advisory Committee Appointment.**

As recommended by the Rules and Open Government Committee on November 28, 2018, approve the appointment of Catherine (“CJ”) Ryan, nominated by the Federated Unions, to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee to fill a vacancy for the unexpired portion of a term ending May 31, 2022.

Documents Filed: Memorandum from Director of Employee Relations/Human Resources, Jennifer Schembri, dated November 20, 2018, recommending approval of the appointment.

Action: The appointment of Catherine (“CJ”) Ryan to the Voluntary Employees Beneficiary Association (VEBA) Advisory Committee to fill a vacancy for the unexpired portion of a term ending May 31, 2022, was approved. (11-0.)

**2.13 18-1670**

**Approval of Community Events Sponsored by Council District 7 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**

As recommended by the Rules and Open Government Committee on November 28, 2018:

(1) Retroactively approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:

(a) Community Thanksgiving Celebration on Saturday, November 17, 2018 at the Tully Library;

(b) Iola Williams Holiday Celebration on Saturday, December 1, 2018 at the SevenTrees Community Center.

(2) Approve the following District 7 events as City Council sponsored Special Events and approve the expenditure of funds:

(a) Tully Santa program on Saturday, December 8, 2018 at the Tully Library;

(b) Volunteer Appreciation Celebration on Saturday, December 15, 2018 at the Vietnamese American Community Center;

(c) SevenTrees Santa Holiday Program on Saturday, December 15, 2018 at the SevenTrees Library;

(d) West Evergreen Neighborhood Association Holiday Celebration on Wednesday, December 19, 2018 at OB Whaley Elementary School.

(3) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Nguyen)

[Rules Committee referral 11/28/18 - Item G.1.b]

Documents Filed: Memorandum from Councilmember Tam Nguyen, dated November 15, 2018, recommending approval of a City Council sponsored special event.

Action: The City Council Sponsored Special Event was approved. (11-0.)

**STRATEGIC SUPPORT**

**3.3 18-1591**

**Citywide Capital Improvement Program Annual Report.**

Accept the annual report on the Citywide Capital Improvement Program for fiscal year 2017-2018.

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

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated November 19, 2018, recommending acceptance of the annual report.

Director of Public Works, Matt Cano provided the status report.



### 3.3 (Cont'd.)

Public Comments: Blair Beekman offered suggestions for small businesses in San José.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Citywide Capital Improvement Program Annual Report was accepted (11-0.)

## COMMUNITY & ECONOMIC DEVELOPMENT

### 4.1 18-1595 Actions Related to the Agreement with Google for the Diridon Station Area.

(a) Approve a Memorandum of Understanding with Google: containing the Vision and Shared Goals for a future master-planned, mixed-use development in the Diridon Station Area; establishing basic tenets of a future Development Agreement including a Community Benefits Plan; and affirming that no public funds, subsidies, or fee/tax exemptions will be provided to Google.

(b) Approve a Purchase and Sale Agreement with Google for the properties formerly owned by the Successor Agency to the Redevelopment Agency in the Diridon Station Area located at 8 S. Montgomery St., 102 S. Montgomery St., 105 S. Montgomery St., 150 S. Montgomery St., 510 W. San Fernando St., and 645 Park Ave. (APNs: 259-38-130; 259-48-102; 261-35-003; 261-35-006; 261-35-010; 259-48-053; 259-48-011; 259-48-013; and 261-35-014), comprising a total of approximately 275,479 square feet, for the amount of \$67,000,000.

(c) Approve a Purchase and Sale Agreement with Google for the City-owned property containing the Fire Training Center located at 255 S. Montgomery St. (APN: 261-37-025), comprising a total of approximately 180,514 square feet, for the amount of \$42,872,075.

(d) Approve a Ground Lease with Google for the City to continue occupying the property containing the Fire Training Center located at 255 S. Montgomery St. (APN: 261-37-025) for a period of three years following the close of escrow for the amount of \$0.

(e) Approve a Purchase and Sale Agreement with Google for the City-owned property located at 697 W. San Carlos (APNs: 261-37-028 and 261-37-031), comprising a total of approximately 6,776 square feet, for the amount of \$1,609,300.

(f) Approve an Option Agreement/Negotiation Right with Google for the City-owned property commonly referred to as Lots A/B/C, located at 525 W. Santa Clara St. and 566 W. Julian St. (APNs: 259-28-031; 259-28-041; 259-28-043; and 259-28-044), comprising a total of approximately 469,371 square feet, for a term of five years and for the amount of \$1,100,000 per year as an option payment.

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

#### 4.1 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated December 3, 2018, recommending approval with additional direction. (2) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Dev Davis and Sylvia Arenas, dated November 29, recommending approval with additional direction. (3) Memorandum from Councilmember Donald Rocha, dated November 30, 2018, offering Google Project Guiding Principles. (4) Memorandum from Councilmember Sergio Jimenez, dated November 30, 2018, recommending approval with modifications to the MOU. (5) Memorandum from Councilmember Raul Peralez, dated December 3, 2018, recommending approval with additional direction. (6) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated November 16, 2018, recommending actions related to the sale of City-Owned properties. (7) Supplemental memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated November 21, 2018, providing additional impact analyses. (8) Correspondence from members of the public: Silicon Valley De-Bug, dated December 3, 2018; Nicholes Whipps, dated December 4, 2018; Guadalupe; Rosa Cordova, dated December 4, 2018; Luz Elena Pelayo; Conxion to Community, dated December 4, 2018; and newsletter article from KPIX “Google’s Plans to Build Mega Campus in San Jose Met with Concerns”, and an article from *Curbed*, dated December 5, 2017, “How Google’s Future Campus Could be a Game Changer for Silicon Valley”.

Deputy City Manager/Director of Economic Development Kim Walesh introduced the topic and provided an overview. Chief of Staff, Office of the City Manager, Lee Wilcox, spoke to the civic engagement process, and Kim Walesh and Economic Development Assistant Director, Nanci Klein continued with staffs’ considerations.

Mayor Sam Liccardo opened the floor for public comment.

Public Comment: Approximately 190 members of the public spoke on a variety of issues pertaining to the proposed agreement with Google for the Diridon Station Area, including support to the project citing a need for economic growth and expressing their views that Google has demonstrated its commitment to the community; others argued that this project will price the majority of residents out of San José, will increase homelessness and offering that Google has engaged in poor hiring practices.

***The Council meeting recessed at 5:34 p.m. and reconvened at 6:00 p.m. with all Council Members present. Evening Ceremonial Items were heard, and the Council resumed discussion and action on Item 4.1.***

Council discussion followed, and City Attorney Richard Doyle offered clarification of CEQA issues and relevant historical data.

Motion: Councilmember Dev Davis moved the memorandum from Mayor Sam Liccardo, dated December 3, 2018. The motion was seconded by Councilmember Sylvia Arenas. A correction was noted for the record, that the CEDC date referenced in item 4(b) of the Mayor’s memorandum should be January 2019.

**An act of civil disobedience necessitated clearing Council Chambers at approximately 8:30 p.m., and the Council was recessed until 10:01 p.m. The Council meeting resumed with chambers vacated and public participation limited to on-air viewing.**

#### 4.1 (Cont'd.)

Mayor Sam Liccardo recommended a deferral of all land use items for one week, to December 11, 2018. He indicated that further discussion to clarify scheduling will follow at the Rules and Open Government Meeting of December 5.

Motion: Upon motion by Councilmember Dev Davis, seconded by Councilmember Tam Nguyen and carried unanimously, Items 10.1 through 10.5 were deferred to December 11, 2018. (11-0.)

Continuing with Item 4.1, Councilmember Johnny Khamis requested a friendly amendment, asking to remove the reference of the Commercial Linkage Fee. The friendly amendment was respectfully declined.

Motion: Councilmember Raul Peralez moved to continue this meeting beyond the 12 a.m. deadline. The motion was seconded by Councilmember Lan Diep. (11-0.)

Action: On a call for the question, the motion was carried unanimously, and the Staffs' recommendations were approved, including Mayor Sam Liccardo's memorandum dated December 3, 2018, to:

**1. Approve the Staff Recommendation, including the Memorandum of Understanding, and Land Sale Agreements.**

**2. Approve the following memoranda in their entirety:**

**a. November 29, 2018 Memorandum from Mayor Liccardo, Vice Mayor Carrasco, and Councilmembers Davis, and Arenas with the following clarification in italics to 2.B.**

**Educational opportunity, with an emphasis on (i) college tuition and fee assistance, (ii) middle and high school career pathways from local schools, focusing on San Jose youth from low-income families in high-risk neighborhoods, and (iii) programs for job shadowing and internships to develop foundational skills to remove barriers to postsecondary education and employment *with the objective of expanding the diversity of the tech workforce.***

**b. December 3, 2018 Memorandum from Councilmember Peralez, which additionally directs the City Manager to reconvene the Station Area Advisory Group (SAAG) to discuss and provide feedback in a public forum on a final Community Benefits and Development Agreement(s) prior to any Council decision.**

**3. Approve the following elements from Councilmember Rocha's memo, with modifications shown in italics.**

**a. Paragraph 1.B., clarifying that this applies only where Google is the developer: "The developer, contractors, and subcontractors should pay construction workers a prevailing hourly wage and benefit rate *for office and R & D development.* Further, progressive hiring practices that reflect the values of San Jose, such as "*ban the box,*" and hiring of apprentices from local vulnerable areas, should be advocated.**

**b. Modify Paragraph 1.D. to be consistent with the language of Councilmember Peralez's memorandum.**

**c. Paragraph 3, supplanting "contemplate" with "affirm"**

**d. Paragraph 4 with the following modifications:**

***"Contribute funding—through a community benefits contribution and/or a Downtown-wide linkage fee and /or a financing district—which may be combined with other sources to develop and preserve housing in the City to help address rising housing costs and***

#### 4.1 (Cont'd.)

displacement. Housing in the Diridon Station Area should include on-site units affordable to *incomes, ranging from extremely low income to “missing middle” households*, in combination with market rate homes. Affordable units can be built both integrated into market-rate developments and as stand-alone affordable housing projects.”

e. Paragraph #5, but supplanting “living wage jobs” with *jobs that provide wages that enable families to thrive in this high-cost region*” to read as follows:

“Promote opportunities for San Jose residents of all skill and educational levels and diverse backgrounds to prepare for and secure *jobs that provide wages that enable families to thrive in this high-cost region*. Provide opportunities for existing and new small, local businesses to benefit from and/or integrate into the new development.”

f. Paragraph #6, regarding accounting for SARA funds and documentation in future budget discussions.

4. Approve the following elements of Councilmember Jimenez’s memorandum, with the following

changes in *italics*:

a. Paragraph 1.B., where it is consistent with the 11/29 memorandum from Liccardo, et al. such that

the 25% applies to the totality of housing development in the Diridon Station Area, and not to any single project.

b. Modify Paragraph 1.C., by supplanting the language with the following:

*“Proceed with the process for public and Council consideration of the proposed Local Hiring Ordinance, currently scheduled for the 1/28/19 Community and Economic Development Meeting.”*

c. Paragraph 1.E., with following modification:

*“Support and collaborate with Local Schools. Develop partnerships with local schools, such as San Jose State University, that increase access to quality education, enrichment opportunities, internships, and education pathways to careers in STEM fields.”*

d. Modify Paragraph 1.F. to be consistent with the language in Councilmember Peralez’s memorandum.

e. Paragraph 2, with the following modification to 2.b.:

*“Review and/or update the April 2018 “Residential Cost of Development Study” to reflect current market conditions, and present updated information to enable Council to assess the feasibility of increased affordable housing inclusionary standards and incentives enabled by the increase in allowable heights and density of future residential and commercial developments downtown if the City increases allowable heights as a result of study of the One Engine Inoperative (OEI) and Downtown Height study.”*

f. Modify Paragraph 3 to be consistent with language in Councilmember Peralez’s memorandum.

(11-0.)

**4.2 18-1594 Envision San José 2040 General Plan 2018 Annual Performance Review.**

Accept the Envision San José 2040 General Plan 2018 Annual Performance Review report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos. (Planning, Building and Code Enforcement)

***Heard immediately after item 3.3 (18-1591)***

Documents Filed: Memorandum from Rosalynn Hughey, Director, Planning, Building and Code Enforcement, dated November 19, 2018, recommending acceptance of the Annual Performance Review report.

Rosalynn Hughey, Director, Planning, Building and Code Enforcement offered an introduction, and Jared Hart, Planning, Building and Code Enforcement provided a presentation. Deputy Director Business Development, Chris Burton, responded to questions.

Public Comment: Robin Roemer advocated for pedestrian overpasses.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the Envision San José 2040 General Plan 2018 Annual Performance Review report was accepted. (11-0.)

*Items 4.3 through 4.5 were heard concurrently.*

**4.3 18-1592 Public Hearing on Summary Vacation of a Portion of Kearny Street at 255 South Montgomery Street.**

Conduct a Public Hearing and adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of 18,256 square feet of street right-of-way at 255 South Montgomery Street (“Subject Portion”);

(b) Summarily vacating the Subject Portion, which is excess right-of-way and not required for street or highway purposes; and

(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

CEQA: Categorically Exempt pursuant to CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations, File No. PP18-085.

Council District 6. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated November 19, 2018, recommending conducting a public hearing and adoption of a resolution.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, Resolution No. 78882, entitled: “A Resolution of the Council of the City of San José Summarily Vacating a Portion of Kearny Street at 255 S. Montgomery Street”, was adopted. (10-0-1. Absent: Rocha.)

**4.4 18-1593 Public Hearing on Summary Vacation of a Public Service Easement at 525 West Santa Clara Street and 566 West Julian Street.**

Conduct a Public Hearing and adopt a resolution:

(a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of an approximately 30,360 square foot public service easement (“PSE”) at 525 West Santa Clara Street and 566 West Julian Street;

(b) Summarily vacating the PSE which has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

(c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

CEQA: Categorically Exempt pursuant to CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations, File No. PP18-083. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Matt Cano, dated November 19, 2018, recommending conducting a public hearing and adoption of a resolution.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, Resolution No. 78883, entitled: “A Resolution of the Council of the City of San José Summarily Vacating a Public Service Easement at 525 West Santa Clara Street and 566 West Julian Street”, was adopted. (10-0-1. Absent: Rocha.)

**4.5 18-1667 Amendment to the Second Amended and Restated Arena Management Agreement with San Jose Arena Management, LLC for Parking Requirements.**

Adopt a resolution to authorize the City Manager to negotiate and execute a First Amendment to the Second Amended and Restated Arena Management Agreement with San Jose Arena Management, LLC to revise on-site and off-site parking requirements.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. Council Districts 3 & 6. (Economic Development/Transportation)

Documents Filed: Memorandum from Deputy City Manager/Director of Economic Development Kim Welsh and John Ristow, Deputy Director of Department of Transportation, dated November 29, 2018, recommending adoption of a resolution.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis and carried unanimously, Resolution No. 78884, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Second Amended and Restated Arena Management Agreement with San Jose Arena Management, LLC to Revise On-Site and Off-Site Parking Requirements”, was adopted. (10-0-1. Absent: Rocha.)

## ENVIRONMENTAL & UTILITY SERVICES

### 7.1 18-1607 **Actions Related to Negotiations of Recycle Plus Residential Solid Waste Agreements.**

- (a) Accept the staff report with the term sheets from Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery for future residential solid waste services;
- (b) Direct staff to develop agreements with Garden City Sanitation, GreenTeam of San José, and GreenWaste Recovery in accordance with the term sheets and return to Council in April 2019 with Recycle Plus agreements for residential solid waste services to begin July 1, 2019 and continue through June 30, 2036;
- (c) Direct staff to end negotiations with California Waste Solutions and issue a Request for Proposals to provide Recycle Plus services for single-family recyclables collection & processing in Service Districts A & C, with the same framework as future services in Service District B, for a contract term to begin July 1, 2021 through June 30, 2036;
- (d) Direct staff to exclude Junk Pickup services from future residential solid waste services and return to Council with an approach for delivering this service in the future; and
- (e) Direct staff to continue negotiations with GreenWaste Recovery for residential street sweeping services and return to Council with a recommendation.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) *Deferred to December 11, 2018 per Administration.*

### 7.2 18-1599 **Actions Related to Recycle Plus Residential Solid Waste Agreements and China's Policy On Importing Recyclable Material.**

Adopt a resolution authorizing the City Manager to waive all or a portion of the contractor disincentives for not meeting the required diversion rates for calendar year 2018 if by March 1, 2019 the City Manager determines that the Recycle Plus contractors are unable to meet their required diversion rates because of China's "National Sword" policy on the import of recyclable materials.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment; and File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body. (Environmental Services) *Deferred to December 11, 2018 per Administration.*

**7.3 18-1600 Actions Related to Implementing Living Wage Requirements for Recycle Plus Residential Garbage and Recycling Contracts**

(a) Accept the staff report on:

(1) The proposed methodology to implement a Modified Living Wage for Recycle Plus Customer Service Representatives, Mechanics, and Materials Recovery Facility workers; and

(2) The updated labor peace plans from Recycle Plus contractors.

(b) Direct staff to negotiate the inclusion of a Modified Living Wage requirement, as approved by Council, in future residential garbage and recycling agreements for the Recycle Plus program.

CEQA: Not a Project, File PP17-003, Agreements/Contracts (New or Amended) resulting in no

physical changes to the environment. (Environmental Services/Public Works)

*Deferred to December 11, 2018 per Administration*

## **LAND USE**

### **10.1 Land Use on Consent Calendar**

**(a) 18-1608 C16-017 - Conforming Rezoning for Real Property Located at Camden Avenue.**

(a) Adopt a resolution approving an Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto, in accordance to the California Environmental Quality Act, as amended.

(b) Consideration of an ordinance rezoning certain real property of an approximately 1.01-gross acre vacant site (APN: 567-26-014) located on the east side of Camden Avenue, between Malpas Drive and Canna Lane from the A Agricultural Zoning District to the R-2 Two-Family Residence Zoning District.

CEQA: Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (5-0-2; Ballard and Griswold absent). (Planning, Building and Code Enforcement)

C16-017 - Council District 10

**Deferred to 12/11/18 per Council action.**

**(b) 18-1611 GP18-008 & C18-019 - General Plan Amendment: Land Use Designation and Conforming Rezoning for Real Property Located at 1131 Park Avenue and 15 and 17 Tillman Avenue.**

(a) Adopt a resolution approving the General Plan Amendment to change the Land Use Designation from Neighborhood/Community Commercial to Residential Neighborhood for 1131 Park Avenue; and Residential Neighborhood to Neighborhood/Community Commercial for 15 and 17 Tillman Avenue on a 0.25 gross-acre site.



## 10.1 Land Use on Consent Calendar (Cont'd.)

(b) Consideration of an ordinance of the City of San José rezoning an approximately 0.10 gross-acre portion of the 0.25 gross-acre site from CO Commercial Office Zoning District to R-1-8 Zoning District.  
CEQA: Statutorily Exempt per CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)  
GP18-008 & C18-019 – Citywide  
**Deferred to 12/11/18 per Council action.**

(c) **18-1615**      **GP15-012 - General Plan Amendment: Land Use/Transportation Diagram for Classico Avenue at Evergreen Village Square.**

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto.  
(b) Adopt a resolution modifying the Land Use/Transportation Diagram to address mapping errors at locations within the Evergreen Village area.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (5-0-2; Ballard and Griswold absent). (Planning, Building and Code Enforcement)  
GP15-012 - Council District 8  
**Dropped per Orders of the Day.**

(d) **18-1613**      **GPT18-003 - General Plan Text Amendment: Minor Revisions.**

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto.  
(b) Adopt a resolution modifying the Envision San José 2040 General Plan, including revisions to the Industrial Park land use designation to allow additional flexibility for commercial service uses within the Edenvale Development Policy area, clarifications related to design guidelines for Urban Villages, revisions to Policy IP-5.12 to update the parameters for qualifying affordable housing projects, updates to Appendix 5, and other minor grammatical and clarifying revisions.  
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement) GPT18-003 – Citywide  
**Deferred to 12/11/18 per Council action.**

## 10.1 Land Use on Consent Calendar (Cont'd.)

- (e) 18-1614 **GPT18-004 - General Plan Text Amendment: Housing Preservation and Rehabilitation.**  
(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto.  
(b) Adopt a resolution amending the Envision San José 2040 General Plan related to the protection of housing preservation and rehabilitation. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (6-1; Griswold opposed) (Planning, Building and Code Enforcement)  
GPT18-004 – Citywide  
**Deferred to 12/11/18 per Council action.**
- (f) 18-1612 **GPT16-010 - General Plan Text Amendment: Amendment to the Roosevelt Park, Little Portugal, Five Wounds and 24th and William Urban Village Plans, including revised Implementation Chapters and minor text modifications to each urban Village Plan.**  
(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto.  
(b) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Roosevelt Park Urban Village Plan.  
(c) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Little Portugal Urban Village Plan.  
(d) Adopt a resolution approving the City-initiated General Plan Text Amendment to the Five Wounds Urban Village Plan.  
(e) Adopt a resolution approving the City-initiated General Plan Text Amendment to the 24th Street and William Street Urban Village Plan. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No.77617), and Addenda thereto. Planning Commission recommends approval (7-0). (Planning, Building and Code Enforcement)  
GPT16-010 – Citywide  
**Deferred to 12/11/18 per Council action.**

## 10.1 Land Use on Consent Calendar (Cont'd.)

- (g) 18-1618 **HL18-001 & MA18-001 - Historic Landmark Nomination and Historical Property Contract for Edwin and Mary Wilcox House Located at 1300 Pine Ave.**
- (a) Adopt a resolution designating the “Edwin and Mary Wilcox House” located at 1300 Pine Avenue as a City Landmark of special historic, architectural, aesthetic or engineering interest, or value of a historic nature;
- (b) Adopt a resolution approving the Historical Property Contract (California Mills Act Contract) between the City of San José and property owners, Penelope and Stephen Thompson, for the “Edwin and Mary Wilcox House, located at 1300 Pine Avenue. (APN: 439-52-106), on the subject 0.81-gross acre site.
- CEQA: Statutorily Exempt pursuant to CEQA Guidelines Section 15331 for Historical Resource Restoration/Rehabilitation. Historic Landmarks Commission recommends approval. (Planning, Building and Code Enforcement)
- HL18-001 & MA18-001 - Council District 6  
**Deferred to 12/11/18 per Council action.**

*CONTINUE GENERAL PLAN HEARING (FOURTH CYCLE) TO 12/18/18*

### END OF CONSENT CALENDAR

## 10 Land Use - Regular Agenda

- 10.2 18-1609 **GP18-001 - General Plan Amendment: Land Use Designation for Real Property Located at 4349 San Felipe Road.**
- (a) Adopt a resolution adopting the 4349 San Felipe Road General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.
- (b) Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Rural Residential to Neighborhood Community Commercial, Rural Residential, and Open Space, Parklands and Habitat on a 1.0-gross acre site located on the west side of San Felipe Road, approximately 1,010 feet south of Delta Road (4349 San Felipe Road).
- CEQA: Initial Study/Negative Declaration for 4349 San Felipe Road General Plan Amendment. Planning Commission recommends approval (4-3; Ballard, Marquez and Leyba opposed). (Planning, Building and Code Enforcement) GP18-001 - Council District 8  
**Deferred to 12/11/18 per Council action.**

**10.3 18-1610**

**GP18-002 - General Plan Amendment: Land Use/Transportation Diagram for 550/570 Meridian Avenue and 460 Meridian Avenue.**

(a) Adopt a resolution adopting the Meridian Avenue General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Envision San José 2040 General Plan/Transportation Diagram Land Use Designation for an approximately 11.56-gross acre site (550 and 570 Meridian Avenue) from Industrial Park to Combined Industrial/Commercial and adding 1.12 acres directly north located at the northeast corner of Meridian Avenue and Parkmoor Avenue (460 Meridian Avenue) from Industrial Park to Combined Industrial/Commercial, for a total of 12.68-gross acre site.

CEQA: Initial Study/Negative Declaration for 550 Meridian Avenue General Plan Amendment. Planning Commission recommends approval (6-1; Commissioner Marquez opposed). (Planning, Building and Code Enforcement)

GP18-002 - Council District 6

**Deferred to 12/11/18 per Council action.**

**10.4 18-1616**

**GP17-017 - General Plan Amendment: Land Use/Transportation Diagram for Property Located at 214, 214D, 205 Dupont Street; 226 and 275 McEvoy Street.**

(a) Adopt a resolution approving an Addendum to the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096), in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Mixed Use Commercial to Transit Residential on a 4.25-gross acre site located at 214, 214D, and 205 Dupont Street, and 226 and 275 McEvoy Street.

CEQA: Addendum to the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096). (Planning, Building and Code Enforcement)

GP17-017 - Council District 3

***Deferred to December 18, 2018 per Administration***

10.5 18-1617

**GP18-004 - General Plan Amendment: Land Use/Transportation Diagram for Property Located at 3235 Union Avenue and 2223 Camden Avenue.**

(a) Adopt a resolution adopting the Campbell Union High School District General Plan Amendment Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended.

(b) Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Residential Neighborhood, Combined/Industrial Commercial, and Public/Quasi-Public on a 12.12-gross acre site located at 3235 Union Avenue and 2223 Camden Avenue;

**OR**

Adopt a resolution amending the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Combined/Industrial Commercial and Public/Quasi-Public on a 12.12-gross acre site located at 3235 Union Avenue and 2223 Camden Avenue.

CEQA: Initial Study Negative Declaration for Campbell Union High School District General Plan Amendment. Planning Commission recommends approval (4-1-2; Marquez opposed, Ballard and Griswold absent). (Planning, Building and Code Enforcement)

GP18-004 - Council District 9

**Deferred to 12/11/18 per Council action.**

**ADJOURNMENT**

The Council meeting of the City of San José was adjourned at 12:33 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

***draft***

Toni J. Taber, CMC  
City Clerk

rmk/12-4-18 MIN