



# **CITY COUNCIL AGENDA**

**AUGUST 17, 2004**

**AMENDED AGENDA**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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 Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood 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.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **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 your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales 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.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of 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 every first and third Tuesday at 7 p.m., unless otherwise noted. 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 and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://www.sanjoseca.gov/clerk/agenda.htm)**

**To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.**

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

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, Room 600, City Hall  
[See Separate Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 7)**  
Mictlan Aztec Dancers
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**ITEM 10.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.**

**THERE WILL BE A JOINT CITY COUNCIL/SAN JOSE FINANCING AUTHORITY MEETING FOLLOWING THE REGULAR SESSION OF THE COUNCIL MEETING.**

ADJOURNMENT: This meeting will be adjourned in memory of Penny Irene Zanotto; and in memory of Lucille Turner, mother of Randal Turner, Deputy Director in Public Works and mother-in-law to Lisa Turner, Accounting Technician in Environmental Services.

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

- \* **See New Item 3.8,** Accept the City Manager's follow-up report on the process for a Converged Data Network and Telephony System for the New City Hall (NCH).

# 1 CEREMONIAL ITEMS

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- 1.1 Presentation of plaques to Sandra Gouveia for 6 years service on the Disability Advisory Commission; to Herman Levy for 4 years 4 months service on the Human Rights Commission; to George Berhitoe for 4 years service on the Library Commission; to Dagmar Poffenroth for 8 years service on the Parks and Recreation Commission; to Nancy Hikoyeda for 4 years service on the Senior Citizens Commission; to Frances Schwab for 4 years service on the Senior Citizens Commission; to Mitchell Ehrlich for 5 years service on the Traffic Appeals Commission; to Kerri Lawnsby-Corney for 4 years service on the Traffic Appeals Commission; and to Jessica Nguyen for 1 year 8 months service on the Youth Commission. (Mayor)

**TO BE HEARD IN THE EVENING**

- 1.2 Presentation of a proclamation declaring August Breastfeeding Awareness Month. (Chavez)
- \* (Rules Committee referral 8/11/04)

# 2 CONSENT CALENDAR

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**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, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

**Recommendation:** Approval of City Council Minutes for:

- (a) [Regular meeting of June 22, 2004](#)
- (b) [Joint Council/Redevelopment Agency Board meeting of June 22, 2004](#)
- (c) [Regular meeting of June 29, 2004](#)
- \* (d) [Joint Council/Redevelopment Agency Board meeting of June 29, 2004](#)

## 2.2 Final adoption of ordinances.

## 2.3 [Acceptance of the finding reports relating to the Bay 101 Conditional Approval of Stock Transfer.](#)

**Recommendation:** Acceptance of the finding reports from Kafoury, Armstrong, & Company, LLP for the quarter ending March 31, 2004, relating to the Bay 101 Conditional Approval of Stock Transfer. (City Auditor)

## 2 CONSENT CALENDAR

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### 2.4 Approval of fiscal action for the Library Grants appropriation.

**Recommendation:** Adoption of the following appropriation ordinance and funding sources resolutions amendments in the General Fund:

- (a) Increase the revenue estimate for Revenue from the Federal Government by \$397,640.
  - (b) Increase the Library Grants appropriation by \$397,640.
- CEQA: Not a Project. (City Manager's Office)

### 2.5 Approval to reject the proposal for the service of Photo Radar Notification and Processing.

**Recommendation:** Approval to reject the proposal for the service of Photo Radar Notification and Processing and authorization for the Director of General Services to negotiate an agreement with Redflex Traffic Systems, Inc. CEQA: Not a Project. (General Services)

### 2.6 Approval of fiscal actions for the Urban Area Security Initiative.

- \* **Recommendation:** Adoption of the following appropriation ordinance and funding source resolution amendments in the General Fund to do the following:
- (a) Establish a city-wide appropriation of \$1,640,000 to the City Manager's Office for the Urban Area Security Initiative.
  - (b) Increase the Earned Revenue Estimate from the Federal Government by \$1,640,000.
- CEQA: Not a Project. (Emergency Services/City Manager's Office)  
(Rules Committee referral 8/11/04)

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session Mayor Gonzales, Chair

## 3 STRATEGIC SUPPORT SERVICES

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### 3.2 Report of the Rules Committee – August 4, 2004

#### Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review August 17, 2004 Draft Agenda
  - (2) Add New Items to August 10, 2004 Amended Agenda
    - Mayor and Council Member Requests
    - City Manager Requests
    - City Attorney Requests
    - City Clerk Requests
  - (3) List of Reports Outstanding
- (c) Legislative Update
  - (1) State
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointment to Boards, Commissions and Committees
  - (1) Summary of Commission Vacancies
  - (2) CDBG Steering Committee
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Oral communications
- (i) Adjournment

### 3.3 **Report of the Making Government Work Better Committee** **Council Member Campos, Chair**

### 3.4 Interview of Elections Commissions applicants.

- \* **Recommendation:** Interview of Elections Commissions applicants, and appointment of Commission member. (City Clerk)

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.5 Approval of actions related to the State budget impact.

\* **Recommendation:**

- (a) Confirm direction contained in the 2004-2005 Mayor's June Budget Message, approved by the City Council as part of adoption of the 2004-2005 Operating Budget, regarding the 2004-2005 General Fund Rebalancing Plan to utilize the Compensation/State Budget Impact Contingency Plan Earmarked Reserve totaling \$2.0 million and implement a new Emergency Communication System Support Fee to resolve the \$11.4 million General Fund revenue shortfall created by State Budget balancing actions.
- (b) Approve an Ordinance amending Title 8 of the San José Municipal Code to add a new Chapter 8.20 establishing an Emergency Communication System Support Fee and amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new Part 51 establishing the Emergency Communication System Support Fee Fund.
- (c) Direct staff to return with the following actions on August 31, 2004:
  - (1) Appropriation Ordinance and Funding Sources Resolution amendments and amendments to applicable fee resolutions necessary to implement the above actions; and
  - (2) Resolution approving implementation of the rerouting of wireless 9-1-1 service from the State of California to the City of San José ("San José Wireless E9-1-1 Project"), pursuant to Public Utilities Code Section 2892 and authorizing the City Manager to negotiate and execute all documents necessary to complete the San José Wireless E9-1-1 Project.

(City Manager's Office)

#### 3.6 **Approval of actions for the New City Hall Project.**

**Recommendation:**

- (a) Approval of the first amendment to the City's agreement with San José Water Company for the New San José City Hall Project increasing the estimated amount of the agreement by \$33,590 for a total estimated amount of \$199,172, and revising the scope to include additional fire hydrant work. CEQA: Resolution No. 68905, PP98-03-072. (Public Works)
- (b) Adoption of a resolution:
  - (1) Finding that solicitation of bids for the installation of tenant improvement security system equipment work for the New City Hall Project would be an idle act under the City's Municipal Code, Section 14.04.170; and,
  - (2) Execute a contract change order to Rosendin Electric, Inc., for the installation of security system equipment in the amount of \$715,000.

**RECOMMEND DEFERRAL 3.6(b) TO 8/24/04**

CEQA: Resolution No. 68905, PP98-03-072. (Public Works)

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.7 Approval of actions for the Integrated Utility Billing, Customer Service and Performance Management System.

\* **Recommendation:**

- (a) Adoption of a resolution amending Resolution No. 72227, adopted at the June 29, 2004 City Council Meeting, to extend the period of time for the City Manager to negotiate for the purchase, installation and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint/PeopleSoft.
- (b) Reject all proposals received for a Customer Information System (CIS) Vendor Selection Consultant and re-issue a modified Request for Qualifications (RFQ) to contract with an independent third-party CIS consultant to:
  - (1) Assist the City with a business process gap analysis;
  - (2) Assist the City in contract negotiations with BearingPoint/PeopleSoft;
  - (3) Provide technical architecture support related to the development of the contract scope of services with BearingPoint/PeopleSoft; and,
  - (4) Provide project quality assurance services.

CEQA: Not a Project. (Finance)  
(Deferred from 8/10/04 – Item 3.4)

#### 3.8 Accept City Manager's follow-up report on the process for a Converged Data Network and Telephony System for the New City Hall.

- \* **Recommendation:** Accept the City Manager's follow-up report on the process for a Converged Data Network and Telephony System for the New City Hall (NCH). (City Manager's Office)  
(Orders of the Day)

### 4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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#### 4.1 Report of the Building Strong Neighborhoods Committee Council Member Chavez, Chair

#### 4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.3 Approval of actions for property located at 1125 Coleman Avenue.**

**Recommendation:** Adoption of a resolution:

- (a) Approving a Purchase Agreement with FMC Corporation for the purchase of 74.87 acres of property located at 1125 Coleman Avenue at a price of \$81,539,960.
- (b) Approving a Right of Entry Agreement and Easement for the property located at 1125 Coleman Avenue.
- (c) Approving the Covenants, Conditions and Restrictions (CC&Rs) for the property located at 1125 Coleman Avenue.

(Economic Development)

\* **DROP – SEE SAN JOSE FINANCING AUTHORITY AGENDA, ITEM 2, FOR COUNCIL ACTION TO BE TAKEN**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair**

### **5.2 Approval of a one-month animal license amnesty program.**

**Recommendation:** Adoption of a resolution approving a one-month animal license amnesty program. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

(Deferred from 6/15/04 – Item 5.7)

**RECOMMEND DEFERRAL TO 8/31/04**

## **6 TRANSPORTATION SERVICES**

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### **6.1 Report of the Building Better Transportation Committee Council Member Cortese, Chair**

### **[Approval of changes to the Fee Schedule for Tow Service agreements.](#)**

**Recommendation:** Adoption of a resolution amending Resolution No. 71324 effective July 1, 2004 to:

- (a) Increase the flat rate per tow as consideration for the privilege of providing City-generated tows to \$50.95;
- (b) Increase the maximum rates that tow contractors may charge vehicle owners for basic tows to \$112.09 per tow.

CEQA: Not a Project. (Planning, Building and Code Enforcement).

(Deferred from 6/8/04 – Item 6.2 and 6/15/04 – Item 6.3)

**DROP**

## 7 ENVIRONMENTAL & UTILITY SERVICES

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## 8 AVIATION SERVICES

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## 9 PUBLIC SAFETY SERVICES

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### 9.1 [Approval to submit an application for the FY 2004-2005 Metropolitan Medical Response System Program Continuation Grant.](#)

- \* **Recommendation:** Adoption of a resolution authorizing the City Manager to submit an application for the FY 2004-2005 Metropolitan Medical Response System Program Continuation Grant with the U.S. Department of Homeland Security, to accept the grant if awarded, and to execute all related grant documents. CEQA: Not a Project. (Emergency Services)

### 9.2 [Approval of the 2004 Emergency Operations Plan for the City of San José.](#)

**Recommendation:** Adoption of a resolution adopting the 2004 Emergency Operations Plan for the City of San José. CEQA: Not a Project. (Emergency Services)

## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 10.1 IN A JOINT SESSION

### 10.1 [Approval of agreements with the California Theatre and Opera San José.](#)

- \* **Recommendation:**
- (a) City Council and Redevelopment Agency Board approval of a Cooperation Agreement providing for the City's and the Agency's rights and obligations with respect to the California Theatre, the transfer of title to the California Theatre to the City of San José, and the Agency's warranty of construction defects. CEQA: Resolution No. 68839, RCP00-02-001, and RSP02-004. Council District 3. (City Manager's Office/Redevelopment Agency)
  - (b) [Adoption of a resolution authorizing the City Manager to negotiate and execute a Facility Use Agreement with Opera San José for the use of the California Theatre for a period of ten \(10\) years, at an amount paid to the City of ten thousand dollars \(\\$10,000\) per production, with up to four \(4\) productions for the first four \(4\) years and up to five \(5\) productions for the next six \(6\) years.](#) (City Manager's Office)
- (Rules Committee referral 8/11/04)

**ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING**

- **Closed Session Report**
- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:  
  
None.  
  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:  
  
None.
- **Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.**

# 11 PUBLIC HEARINGS

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(To be heard by the City Council at 7:00 p.m.)

## 11.1 [Public hearing on modifying allowed uses in the Industrial Zoning Districts.](#)

**Recommendation:** Public Hearing on and consider approval of an ordinance amending Section 20.50.100 of Title 20, the Zoning Code, of the San José Municipal Code to modify the uses allowed in the Industrial Zoning Districts.

CEQA: Exempt, PP04-03-073. SNI Area: All. (Planning, Building and Code Enforcement)

## 11.2 **Public Hearing on conforming rezoning located at 6095 Cahalan Avenue.**

**Recommendation:** PUBLIC HEARING ON CONFORMING REZONING of the property located at the northwest corner of Santa Teresa Boulevard and Cahalan Avenue (6095 Cahalan Avenue), from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District, to allow commercial uses on a 1.8-acre site (existing gasoline service station). (YBM, Inc., Owner/Applicant). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-027 - District 10

(Continued from 5/18/04 – Item 11.10 and 6/1/04 – Item 11.1)

**DROP – HEARD BY COUNCIL ON 8/10/04**

## 11.3 [Public Hearing on planned development rezoning located at 2455 Masonic Drive.](#)

\* **Recommendation:** Public Hearing on and consider approval of an ordinance on Planned Development Rezoning located on the west side of Masonic Drive, south side of Almaden Expressway (2455 Masonic Drive), from A-Agriculture Zoning District to A(PD) Planned Development Zoning District, to allow up to 172 single-family attached residences and a 1.3 acre public park on a 4.6 gross acre site. (San José Scottish Rite Foundation, Owner; Vitoil, Inc./Stefan Martirosian, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC04-010 - District 6

# 11 PUBLIC HEARINGS

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## 11.4 [Public Hearing on planned development rezoning located at 424 North Fourth Street.](#)

- \* **Recommendation:** Public Hearing on and consider approval of an ordinance on Planned Development Rezoning located on the east side of North Fourth Street, approximately 170 feet northerly of Washington Street (424 North Fourth St.), from LI Light Industrial District to A(PD) Planned Development Zoning District, to allow the relocation of the historic single-family residence from 507 Almaden Avenue to a 0.13 gross acre site in the Hensley Historic District. (Neighborhood Housing Services Silicon Valley, Attn. Edward Moncrief, Owner/Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1).  
[PDC 04-061 - District 3](#)  
[Supplemental](#)

## 11.5 [Public Hearing on planned development rezoning of the property located at the southwest corner of Silver Creek and Aborn Roads.](#)

- \* **Recommendation:** Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the southwest corner of Silver Creek and Aborn Roads, from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District, to allow up to 70,000 square feet of retail, 50,000 square feet of medical office or an 80-bed assisted living facility for the elderly, and unimproved land to be dedicated for public park purposes on a 7.5 gross acre site. (Feng Li-Chu And Shen Chung-Guang, Lii Ruey-Rong & Lih-Woan, Shen Chung Guang, Huang Ying-Ming, Huang Chen-Huei, Owners; Barry Swenson Builder, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
[PDC04-008 - District 7](#)  
(Continued from 8/10/04 – Item 11.3)

- **Open Forum**

- **Adjournment**

This meeting is adjourned in memory of Penny Irene Zanotto; and in memory of Lucille Turner, mother of Randal Turner, Deputy Director in Public Works and mother-in-law to Lisa Turner, Accounting Technician in Environmental Services.

**JOINT CITY COUNCIL/SAN JOSÉ FINANCING AUTHORITY  
AGENDA**

**1:30 P.M.**

**TUESDAY, AUGUST 17, 2004**

**CHAMBERS**

1. Call to Order
2. [Approval of actions for property located at 1125 Coleman Avenue. \(Economic Development Strategy Initiative\)](#)

**Recommendation:**

- (a) Adoption of a resolution by the City Council:
  - (1) Approving a Purchase Agreement with FMC Corporation for the purchase of no less than 51.54 acres of property located at 1125 Coleman Avenue at a price of twenty-five dollars (\$25.00) per square foot or \$56,242,500.
  - (2) Approving the terms of a loan of Airport funds not to exceed \$3,735,000 for annual debt service payments on the Section 108 loan, for a term from January 1, 2005 to June 30, 2018, with interest payable by the City to Airport funds accruing on a monthly basis at the City's rate of return on its invested pool of funds.
  - (3) Authorizing the City Manager to:
    - (a) Exercise authority on behalf of the City to complete the acquisition of up to 23.23 additional acres of the property pursuant to the Purchase Agreement, for up to 25 months following the close of escrow, for a total additional price not to exceed \$25,297,475; and
    - (b) Execute Covenants, Conditions and Restrictions (CC&Rs) for the property located at 1125 Coleman Avenue at the close of escrow for the purchase of the property; and
    - (c) Negotiate and execute a Right of Entry Agreement and Easement for all portions of the property located at 1125 Coleman Avenue acquired by the City pursuant to this Purchase Agreement for purpose of permitting continued access by FMC to perform environmental remediation; and

## **JOINT CITY COUNCIL/SAN JOSÉ FINANCING AUTHORITY AGENDA**

2. **Approval of actions for property located at 1125 Coleman Avenue. (Economic Development Strategy Initiative)**
- (d) Execute all documents and agreements necessary to secure a Section 108 loan for the purchase of the additional 23.23 acres of the property, including a Note and Contract with the Secretary of the United States Department of Housing and Urban Development.
  - (e) Negotiate and execute all other documents and agreements necessary to complete this transaction.
  - (4) Directing staff to proceed with the development of the bond financing documents for the issuance of lease revenue bonds to finance the acquisition of the Property.
  - (b) Adoption of the following 2004-2005 appropriation ordinance amendments in the General Fund:
    - (1) Establish a City-Wide appropriation to the Office of the City Manager in the amount of \$563,000 for the FMC Property Deposit.
    - (2) Reduce General Fund Contingency Reserve by \$563,000.
  - (c) Adoption of a resolution of the City of San José Financing Authority stating its intent to issue debt to finance the acquisition of 51.54 acres of land located at 1125 Coleman Avenue.
- CEQA: Resolution No. 71716, PDC98-12-104. (Economic Development/Airport/City Manager's Office)

### [Supplemental](#)

3. Adjourn the San José Financing Authority