



# CITY COUNCIL AGENDA

**SEPTEMBER 30, 2008**

## SYNOPSIS

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
JUDY CHIRCO  
NANCY PYLE

DAVID D CORTESE, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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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, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (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**  
9:35 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Campos, Constant. (Excused)**  
  
1:31 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Campos. (Excused)**
- **Invocation (District 8)**  
Mt. Pleasant High School Choir, Directed by Aaron Jenson, presented a choral piece by Eugene Butler.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation declaring the month of October as “Disability Awareness Month” in the City of San José. (Mayor/Council)  
**Mayor Reed and Council Members Pyle and Constant recognized the month of October as “Disability Awareness Month” in the City of San José.**
- 1.2 Presentation of a proclamation declaring the month of October as “Crime Prevention Month” in the City of San José. (Mayor)  
**Mayor Reed recognized the month of October as “Crime Prevention Month” in the City of San José.**
- 1.3 Presentation of a commendation to Susan Espinoza for her extraordinary service to people with disabilities in the City of San José. (Pyle)  
(Rules Committee referral 9/23/08)  
**Mayor Reed and Council Members Constant, Oliverio and Pyle recognized and commended Susan Espinoza for her extraordinary service to people with disabilities in the City of San José.**
- 1.4 Presentation of a proclamation declaring September 30<sup>th</sup> as “Bob Doerr Day” in the City of San José in honor of the former Mayor’s 94<sup>th</sup> birthday. (Mayor)  
(Rules Committee referral 9/23/08)  
**Mayor Reed declared September 30<sup>th</sup> as “Bob Doerr Day” in the City of San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Special Meeting Minutes of June 19, 2008
- (b) Regular Meeting Minutes of June 24, 2008
- (d) Regular Minutes of June 10, 2008  
[Deferred from 9/23/08 – Item 2.1(a)]
- (e) Special Meeting Minutes of June 16, 2008  
[Deferred from 9/23/08 – Item 2.1(b)]
- (f) Regular Minutes of June 17, 2008  
[Deferred from 9/23/08 – Item 2.1(c)]

**Approved.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28401 – Establishing Rule 20A Underground Utility District along Aborn Road, between Pumpherston Way and White Road.

**Ordinance No. 28401 adopted.**

### 2.3 Actions Related to the Hillsdale Townhouses Project.

**Recommendation:** Adopt a resolution:

- (a) Approving an increase to the City's construction and permanent loan commitment to Mid-Peninsula Housing Coalition, or its designated affiliate, in an amount up to \$725,000, for a total loan commitment of \$5,000,000 for the rehabilitation and permanent financing of 48 rental townhome units, the Hillsdale Townhouses project, located at 1626-1656 Hillsdale Avenue.
- (b) Approving the Hillsdale Townhouses project's Relocation Plan dated September 2007, prepared by Overland, Pacific & Cutler, Inc.

CEQA: Exempt, File No. PP07-179. Council District 9. (Housing)

**Resolution No. 74600 adopted.**

### 2.4 Emergency Housing Consortium Lifebuilders Grant for the Housing Services Partnership.

**Recommendation:** Adopt a resolution:

- (a) Approving a grant of \$979,372 to the Emergency Housing Consortium Lifebuilders for the implementation of the Housing Services Partnership, a homeless services and financial assistance program, from October 1, 2008 through June 30, 2009.
- (b) Authorizing the Director of Housing to negotiate and execute all necessary documents.

CEQA: Not a Project. (Housing)

**Resolution No. 74601 adopted.**

### 2.5 Grant Application for the Lower Guadalupe River Reach E Trail Project.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the City Manager to submit an application for local assistance funds of up to \$500,000 from the State of California, Resource Agency, Department of Parks and Recreation under the Recreational Trails Program to be used for the Lower Guadalupe River Reach E Trail Project.
- (b) Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.

CEQA: Mitigated Negative Declaration, File No. PP04-323. Council Districts 3, 4. (Parks, Recreation and Neighborhood Services)

**Resolution No. 74602 adopted.**

**2.6 Excused absence for Councilmember Chu.**

**Recommendation:** Request for an excused absence for Councilmember Chu from the Regular Meeting of the Neighborhood Services and Education Committee on October 9, 2008 for the US Silicon Valley – China Sister Cities Association Economic Development Delegation to China. (Chu)  
(Rules Committee referral 9/17/08)

**Approved.**

**2.7 Excused absences for Councilmember Constant.**

**Recommendation:** Request for excused absences for Councilmember Constant.

(a) Request for an excused absence from the Evening Session of the City Council Meeting on September 9, 2008 due to illness.

(b) Request for an excused absence from the Closed Session of the City Council Meeting on September 30, 2008 due to a Medical Appointment.

(Constant)

(Rules Committee referral 9/17/08)

**Approved.**

### **3. STRATEGIC SUPPORT SERVICES**

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**3.1 Report of the City Manager, Debra Figone (Verbal Report)**

**City Manager Debra Figone reported on the impact of the current national financial market crisis on the City's finances, presented a brief overview of the Annual Report, and gave an overview of the agreement reached with the Confidential Employee's Organization (CEO).**

**3.2 Report of the Rules and Open Government Committee – September 17, 2008**

**Mayor Reed, Chair**

**Accepted.**

**3.3 Report of the Public Safety, Finance and Strategic Support Committee – September**

**18, 2008. Councilmember Nguyen, Chair**

**Accepted.**

**3.4 Unused.**

**3.5 Ethics Update.**

**Recommendation:** Accept staff's presentation to the City Council on ethical issues related to campaign activities. (City Attorney's Office)

**Accepted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Various Budget Appropriations for FY 2007-2008.

**Recommendation:**

(a) Adopt an ordinance ratifying the final 2007-2008 appropriation increases detailed in this report.

**Ordinance No. 28412 adopted.**

(b) Adopt the following 2007-2008 appropriation ordinance amendments in the Hayes Mansion Phase III Fund:

(1) Increase the Developer Payment – Tax Exempt/Tax Proceeds appropriation by \$134,675; and

(2) Decrease the Ending Fund Balance by \$134,675.

**Ordinance No. 28413 adopted.**

(c) Adopt the following 2007-2008 appropriation ordinance amendments in the San Jose-Santa Clara Treatment Plant Operating Fund:

(1) Increase the Workers' Compensation Claims appropriation by \$109,131; and

(2) Decrease the Ending Fund Balance by \$109,131.

**Ordinance No. 28414 adopted.**

(d) Adopt the following 2007-2008 appropriation ordinance and funding sources resolution amendments in the Benefit Fund:

(1) Increase the FICA-Medicare appropriation by \$52,948; and

(2) Increase the Earned Revenue by \$52,948.

CEQA: Not a Project. (City Manager's Office)

**Ordinance No. 28415 adopted.**

**Resolution No. 74603 adopted.**

#### 3.7 Audit of Commercial Solid Waste Franchise and AB 939 Fee Collection.

**Recommendation:** Accept an Audit of the Commercial Solid Waste Franchise and AB 939 Fee Collection Program and direct the Administration to include in applicable grant agreements with non-profit organizations (other than exempt nonprofit charitable reusers) a provision that requires payment of AB 939 fees. (City Auditor)

[Public Safety, Finance and Strategic Support Committee 9/18/08 – Item (g)]

**Accepted, with direction to Staff as recommended. City Attorney's Office and Environmental Services Staff requested to explore options to exempt school districts from payment of AB 939 fees.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.8 Audit of Retirement Services' Travel Expenses.

**Recommendation:** Accept an Audit of Retirement Services' Travel Expenses and direct the Administration to evaluate the Retirement Boards' Composition and return to Council with options to consider. (City Auditor)

[Public Safety, Finance and Strategic Support Committee 9/18/08 – Item (h)]

**The recommendation was accepted with direction to include the actions contained in the memorandum from Mayor Reed and Council Member Constant, dated September 26, 2008: (1) Adopt all recommendations contained in the City Auditor's Audit of Retirement Services Travel Expenses. (2) Direct the City Manager to incorporate into the boards and commission analysis recommendations on restructuring the boards of the Federated and Police Retirement Boards to add independent Board Members with financial and investment expertise for Council consideration. This process should include outreach to affected stakeholders.**

#### 3.9 Ratification of Election Process for Retiree Representatives to the Federated and Police Retirement Boards.

**Recommendation:** As referred by the Rules and Open Government Committee on September 24, 2008, and as amended:

- (a) Ratify the process for the selection of nominees for Council appointment for the Boards of the Federated Retirement System and the Police and Fire Retirement System.
- (b) Direct staff to develop a Council Policy for procedures to select Retirement Board representatives voted upon by employees and retirees to include research into due diligence and other options in the process.

(City Clerk)

[Rules Committee referral 9/24/08 – Item G(5)]

**Approved, with City Attorney directed to draft a transition document outlining an interim process (which may include a written, supplemental questionnaire submitted by the candidates prior to any interviews, and a background check) for Council's consideration of current candidates for the retiree position on both Retirement Boards until a new process is approved.**

#### 3.10 Formation of a Convention Center Facilities District

**Recommendation:** Adopt the following resolutions in connection with the formation of a Convention Center Facilities District:

- (a) A resolution of Intention to form a Convention Center Facilities District, to authorize the levy of special taxes pursuant to the City of San José Convention Center Facilities District financing procedure, to set a public hearing on Tuesday, November 18, 2008, at 1:30 p.m. regarding formation of the District and authorizing other related actions.

**Resolution No. 74604 adopted.**

*(Item Continued on the next page)*

**3.10 Formation of a Convention Center Facilities District (Cont'd.)**

(b) A resolution to Incur Bonded Indebtedness of the proposed Convention center Facilities District pursuant to the City of San José Convention Center Facilities District financing procedure in an amount not to exceed \$750,000,000.

**Resolution No. 74605 adopted.**

(c) A resolution of Official Intent to Reimburse Expenditure pursuant to United States Treasury Regulations Section 1.150-2 form tax-exempt bond proceeds. Council District: City-wide. CEQA: Resolution No. 72767. (City Manager's Office) [Rules Committee referral 9/24/08 – Item A(1)(a)]

**Resolution No. 74606 adopted.**

**The formation of a Convention Center Facilities District was approved with direction to Staff to: (1) Analyze the projected operating subsidy during construction; (2) Project operating subsidy in the years immediately after the opening; (3) Analyze economic impact to the General Fund; and (4) Create a sinking fund or maintenance plan.**

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

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**4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair.**

**No Report.**

**4.2 Funding for the Development of McCreery Courtyards.**

**Recommendation:** Adopt a resolution approving a funding commitment of up to \$7,900,000 of 20% Housing Funds to Pacific West Communities (“PWC” or “Developer”), or its legal affiliate, for a land acquisition/construction/permanent loan for the development of the 93-unit McCreery Courtyards, an affordable multifamily rental project located on McCreery Avenue South of Alum Rock Avenue, to be made available to extremely low-income and very low-income households. CEQA: Mitigated Negative Declaration, File No. PCD02-082. Council District 5. SNI: Mayfair. (Housing)

**Resolution No. 74607 adopted.**

**Noes: Oliverio.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair.**

**No Report.**

### **5.2 Parkland Dedication and Park Impact Ordinances in-Lieu Fees Adjustments.**

**Recommendation:** Conduct a public hearing and adopt a resolution setting forth the new Schedule of In-Lieu Fees charged pursuant to Chapters 14.25 (“Park Impact Ordinance”) and 19.38 (“Parkland Dedication Ordinance”) of the San José Municipal Code to reflect the 2007 Residential Land Value Study. CEQA: Resolution No. 65459. (Parks, Recreation and Neighborhood Services)

**Resolution No. 74608 adopted.**

**Staff requested to provide Council with copies of the consultant’s land value study and address discrepancies noted in an informational memo.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair.**

**No Report.**

### **6.2 Agreement for Airfield Design Services for the Norman Y. Mineta San José International Airport.**

**Recommendation:** Adopt a resolution:

- (a) Approve the selection of Kimley-Horn and Associates, Inc., to provide airfield design and consultant services for all planned phases of the Terminal B Apron Reconstruction and Taxiway Whiskey Extension projects at Norman Y. Mineta San José International Airport.
- (b) Authorize the City Manager to negotiate and execute an agreement with Kimley-Horn and Associates, Inc., for airfield design and consultant services for Phase One of the Terminal B Apron Reconstruction and Taxiway Whiskey Extension projects, in an amount not to exceed \$4,500,000 and for the period October 6, 2008 through December 31, 2010.

CEQA: Resolution Nos. 63780 and 71452, File No. PP08-176. (Public Works/Airport)  
**Resolution No. 74609 adopted.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

### 9.1 Interim Rental Affordability Agreement with Skyline at Tamien.

**Recommendation:** Adopt resolutions by the City Council and Redevelopment Agency Board authorizing the Director of Housing to execute an Interim Affordability Restriction with Barry Swenson Builder to allow for a temporary rental of the for-sale affordable residential condominiums at Skyline at Tamien, located at Alma and Lick Avenues. CEQA: Resolution No. 26993, File No. PDC02-072. Council District 3. SNI: Washington. (City Manager's Office/Redevelopment Agency)

**Resolution No. 74610 adopted.**

**Redevelopment Agency Resolution No. 5859 adopted.**

### • Notice of Contracts Executed by Council Appointees

In accordance with Municipal Code Section 4.04.080, titled "Quarterly Reports", the following is submitted as a report on contracts executed by Council Appointees or designee during the fourth quarter of Fiscal Year 2007-2008 (April 1, 2008 – June 30, 2008). The list includes contracts or amendments to contracts for services with a value greater than \$100,000 and up to \$250,000 and contracts or amendments to contracts for equipment, supplies, and material with a value greater than \$100,000 and up to \$1 million. Contract amounts are rounded to the nearest dollar. No Council action is being requested with respect to this report.

#### City Attorney's Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Gibbs, Giden, Locher, Turner & Senet LLP	Public Works Legal Services - Updating Standard Specifications Project.	\$235,000
Hogan & Hartson LLP	Airport Legal Services – Environmental and Noise Control Issues; Fourth Amendment to add \$40,000 and extend term.	\$140,000
Orrick Herrington & Sutcliffe LLP	Sunshine Reform Task Force Legal Services. Continuation Agreement to add \$50,000 and extend term.	\$130,000
Salois & Associates	Court Reporting Services. Third Amendment to Continuation Agreement to add \$7,500 and extend term.	\$107,500
Talty Court Reporters, Inc.	Court Reporting Services. Third Amendment to Continuation Agreement to add \$10,000.	\$110,000

#### City Auditor's Contract Activity

The City Auditor's Office has no contract activity to report.

#### City Clerk's Contract Activity

The City Clerk's Office has no contract activity to report.

- Notice of Contracts Executed by Council Appointees  
(Cont'd.)

City Manager's Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Beacon Economics	Demographic and economic analysis for the Envision San José 2040 General Plan for Planning, Building, and Code Enforcement.	\$219,950
County of Santa Clara	Agreement to ensure a connection to Criminal Justice Information System (CJIC).	\$145,000
Creative Learning and Performance Arts dba Clap Art	Classes in creative drama, visual arts, improvisation, music, dance and theatre for residents as offered by the Parks, Recreation, and Neighborhood Services Department.	\$180,000
Leslie Sokol Dance Kinds	Classes in dance, movement, fitness and drama for residents as offered by the Parks, Recreation, and Neighborhood Services Department.	\$150,000
Muniservices, Inc.	Tax revenue services for the Office of Economic Development.	\$250,000
NSF Int'l.Strategic Registrations, Ltd.	Assistance for the certification for an Environmental Management System developed for the Environmental Services Department.	\$150,000
Skyhawks Sports Academy	Sports programs including soccer, baseball, basketball, flag football, golf, tennis, lacrosse, volleyball, roller hockey and other sports programs to youth as offered by the Parks, Recreation, and Neighborhood Services Department.	\$250,000
The Public Strategies Group, Inc.	Strategic Services to for organizational change and renewal for the City Manager's Office.	\$120,000
VeriSign	Information Security Audit.	\$249,760
Wilfred Jarvis Institute	Organizational and leadership assessments, performance development training and one-on-one coaching for managers and supervisors for the Department of Transportation.	\$114,900

- Notice of Contracts Executed by Council Appointees  
(Cont'd.)

Director of Finance Contract Activity – Services

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
3I Infotech Inc	Client License and one year warranty for the Police Department.	\$167,000
Almaden Body & Paint	Vehicle/Heavy Equipment Collision And Chassis Repairs, Bodywork And Paint for the General Services Department. Amendment to add \$92,000.	\$177,000
Authentic Restoration	Repair of Expansion Joints and Cracks on Aeration Tanks for the Environmental Services Department.	\$150,000
BFI Int'l Disposal Corp.	Collection & Disposal of Grease and Grit for the Environmental Services Department.	\$150,000
Chrip Company	Install Stripings and Markings for the Department of Transportation.	\$170,000
Fleet Bodyworkx, Inc.	Body and Paint Repairs for Vehicles for the General Services Department. Amendment to add \$120,000.	\$248,000
Hertz Corp.	Seasonal Rental of Construction Equipment for the General Services Department. Amendment to add \$110,000	\$230,000
Loomis, Fargo & Co	Armored Car Service for the Finance Department. Amendment to add \$11,000.	\$102,365
Monterey Mechanical Co	Plumbing Repairs for the General Services Department.	\$150,000
Nicholson, D W	Plumbing Repairs for the General Services Department.	\$150,000
Nunez Painting	Exterior And Interior Painting of various City Facilities for the General Services Department.	\$105,000
RFI Communications	Access Control Repair and Maintenance for the Aviation Department. Amendment to add \$73,585.	\$198,858
San Jose Transport	Debris Removal for the Department of Transportation. Amendment to add \$50,000.	\$210,000
Scheidt and Bachmann USA INC	Maintenance/repair of Parking Revenue Control System for the Department of Transportation. Amendment to add \$50,000.	\$200,000
Streetlight Restoration	Pole Painting for the Department of Transportation.	\$250,000
Wilson Concrete Co.	Concrete Sidewalk Removal and Replacement for the Department of Transportation. Amendment to add \$95,000.	\$245,000

- **Notice of Contracts Executed by Council Appointees  
(Cont'd.)**

Director of Finance Contract Activity – Equipment, Materials, and Supplies

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Albany Ford Inc	Ford Expeditions for the General Services Department.	\$155,977
Albany Ford Inc	Ford F350s for the General Services Department.	\$167,137
Albany Ford Inc	Specialized Animal Services Vehicle for the General Services Department.	\$180,239
Albany Ford Inc	Ford Escape Hybrids for the General Services Department.	\$181,036
Allstar Fire Equipment	Fire Equipment and Supply Hoses for the Fire Department. Amendment to add \$20,000.	\$170,000
Altec Industries Inc	Utility Truck with Manlift for the General Services Department.	\$324,454
B&A Friction Materials	Brakes and Suspension Parts for the General Services Department. Amendment to add \$85,501	\$237,601
Bascom Trim & Upholstery, Batteries USA	Vehicle/Equipment Repairs and Replacements for the General Services Department. Amendment to add \$55,830. Automotive Batteries for the General Services Department. Amendment to add \$82,235.	\$110,530 \$170,735
Becks Shoes, Inc	Citywide Open for Safety Shoes for various Departments.	\$119,750
Dapper Tire Company	Automotive Tires for the General Services Department. Amendment to add \$132,000.	\$245,000
LC Action	Emergency Accessories and Parts for Public Safety Vehicles for General Services Fleet.	\$165,305
Frontier Ford	Purchase of Ford Automotive Parts for the General Services Department. Amendment to add \$108,000.	\$203,000
Granite Construction Co	Road & Highway building Material, Asphalt and Concrete for the Department of Transportation	\$150,000
Granite Rock Co	Road & Highway Bldg. Material, Asphalt and Concrete for the Department of Transportation.	\$150,000
Hill Bros Chemical Co	Aqueous Ammonia for the Environmental Services Department.	\$150,000
Liberty Airport Systems Inc	Transformer Parts for replacement runway lights for the Aviation Department.	\$225,416
Maita Chevrolet Geo & Mac	Cargo Vans for the General Services Department.	\$131,614
Maita Chevrolet Geo & GMAC	Chevrolet Tahoes with Factory Police Package for the General Services Department.	\$146,630
Mc Cain Traffic Supply Inc	Traffic Signal "P" Cabinets for the Department of Transportation.	\$120,000
Mission Valley Ford	Automotive and Truck Repairs and Parts for the General Services Department. Amendment to add \$14,190.	\$101,440

- **Notice of Contracts Executed by Council Appointees (Cont'd.)**

Director of Finance Contract Activity – Equipment, Materials, and Supplies (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Municipal Maintenance Equip	Parking Control Scooters for the General Services Department.	\$319,406
Pervo Paint	Traffic Marking Paints and Solvents for the Department of Transportation. Amendment to add \$30,000.	\$125,000
R2 Engineering Inc.	High Volume Effluent Pump for the Environmental Services Department.	\$141,166
Reed & Graham	Asphalt Road Concrete for the Department of Transportation.	\$300,000
Resource & Design, Inc.	Library Furniture for the Library Department.	\$229,066
Ross Mcdonald Co, The	Library Furniture for the Library Department.	\$117,187
Toyota Sunnyvale	Toyota Priuses for the Department of General Services.	\$186,710
Toyota Sunnyvale	Toyota Priuses for the Department of General Services.	\$326,743
U.S. Peroxide LLC	Hydrogen Peroxide for Odor Control for Department of Environmental Services.	\$110,000
Western Contract Interiors	Modular Furniture for Trailer for the Environmental Services Department.	\$101,564

- **Open Forum**  
None.

- **Adjournment**  
The Council of the City of San José was adjourned at 3:16 p.m.