



City Council Meeting Amended Agenda

Tuesday, June 13, 2023

11:00 AM

Hybrid Meeting - Council Chambers and Virtually -

<https://sanjoseca.zoom.us/j/88957084529>

MATT MAHAN, MAYOR
ROSEMARY KAMEI, 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



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.

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 or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. 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.
- o 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.

- o 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)
- o 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.

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.

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://www.sanjose.legistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

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 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.

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 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.

On occasion the City Council may consider agenda items out of order.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/your-government/appointees/city-clerk/council-agendas-minutes/participate-watch-public-meetings>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

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

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the ilegislare application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 8:00 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 submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

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

- 1) By Phone: (888) 475 4499. Webinar ID is 889 5708 4529. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/88957084529>
 - a. 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. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

• Call to Order and Roll Call

9:00 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

[23-792](#)

Closed Session Agenda

11:00 a.m. - Regular Session, Council Chambers, City Hall

6:00 p.m. - Evening Session, Council Chambers, City Hall - Cancelled

*The previously scheduled Evening Session has been cancelled.

- Pledge of Allegiance
- Invocation (District 6) - TO BE HEARD AT 1:30 P.M.
- 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

This meeting will be adjourned in memory of the remarkable and dedicated life of Dr. Daniel Coleman who passed away on May 20th, 2023. Dr. Coleman was an incredible and passionate counselor at the Washington United Youth Center for many years and worked tirelessly with underserved youth in the Washington-Guadalupe neighborhood. It is without a doubt that Dr. Coleman's impact and legacy will be felt for generations to come as his civic service has been an inspiration to countless San José youth who will continue to advocate for their families and communities.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS - TO BE HEARD AT 1:30 P.M.

1.1 Presentation of a commendation recognizing Sameena Usman for her nearly two decades of work in our community advocating on social justice issues and amplifying the voices of underrepresented communities on behalf of Council on American-Islamic Relations – San Francisco Bay Area (CAIR-SFBA). (Candelas)

1.2 Presentation of a proclamation declaring June 2023 as National Immigrant Heritage Month to recognize the contributions, culture and traditions of immigrant communities to the City of San José. (Ortiz)

1.3 Presentation of a proclamation declaring June 19, 2023 as Juneteenth in the City of San José to recognize and celebrate the emancipation of enslaved African Americans. (Mayor and Torres)

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.

[23-943](#)

Approval of City Council Minutes.

Recommendation:

- (a) Regular City Council Meeting Minutes of December 14, 2021.
 - (b) Regular City Council Meeting Minutes of January 25, 2022.
 - (c) Regular City Council Meeting Minutes of February 8, 2022.
 - (d) City Council Study Session Meeting Minutes of March 8, 2022.
 - (e) Regular City Council Meeting Minutes of March 22, 2022.
 - (f) Regular City Council Meeting Minutes of April 12, 2022.
 - (g) Regular City Council Meeting Minutes of April 26, 2022.
 - (h) City Council Study Session Meeting Minutes of January 14, 2022.
- CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

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 [23-863](#) Macro Cell Fee Schedule and Lease Agreement for City-Owned Properties.**Recommendation:**

- (a) Approve a template for Non-Exclusive Installation and Property Use Agreement for Telecommunication Facilities on City-Owned Property (Telecommunication Agreement) for a ten-year term with a one-time five-year option to extend the term;
- (b) Approve a standard market rate fee schedule based on a site's equipment space requirements, number of antennas, and location within the City of San José with an annual escalation of four percent;
- (c) Adopt a resolution directing staff to transfer ten percent of the revenue collected from the new Telecommunication Agreements to the Digital Inclusion Fund; and
- (d) Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute Telecommunication Agreements and all other documents necessary to complete a transaction.

CEQA: Not a Project, File No. PP17-003, Agreement/Contracts (new or amended) resulting in no physical changes to the environment.
(Economic Development and Cultural Affairs)

2.8 [23-864](#) Nonprofit Charitable Reuse Agreements.**Recommendation:**

Approve charitable reuse agreements with Goodwill of Silicon Valley for \$249,323; The Salvation Army for \$88,109; and HOPE Services for \$4,340, each with a term from July 1, 2023 through June 30, 2024.

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

2.9 [23-865](#)**Actions Related to the Purchase Orders with Coast Counties Truck & Equipment Company and FJM Truck and Trailer Center, LLC for Heavy Equipment and Maintenance Service.****Recommendation:**

Adopt a resolution authorizing the City Manager to:

- (a) Amend purchase orders with Coast Counties Truck & Equipment Company (San José, CA) and FJM Truck and Trailer Center, LLC (San José, CA) for heavy equipment and maintenance services to increase the total compensation by \$500,000, for a maximum compensation not-to-exceed \$850,000 for the periods ending February 22, 2024, and April 3, 2024, respectively; and
- (b) Exercise up to four one-year options to extend the terms of the purchase orders with the last options ending on or about February 22, 2028, and April 3, 2028, respectively, 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 [23-867](#)**Report on Bids and Award of Contract for the 10221 - Park: Bundle - 9140 Mercado Park and 9254 Bruzzone Park Project.****Recommendation:**

- (a) Report on bids and award of a contract for the construction of 10221 - PARK: BUNDLE - 9140 Mercado Park and 9254 Bruzzone Park Project to the lowest responsive, responsible bidder, Suarez & Munoz Construction, Inc., in the amount of \$3,071,000.

- (b) Approve a 10 % contingency in the amount of \$307,100.

- (c) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:

- (1) Increase the Bruzzone Way Park Development appropriation to the Parks, Recreation, and Neighborhood Services Department by \$232,000;

- (2) Increase the Mercado Park Development appropriation to the Parks, Recreation, and Neighborhood Services Department by \$162,000; and

- (3) Decrease the Future PDO / PIO Projects Reserve by \$394,000.

CEQA: File No. ER23-094, Determination of Consistency with San José Flea Market General Plan Amendment and Planned Development Rezoning Project Final Environmental Impact Report (Resolution No. 73956). (Public Works/Parks, Recreation, and Neighborhood Services/City Manager)

2.11 [23-868](#)**Report on Bids and Award of Contract for the 7700 - Autumn Parkway Outfall 67F and 509 Rehabilitation Project Re-Bid.****Recommendation:**

(a) Report on bids and award of a contract for the construction of 7700 - Autumn Parkway Outfall 67F and 509 Project - Re-Bid to the lowest responsive, responsible bidder, Brannon Corporation, in the amount of \$1,973,965, and;

(b) Approve a 15% contingency in the amount of \$296,095.

CEQA: Categorically Exempt File No. ER20-266, CEQA Guidelines Sections 15301 Existing Facilities and 15302 Replacement or Reconstruction. (Public Works)

2.12 [23-869](#)**Report on Bids and Award of Contract for the 10086 - Almaden, Berryessa and Evergreen Community Centers Improvement Project.****Recommendation:**

(a) Report on bids and award of a construction contract for the 10086 - Almaden, Berryessa, and Evergreen Community Centers Improvement Project to the lowest responsive, responsible bidder, City Building, Inc., in the amount of \$1,198,780; and

(b) Approve a 15% construction contingency in the amount of \$179,817.

CEQA: Categorically Exempt, File No. ER23-032, CEQA Guidelines Section 15301, Existing Facilities. (Public Works)

2.13 [23-870](#)**2023 Transformative Climate Communities Planning Grant Application.****Recommendation:**

Adopt a resolution authorizing the Department of Transportation, working with the Environmental Services Department, Housing Department, and Office of Economic Development and Cultural Affairs, to apply for and, if awarded, accept a Transformative Climate Communities Planning Grant for \$300,000, and delegating the authority to the City Manager, or designee, to negotiate and execute all related documents.

CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (Transportation)

2.14 [23-871](#) 2023 Local Streets Sealing Project.**Recommendation:**

- (a) Report on bids and approve award of contract for the 2023 Local Streets Sealing Project, to the low bidder, Graham Contractors, Inc., in the amount of \$4,866,200; and
 - (b) Approve a 10% contingency in the amount of \$486,000.
- CEQA: Exempt, File No. ER23-009, CEQA Guidelines Section 15301(c), Existing Facilities. (Transportation)

2.15 [23-884](#) Approval of Proclamation of Juneteenth on June 19, 2023, and Juneteenth Flag Raising on June 13-19, 2023 Sponsored by the Mayor's Office as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Events.**Recommendation:**

- As recommended by the Rules and Open Government Committee on May 31, 2023:
- (a) Approve the Proclamation of Juneteenth scheduled on June 19, 2023 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve the Juneteenth Flag Raising scheduled on June 13-19, 2023 as a City Council sponsored Special Event and approve the expenditure of funds; and
 - (c) 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. (Mayor)
- [Rules Committee referral 5/31/2023 - Item B.4]

2.16 [23-948](#)

**Annual Authorization for Workforce Innovation and Opportunity Act
Program and Projects for 2023-2024. - RENUMBERED FROM ITEM 8.1**

Recommendation:

Adopt an annual resolution authorizing the City Manager or designee to negotiate and execute the following agreements relating to the Workforce Innovation and Opportunity Act Program and projects:

(a) All contracts, amendments, agreements, leases, subleases, and memorandums of understanding with contractors, consultants, vendors, and partners providing services to the Workforce Innovation and Opportunity Act Program and workforce programs funded by other sources, including, but not limited to, novations or assignments, case management contracts, and consultant contracts, for the period July 1, 2023 to June 30, 2024 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Innovation and Opportunity Act grant recipients and with established City procurement procedures and requirements, that have been reviewed and approved, as required, by the work2future Workforce Development Board, so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.

(b) All memorandums of understanding with Required and Additional One-Stop Partners for the period July 1, 2022 to June 30, 2026 in accordance with Section 121 of the Workforce Innovation and Opportunity Act, including, but not limited to memorandums of understanding with other workforce development boards, regional memorandums of understanding, partnership agreements, cost-sharing agreements, regional consultant agreements, and memorandums of understanding with cities and the unincorporated area of Santa Clara County whose residents receive services from the work2future One Stops, a partner of the America's Job Center of CaliforniaSM, so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses, if any, of the agreement.

(c) All amendments to City Council-approved agreements that have been reviewed and approved, as required, by the work2future Board so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.

(d) All grant applications, grant agreements, subgrant agreements, and any documents necessary to accept the grant for discretionary funding applied for and approved by the work2future Board, for multi-year periods so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.

(e) All Eligible Training Provider List, Youth Career Technical Training, Youth Workshops, Adult Workshops, and Adult Cohort agreements, and multiple-scope agreements that combine two or more of the above agreements that have been reviewed and approved, as required, by the work2future Board, for the period from July 1, 2023, to June 30, 2024, subject to annual appropriation of funds by the Workforce Development Board.

(f) All agreements specified in sections (a) through (e) above with a term end date beyond the fiscal year in which the contract begins (an end date beyond June 30, 2024), so long as monies have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.

(g) All agreements specified in sections (a) through (e) above that do not involve a disbursement of funds (no-fund agreement) with an end term beyond the fiscal year in which the agreement begins (beyond June 30, 2024).

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a project which may result in a potentially significant impact on the environment.

(Economic Development and Cultural Affairs)

RENUMBERED FROM ITEM 8.1 (23-878)

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 [23-872](#) Disability Inclusion Equity Pledge.

Recommendation:

Adopt a resolution accepting the proposed Disability Inclusion Equity Pledge to formalize the City's commitment and prioritization of disability inclusion and a barrier-free environment.

CEQA: Not a Project, File No. PP17-017 City Organizational and Administrative Activities, resulting in no changes to the physical environment. (City Manager)

3.4 [23-873](#)

Mayor's June Budget Message for Fiscal Year 2023-2024. - NOT TO BE HEARD BEFORE 1:30 P.M. AND TO BE HEARD CONCURRENTLY WITH ITEM 3.5

Recommendation:

(a) Review, discuss and approve the Mayor's June Budget Message for Fiscal Year 2023-2024.

(b) Adopt a resolution authorizing the City Manager to negotiate and execute agreements addressed in the Mayor's Budget Message which are for amounts that exceed the City Manager's contract authority, subject to applicable procurement and provided that any required environmental review has been completed.

CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Mayor)

NOT TO BE HEARD BEFORE 1:30 P.M.

TO BE HEARD CONCURRENTLY WITH ITEM 3.5

3.5 [23-874](#)

**Proposed Changes to the Spending Priorities and Percentage Allocations
Measure E Real Property Transfer Taxes. - NOT TO BE HEARD BEFORE
1:30 P.M. AND TO BE HEARD CONCURRENTLY WITH ITEM 3.4**

Recommendation:

(a) Adopt a resolution:

(1) Approving by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in Manager's Budget Addendum #2 of the 2023 -2024 Proposed Operating Budget for the spending of Measure E revenues totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024:

(i) 5% for administration with the remaining revenue allocated as follows:

(ii) 0% for the creation of new affordable housing for extremely low-income households;

(iii) 0% for the creation of new affordable housing for low-income households;

(iv) 0% for the creation of new affordable housing for moderate-income households;

(v) 20% for homeless prevention, gender-based violence programs, legal services and rental assistance; and

(vi) 80% for homeless support programs including shelter construction and operations.

(2) In the alternative to (a)(1), approve by majority vote the current allocation under Council Policy 1-18, Section 22, of Measure E spending priorities for the 2023-2024 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024;

(3) In the alternative to (a)(1) or (a)(2), approve by two-thirds (2/3rds) affirmative vote an alternative allocation for Measure E spending priorities for the 2023-2024 Proposed Budget for the spending of Measure E revenue totaling \$50.0 million anticipated to be received in Fiscal Year 2023-2024;

(b) Adopt a resolution:

(1) approving by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in Manager's Budget Addendum #2 of the 2023-2024 Proposed Operating Budget for the combined spending of uncommitted Measure E revenues totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023:

(i) 22% for administration, which is inclusive of a revenue stabilization reserve to protect funding commitments from an anticipated revenue shortfall, with the remaining revenue allocated as follows:

(ii) 21% for the creation of new affordable housing for extremely low-income households;

- (iii) 57% for the creation of new affordable housing for low-income households;
 - (iv) 0% for the creation of new affordable housing for moderate-income households;
 - (v) 4% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 18% for homeless support programs including shelter construction and operations.
- (2) In the alternative to (b)(1), approve by two-thirds (2/3rds) affirmative vote the following percentage allocations as included in the Mayor's June Budget Message for Fiscal Year 2023-2024 for the combined spending of uncommitted Measure E revenues totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023:
- (i) 17% for administration, which is inclusive of a revenue stabilization reserve to protect funding commitments from an anticipated revenue shortfall, with the remaining revenue allocated as follows:
 - (ii) 20% for the creation of new affordable housing for extremely low-income households;
 - (iii) 31% for the creation of new affordable housing for low-income households;
 - (iv) 0% for the creation of new affordable housing for moderate-income households;
 - (v) 4% for homeless prevention, gender-based violence programs, legal services and rental assistance; and
 - (vi) 45% for homeless support programs including shelter construction and operations.
- (3) In the alternative to (b)(1) or (b)(2), approve by two-thirds (2/3rds) affirmative vote an alternative allocation to the 2023-2024 Proposed Budget for the combined spending of uncommitted Measure E revenue totaling \$87.0 million, comprised of \$17.1 million from Fiscal Year 2020-2021, \$20.4 million from Fiscal Year 2021-2022, and \$49.5 million from Fiscal Year 2022-2023; and
- (c) Pursuant to Council Policy Manual 0-1, if Council is unable to approve by two-thirds (2/3rds) affirmative vote changes to the Measure E priority allocations, then consider waiving the two-thirds (2/3rds) vote requirement under City Council Policy 1-18, Section 22(c)(2) and adopt a resolution approving recommendations (a) or (b) by an affirmative majority vote of at least six members of the City Council.
- PLEASE NOTE: APPROVAL OF (A) and (B) CHANGING THE PERCENTAGE ALLOCATIONS REQUIRES AFFIRMATIVE

VOTES OF EIGHT MEMBERS (2/3) OF THE CITY COUNCIL.
(Council Policy 1-18, Section 22(c)(2)).

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

NOT TO BE HEARD BEFORE 1:30 P.M.

TO BE HEARD CONCURRENTLY WITH ITEM 3.4

3.6 [23-875](#)

**Approval of the 2023-2024 Operating and Capital Budgets for the City of
San José and Schedule of Fees and Charges. - NOT TO BE HEARD
BEFORE 1:30 P.M.**

Recommendation:

(a) Adopt resolutions approving the Operating Budget for 2023-2024
for the City of San José, the Capital Budget for 2023-2024 for the City
of San José, and the Five-Year Capital Improvement Program for
2024-2028 for the City of San José as revised by the Mayor's Budget
Message and directing the City Manager to prepare final documents for
adoption.

(b) Adopt a resolution establishing the Schedule of Fees and Charges
for 2023-2024.

(c) Approve an uncodified ordinance establishing the Schedule of Fees
and Charges for 2023-2024 specified in the resolution.

CEQA: Not a Project, File No. PP17-010, City Organizational and
Administrative Activities resulting in no changes to the physical
Environment, and 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. (City Manager)

NOT TO BE HEARD BEFORE 1:30 P.M.

3.7 [23-876](#) Public Hearing on Recording Liens on Properties for the Reimbursement of the Cost of Sidewalk Repairs to be Placed on the Fiscal Year 2023-2024 Santa Clara County Secured Property Tax Bill. -NOT TO BE HEARD BEFORE 1:30 P.M.

Recommendation: (a) Conduct a Public Hearing on recording liens on properties for the reimbursement of the cost of sidewalk repairs.
(b) Adopt a resolution confirming the Report from the Director of Finance concerning the delinquent sidewalk repair costs and the assessments contained in the report.
(c) Direct the recording of liens and the placement of charges as set forth therein on the 2023-2024 Santa Clara County Secured Property Tax Bill for the cost of sidewalk repairs.
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)
NOT TO BE HEARD BEFORE 1:30 P.M.

3.8 [23-881](#) Proposed Ordinance to Revise Sections 12.06.030 and 12.06.220 of Chapter 12.06 of Title 12 of the San José Municipal Code.

Recommendation: Approve an ordinance amending Section 12.06.030 of Chapter 12.06 of Title 12 of the San Jose Municipal Code entitled Municipal Campaign and Officeholder Account to amend the definition of a candidate to conform with State Law, and Section 12.06.220 of Chapter 12.06 of Title 12 of the San José Municipal Code to amend the definition of agent to include an elected officer's staff.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(City Attorney)

4. PUBLIC SAFETY SERVICES

4.1 [23-877](#) Amendment to Title 6 (Business Licenses and Regulations) of the San José Municipal Code for the Cannabis Regulatory Program. - TO BE HEARD CONCURRENTLY WITH ITEM 10.3

Recommendation: (a) Approve an ordinance amending Chapter 6.88 of Title 6 (Business Licenses and Regulations) of the San José Municipal Code to:

- (1) Modify the annual external audit requirement;
- (2) Add definitions to clarify cannabis business activities;
- (3) Make other changes to better align with State regulations; and
- (4) Make other technical, non-substantive, or formatting changes.

(b) Adopt a resolution amending the Administrative Citation Schedule of Fines to add and update fines for violations of Chapter 6.88 of Title 6 of the San José Municipal Code related to the City's Cannabis Regulatory Program and make other administrative corrections and repealing Resolution No. RES2023-143.

(c) Accept staff's update on the Cannabis Equity Pilot Program.

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

(Police)

TO BE HEARD CONCURRENTLY WITH ITEM 10.3

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

6.1 [23-866](#) Report on Bids and Award of Contract for the 9128 - River Oaks Regional Stormwater Capture Project.

Recommendation: (a) Report on bids and award of a contract for the construction of 9128 - River Oaks Regional Stormwater Capture Project to the lowest responsive, responsible bidder, Andrew M. Jordan Inc. dba A&B Construction, in the amount of \$10,999,618; and

(b) Approve a 10% contingency in the amount of \$1,099,962.

CEQA: Mitigated/Negative Declaration, File No. ER20-186 River Oaks Stormwater Capture Project. Council District 4. (Public Works)

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

- 8.1 [23-878](#) Annual Authorization for Workforce Innovation and Opportunity Act Program and Projects for 2023-2024. - RENUMBERED TO ITEM 2.16

Recommendation: RENUMBERED TO ITEM 2.16 (23-948)

9. REDEVELOPMENT – SUCCESSOR AGENCY

- Open Forum

If the Regular Session agenda items end after 6:00 p.m., this Open Forum will be held at the end of the full meeting concurrently with the Evening Session 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.

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

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

10.2 [23-879](#)

PDC18-036, PD21-009, PT21-030 and ER21-113 - Planned Development Rezoning, Planned Development Permit, and a Vesting Tentative Map for Certain Real Property Located at 1655 Berryessa Road. - NOT TO BE HEARD BEFORE 1:30 P.M.

Recommendation:

- (a) Adopt a resolution certifying the Final Environmental Impact Report prepared for the Berryessa Road Mixed-Use Development Project, and making certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act (CEQA), as amended.
- (b) Approve an ordinance rezoning certain real property of approximately 13.05 gross acres situated on the north side of Berryessa Road, approximately 1,100 feet westerly of Lundy Avenue (1655 Berryessa Road) from the LI Light Industrial and A Agricultural Zoning Districts to the R-M(PD) and CP(PD) Planned Development zoning districts.
- (c) Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to merge three parcels into one parcel and subdividing the one parcel into thirty-two parcels and up to 590 condominium units on the approximately 13.05-gross-acre Project Site.
- (d) Adopt a resolution approving, subject to conditions, a Planned Development Permit to establish a Master Plan for a general site layout, public and private street layout, grading and drainage patterns, and utility layout to allow the future construction of up to 455,000 square feet of commercial space, an approximately 0.9-gross-acre park, and up to 850 residential units, including on-site affordable units, and construction of the first phase (Blocks A, B, and C, including 24 detached single-family homes and 24 attached townhome units), including the demolition of an existing light industrial facility (9,740 square feet) and surface parking lot, and the removal of 47 ordinance-size trees and 56 non-ordinance trees (124 replacement trees) on the Project Site.

CEQA: Environmental Impact Report for the Berryessa Road Mixed-Use Development Planning File No. PDC18-036). Planning Commission recommends approval (9-0-1; Garcia absent) (Item 6., 5/10/2023 Planning Commission agenda). Council District 4. (Planning, Building and Code Enforcement)
NOT TO BE HEARD BEFORE 1:30 P.M.

10.3 [23-880](#)

PP23-001 - Amendment to Title 20 (The Zoning Ordinance) of the San José Municipal Code for Cannabis Retail Businesses. - NOT TO BE HEARD BEFORE 1:30 P.M. AND TO BE HEARD CONCURRENTLY WITH ITEM 4.1

Recommendation:

(a) Adopt a resolution adopting the Cannabis Business Ordinance Update Addendum to an approved Initial Study and Negative Declaration, as addended, in accordance with the California Environmental Quality Act (CEQA).

(b) Approve an ordinance of the City of San José amending the following Sections 20.80.763, 20.80.770, 20.80.775, and 20.80.780 from Part 9.75 of Chapter 20.80 in Title 20 of San José Municipal Code to modify distance requirements from Cannabis retail businesses to schools, daycare centers, youth centers, community and recreation centers, and parks; eliminate the distance requirement between storefronts and add a standard to address the concentration of cannabis retail businesses; remove the police beat restriction; and make other technical, non-substantive, or formatting changes within those sections. CEQA: File No. PP23-001, Addendum to the Cannabis Business Ordinance Update Negative Declaration, as addended (Resolution No. 80389). Planning Commission recommends approval (7-3-0; Ornelas-Wise, Garcia, Barocio opposed, Item 4.c on 5/24/2023 Planning Commission agenda) (Planning, Building and Code Enforcement)

NOT TO BE HEARD BEFORE 1:30 P.M.
TO BE HEARD CONCURRENTLY WITH ITEM 4.1

- **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**

This meeting will be adjourned in memory of the remarkable and dedicated life of Dr. Daniel Coleman who passed away on May 20th, 2023. Dr. Coleman was an incredible and passionate counselor at the Washington United Youth Center for many years and worked tirelessly with underserved youth in the Washington-Guadalupe neighborhood. It is without a doubt that Dr. Coleman's impact and legacy will be felt for generations to come as his civic service has been an inspiration to countless San José youth who will continue to advocate for their families and communities.

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.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

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.