



**OFFICE OF THE
CITY AUDITOR**

**SEMI-ANNUAL RECOMMENDATION FOLLOW-UP REPORT
ON ALL OUTSTANDING AUDIT RECOMMENDATIONS
FOR THE SIX MONTHS ENDED JUNE 30, 2009**

**A REPORT TO THE
SAN JOSÉ CITY COUNCIL
PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE**



Office of the City Auditor
Sharon W. Erickson, City Auditor

October 5, 2009

Honorable Mayor and Members
of the City Council
200 East Santa Clara Street
San José, CA 95113

Transmitted herewith is the *Semi-Annual Follow-Up Report On All Outstanding Audit Recommendations For The Six Months Ended June 30, 2009*.

An Executive Summary is presented on the blue pages in the front of this report. In accordance with procedures, the City Auditor gave the City Manager's Office a preview copy of this report for review.

The format of the Semi-Annual Follow-Up Report is intended to highlight recommendations requiring Public Safety, Finance and Strategic Support Committee attention and report on the status of all open recommendations.

I will present this report to the Public Safety, Finance and Strategic Support Committee at its October 15, 2009 meeting. Should you have any questions or need additional information in the interim, please let me know.

Respectfully submitted,

Sharon W. Erickson
City Auditor

SE:bh

cc: City Manager's Office
and affected departments

EXECUTIVE SUMMARY

In accordance with the City Auditor's approved 2009-10 Workplan, we have prepared a report of the status of open recommendations for the six months ending June 30, 2009. To prepare this report, we met with department staff, reviewed department assessments of audit status, and reviewed documentation provided by departments. The City Auditor's Office would like to thank the City Manager's Office and all of the affected departments for their assistance in compiling this report.

IMPLEMENTATION STATUS OF OPEN RECOMMENDATIONS

During the semi-annual period covering January 2009 through June 30, 2009, there were 92 outstanding recommendations. This included 69 recommendations that were outstanding after our last status report as of December 31, 2008, and 23 new recommendations that the City Council approved during this semi-annual period. Of the 92 outstanding recommendations:

- 34 recommendations were implemented;
- 43 recommendations were partly implemented;
- 12 recommendations were not implemented; and
- 3 recommendations were closed.

Table I summarizes these recommendations by audit report in chronological order.

TABLE I
STATUS OF OPEN RECOMMENDATIONS BY AUDIT REPORT
ENDING JUNE 30, 2009¹

Report #	Audit Report	Implemented	Partly Implemented	Not Implemented	Closed
00-04	An Audit Of The City Of San Jose Building Division's Building Permit Fee Process	1			
01-02	An Audit Of The City Of San Jose Fire Department's Overtime Expenditures		2		1
01-05	An Audit of the City of San Jose Fire Department's Strategic Plan Regarding Proposed Fire Stations		2		
02-03	An Audit Of The Property Management Operations Of The City Of San José's Department Of Public Works – Real Estate Division		1		
03-04	An Audit Of The Airport Neighborhood Services Group	1			
03-10	An Audit of The San José Fire Department's Bureau of Fire Prevention		5		
04-08	An Audit Of San José Family Camp	1			
05-01	An Audit Of The Public Art Program	1			
06-01	An Audit Of Citywide Grant Oversight		1		
06-02	An Audit Of The San Jose Municipal Water System Fire Hydrant Maintenance And Repair Program		1		
06-04	2004-05 Annual Performance Audit Of Team San Jose		2		
07-03	An Audit Of the Traffic Calming Program		1		
07-04	An Audit Of DOT's Efforts To Secure Federal Highway Bridge Replacement And Rehabilitation (HBRR) Funds		1		
07-06	City's Tax-Exempt Bond Program and Use of Interfund Loans to Provide Financing for Capital Bond Projects	5	3		1
MEMO 5-5-08	Review of Allied Waste Expenditures for the Period April 1, 2007 Through February 29, 2008	1			
MEMO 8-8-08	Review of the Department of Public Works' Oversight of the Foxworthy Bridge Project		4		
08-02	An Audit of Retirement Services' Travel Expenses	10	1	4	
08-03	An Audit of Commercial Solid Waste Franchise and AB939 Fees Collection Program	2	1	1	
08-04	An Audit of the City's Oversight of Financial Assistance to Community-based Organizations	1	9	5	
09-02	2007-08 Annual Performance Audit Of Team San Jose, Inc.	1			
09-03	City of San José's Workers' Compensation Program	1	5	1	
09-04	San José Police Department's Auto Theft Unit	9	4	1	1
	Totals	34	43	12	3

¹ This list does not include three audits issued shortly before the end of the reporting period: *Audit of the San Jose Conservation Corps*, *Audit of Employee Medical Benefits*, and *American Recovery and Reinvestment Act Preliminary Report on Internal Controls*.

As of June 30, 2009, the distribution of the 55 recommendations which remain open are as follows:

1 Budget Office	3 Human Resources
4 City Administration	1 Planning, Building, and Code Enforcement
1 Economic Development	7 Police
1 Employee Relations	2 Public Works Department
3 Environmental Services Department	5 Retirement Boards
2 Finance Department	2 Risk Management
9 Fire Department	2 Team San Jose
11 General Services	1 Transportation

Of the 55 recommendations which remain open:

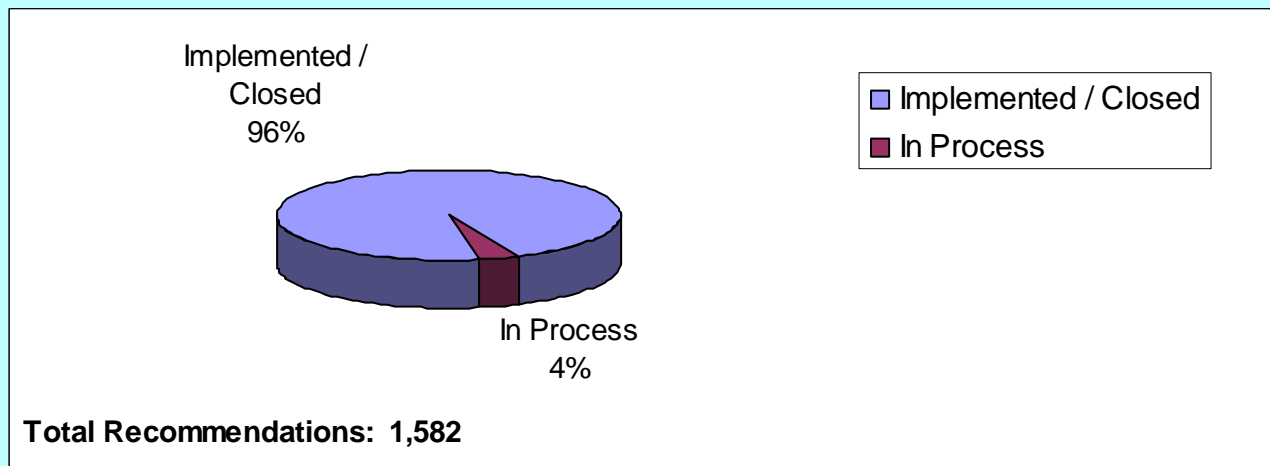
- 3 recommendations are Priority 1;
- 9 recommendations are Priority 2; and
- 43 recommendations are Priority 3.

Of the 12 recommendations which are “not implemented”:

- 0 recommendation is Priority 1;
- 3 recommendations are Priority 2; and
- 9 recommendations are Priority 3.

Graph I shows the number of City Auditor recommendations made and implemented from May 1985 through June 2009.

GRAPH I
RECOMMENDATIONS IMPLEMENTED
May 1985 through June 2009



RECOMMENDATIONS REQUIRING PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE ATTENTION

Recommendations requiring Committee attention are those recommendations for which either 1) the City Auditor and the Administration disagree on the recommendation's implementation status, 2) the Administration has not informed the City Auditor as to the status of the recommendation's implementation, 3) the Administration has indicated it cannot or will not implement the recommendation, 4) the recommendation will require additional funding in order to be implemented, 5) implementation would generate additional revenues or cost savings; or 6) the recommendation is no longer relevant. Any recommendations with budget implications are also tracked as part of each year's budget process.

01-02: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S OVERTIME EXPENDITURES

#8 (San José Fire Department/GM) - Implement a proactive sick leave reduction program to inform line personnel of the benefits of conserving sick leave and rewarding personnel with perfect attendance. (Priority 3)

PARTLY IMPLEMENTED. In order to address concerns that there may be individual abuse of sick leave, the SJFD is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. The SJFD has also undertaken a review of routine operational procedures to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. An initial data report, covering July-December 2008 is in the process of being formatted for review, with roll out of the new quarterly process is expected shortly. The Department anticipates that this proactive approach will encourage its line personnel to ensure that sick leave is appropriately utilized. Target date: 12-09.

POTENTIAL BUDGET IMPACT: TBD.

#9 (San José Fire Department/GM) - Evaluate the feasibility of implementing a comprehensive Wellness-Fitness Initiative Program for the San José Fire Department (SJFD) and prepare a budget proposal should the initiative appear cost beneficial. (Priority 3)

CLOSED. Replaced by Recommendation #4, Report #09-03 to "Reconsider the feasibility of restoring the Wellness Coordinator position for the Wellness Program and implement a comprehensive Wellness Fitness Program for the Fire Department".

01-05: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S STRATEGIC PLAN REGARDING PROPOSED FIRE STATIONS

#3 (San José Fire Department/RM) - Develop for City Council consideration plans for expanding its use of the Omega priority response level. These plans should include: obtaining the software necessary to fully implement the Omega priority response level; options and costs for dispensing non-emergency medical advice; and any other issues that need to be addressed. (Priority 3)

PARTLY IMPLEMENTED. Under the Priority Dispatch Omega protocol, a 911 call would receive an alternate response, such as medical advice over the phone from a nurse. The San Jose Fire Department (SJFD) has completed some of the steps necessary to implement the Priority Dispatch Omega protocol. Specifically, it renewed its accreditation as an Accredited Center of Excellence in April 2008; it implemented the new CAD system necessary to integrate ProQA software necessary for the Priority Dispatch Omega protocol; and it has begun using the ProQA software. Currently, the Emergency Medical Services (EMS) Agreement with the County, which expires June 30, 2011, requires that the SJFD respond on all 911 calls received. However, the current EMS agreement gives the Fire Department authorization to respond to lower-priority medical aid service requests, as determined through the Medical Priority Dispatch System, with Basic Life Support resources. The SJFD is actively participating as a stakeholder in the redesign of the current EMS system, which would include expanded use of the Omega protocol. Furthermore, the SJFD is in the process of completing the implementation of its new RMS and has been collecting patient care data since March 2009. The SJFD intends to continue collecting data in support of its efforts to identify Omega responses, which would receive an alternate response in the redesigned EMS system. The SJFD will also continue its efforts to influence the redesign of the EMS system to reduce unnecessary responses and improve the quality of patient care. Target date: 6-11.

POTENTIAL BUDGET IMPACT: TBD.

#5 (San José Fire Department/RM) - Implement a pilot project to evaluate the use of SUVs or Light Units to respond to lower priority emergency medical calls. (Priority 3)

PARTLY IMPLEMENTED. The SJFD completed its operational planning related to temporary redeployment of resources and the use of an alternatively staffed unit to respond to lower priority calls. The pilot program has begun with the relocation of Engine 2 to a temporary facility during Station 2's reconstruction. The SJFD implemented an alternatively-staffed brush patrol equipment unit to respond to lower priority calls in the event a simultaneous request for service was received in Station 2's first-due district. The alternatively-staffing brush patrol unit responds with Engine 2, creating a six-person, two-piece engine company. In the event a second service request occurs during a response, the two-person brush patrol unit, with an Advanced Life Support complement of equipment, can continue responding on the original request or respond separately to the new request; depending on the priority of the response and with supervisory approval. The two-person unit is staffed with an engineer and a paramedic 12 hours per day. This approach was agreed to by the firefighters union and management to address safety concerns until more data on the effectiveness and safety of an alternatively staffed unit could be determined. During

this period, the SJFD will collect patient care, and unit availability and location data regarding this deployment model with the incident-reporting module of the Records Management System and Mobile Data Computer. Target date: 12-09.

POTENTIAL BUDGET IMPACT: TBD.

07-04: AN AUDIT OF DEPARTMENT OF TRANSPORTATION'S EFFORTS TO SECURE FEDERAL HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION (HBRR) FUNDS

#2 (Department of Transportation/RM) - Prepare and submit an indirect cost rate proposal to CALTRANS for approval. (Priority 3)

PARTLY IMPLEMENTED. An indirect cost rate proposal developed by the city's Finance Department was submitted to Caltrans for approval in September 2008. The indirect rate proposal was not accepted by Caltrans. DOT and the Finance Department will be resubmitting a proposal to Caltrans in October 2009. Target date: 12-09.

POTENTIAL BUDGET IMPACT: TBD.

07-06: AN AUDIT OF THE MANAGEMENT OF THE CITY'S TAX-EXEMPT BOND PROGRAM AND USE OF INTERFUND LOANS TO PROVIDE FINANCING FOR CAPITAL BOND PROJECTS

#1 (Finance Department/JL) - Improve controls over the administration of the tax-exempt bond program and processes to mitigate negative cash balances in the City's Cash Pool caused by bond programs and adequately address other negative balances. (Priority 1)

PARTLY IMPLEMENTED. Debt Management staff developed a negative cash balance report which is reviewed monthly and summarized in the monthly Investment Reports to City Council. However, the average negative cash balance of \$40 million per month in City bond fund accounts has increased to an average of \$49 million during 2007-08. The Department has drafted policies and procedures addressing timeframes for submitting reimbursement which, once implemented, should reduce negative balances. Target date: 12-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#2 (Finance Department/JL) - Work with the City Attorney's Office to evaluate what, if any, foregone interest to restricted funds may need to be repaid. (Priority 1)

CLOSED. The City Attorney's Office has stated that each participating fund was allocated interest, that legal authorities over special revenue funds do not require that a particular interest rate be earned, that no principal was lost, and that each participating fund within the pool remains whole consistent with the legal authorities cited by the Auditor's Office.

09-03: AUDIT OF THE CITY OF SAN JOSÉ'S WORKERS' COMPENSATION PROGRAM

#4 (Human Resources/RO) - Reconsider the feasibility of restoring the Wellness Coordinator position for the Wellness Program and implementing a comprehensive Wellness-Fitness Program for the Fire Department. (Priority 3)

PARTLY IMPLEMENTED. In August 2009, Risk Management requested that the San Jose Fire Department (SJFD) consider the restoration of a comprehensive wellness program. Risk Management researched best practices of similar-sized agencies and prepared a detailed wellness plan proposing that the SJFD consider restoring staffing and resources to wellness. The proposed plan includes the following components: (1) Health and Fitness Coordinator, (2) Mandatory Fitness Training for Sworn Fire Employees, and (3) Mandatory Physical Examinations and Standards.

According to the SJFD's Administrative Officer, Fire Administration staff, the Human Resources Safety Division Deputy Director, and the City Physician met to discuss implementing changes to the Annual Medical Exam process and to discuss implementing a comprehensive fitness program. The SJFD will continue to work with the Human Resources Department to implement changes to the Annual Medical Exams and to develop a proposal for a comprehensive fitness program. Target date: Spring 2010.

POTENTIAL BUDGET IMPACT: TBD

09-04: AUDIT OF THE SAN JOSÉ POLICE DEPARTMENT'S AUTO THEFT UNIT

#7 (San Jose Police Department/RM) - Explore the feasibility of taking some auto theft reports by phone when officers cannot respond to calls in a timely manner because they are too busy, or when callers cannot wait for officers to respond. (Priority 3)

CLOSED. The Police Department has explored the feasibility of taking some auto thefts reports over the phone, and determined that phone reporting is not feasible. Specifically, the Police Department contacted other jurisdictions and the National Insurance Crime Bureau. Based on these inquiries, the Police Department has concerns regarding the potential for fraudulent reporting of auto thefts.

**COMPLETE LISTING OF THE STATUS
OF OPEN AUDIT RECOMMENDATIONS
AS OF JUNE 30, 2009**

00-04: AN AUDIT OF THE CITY OF SAN JOSÉ BUILDING DIVISION'S BUILDING PERMIT FEE PROCESS

#4 (Building Division/GM) - Establish a policy and process to pay for long-term capital or asset acquisitions. (Priority 3)

IMPLEMENTED. Fee calculations include cost recovery of long-term capital assets (e.g. computer systems).

01-02: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S OVERTIME EXPENDITURES

#7 (San José Fire Department/GM) - Review sick leave data to establish benchmarks for sick leave use and identify possible patterns of abuse and take appropriate follow-up actions. (Priority 3)

PARTLY IMPLEMENTED. The Fire Department is in the process of reviewing of sick leave usage by personnel assigned to the line. In order to address concerns that there may be individual abuse of sick leave, the Department is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review this individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. Finally the Department has also undertaken a review of routine operational procedures in order to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. Target date: 12-09.

#8 (San José Fire Department/GM) - Implement a proactive sick leave reduction program to inform line personnel of the benefits of conserving sick leave and rewarding personnel with perfect attendance. (Priority 3)

PARTLY IMPLEMENTED. In order to address concerns that there may be individual abuse of sick leave, the SJFD is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. The SJFD has also undertaken a review of routine operational procedures to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. An initial data report, covering July-December 2008 is in the process of being formatted for review, with roll out of the new quarterly process is expected

shortly. The Department anticipates that this proactive approach will encourage its line personnel to ensure that sick leave is appropriately utilized. Target date: 12-09.

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POTENTIAL BUDGET IMPACT: TBD.

02-03: AN AUDIT OF THE PROPERTY MANAGEMENT OPERATIONS OF THE CITY OF SAN JOSÉ'S DEPARTMENT OF PUBLIC WORKS – REAL ESTATE DIVISION

#12 (General Services/RO) - Assign to the Real Estate Division the responsibility for providing oversight over leases of City-owned property. (Priority 2)

PARTLY IMPLEMENTED. As of July 1, 2009, the Real Estate Asset Management Division was transferred from the Department of Public Works to General Services. With the City Council's approval of the Asset Management Principles in March 2009, the Division began assessing leases currently under its management. Following this effort, the Division will begin assessing leases across non-enterprise fund departments for tracking purposes. According to the Division, amongst other elements, leases will be tracked for: (1) market rate comparison, (2) size, (3) term of lease, and (4) connection to core City services. While the Division will provide oversight for all leases, day-to-day management of these leases will remain with departments currently managing them. Target date: 6-10.

03-04: AN AUDIT OF THE AIRPORT NEIGHBORHOOD SERVICES GROUP

#1 (Airport Neighborhood Services Group/RM) - Develop a standardized constituent complaint form to document the nature of the complaint, how the issue was resolved, any follow-up action taken, and how long it took to resolve the complaint. (Priority 3)

IMPLEMENTED. The Airport's Noise Abatement Program uses specialized software to track the recommended form elements for noise complaints. The Airport Neighborhood Services Group (ANSG) explored the feasibility of purchasing specialized software for electronically tracking other Airport complaints and concerns; however, in March 2009 the ANSG found that the software solutions were either too costly or not functional. In lieu of purchasing software, the ANSG developed an Excel worksheet database that captures the recommended complaint form elements. The ANSG plans to continue to use the Excel worksheet database format indefinitely.

03-10: AN AUDIT OF THE SAN JOSÉ FIRE DEPARTMENT'S BUREAU OF FIRE PREVENTION

#2 (San José Fire Department/RO) - If Recommendation #1 results in a significant number of facilities being added to the Fire Inspection Billing System (FIBS) database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. (Priority 2)

PARTLY IMPLEMENTED. According to San Jose Fire Department (SJFD) Administration, the SJFD's Records Management System (RMS) will help with the automation process. The City's Information Technology (IT) Department was to transfer the SJFD fire prevention inspection database from the City's VAX system to the SJFD's AMANDA system by the end of 2007. However, the SJFD decided to move the fire prevention inspection database onto the RMS system instead. According to SJFD Administration, implementation of the RMS system has been delayed, but the department expects full implementation within the next two months. Target date: 10-09.

#3 (San José Fire Department/RO) - Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection. (Priority 2)

PARTLY IMPLEMENTED. The San Jose Fire Department (SJFD) is finalizing its Fire Prevention Business Plan, which addresses outstanding audit recommendations. There is an ongoing delay in migrating the SJFD fire prevention inspection database off of the VAX system, as the City's IT Department has been unable to move it onto SJFD's AMANDA system, but then the SJFD decided to pursue a separate path and move the database into the RMS system. The SJFD goal is to use the RMS to better

capture business license data and to have it link to the FIBS system. According to SJFD Administration, although implementation of the RMS system has been delayed, this project may be accomplished by October 2009. Target date: 10-09.

#10 (San José Fire Department/RO) - Develop a risk assessment methodology to assign facility inspection frequencies. (Priority 3)

PARTLY IMPLEMENTED. The San Jose Fire Department (SJFD) has drafted a Fire Prevention Business Plan, now under final review, which includes a risk analysis/assessment model for Fire Inspection Frequency. The SJFD sought the services of a consultant to develop a methodology to validate the risk assessment model in comparison with other target departments to identify “best practices” for fire inspection activities. According to the SJFD, the completed work the consultant submitted was incomplete in multiple task objectives and failed to provide definitive direction. The SJFD plans to obtain the services of a new consultant to identify “best practices.” Target date: 6-10.

#12 (San José Fire Department/RO) - Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives. (Priority 3)

PARTLY IMPLEMENTED. The San Jose Fire Department (SJFD) has drafted a Fire Prevention Business Plan, now under final review, that recommends inspection frequencies based on a risk analysis and assessment model, and includes an analysis of Inspector time and inspection workload. The SJFD sought the services of a consultant to develop a methodology to validate the risk assessment model in comparison to other target departments to identify “best practices” for fire inspection activities. According to the SJFD, the completed work the consultant submitted was incomplete in multiple task objectives and failed to provide definitive direction. The SJFD will obtain the services of a new consultant to identify “best practices” for fire inspection activities. Target date: 6-10.

#16 (San José Fire Department/RO) - Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an Hazardous Materials Business Plan (HMBP) is in place and to ensure that facilities submit their HMBP in a timely manner. (Priority 3)

PARTLY IMPLEMENTED. The City Council has approved an update to the San Jose Fire Department (SJFD) Administrative Citation Schedule of Fines, which includes fines for failing to maintain an updated Hazardous Materials Business Plan (HMBP). According to SJFD Administration, this provides the Hazardous Materials Inspectors with an enforcement tool that was lacking in the past. In addition, as the SJFD finalizes implementation of its RMS system, including integrating the fire prevention inspection database, this will finally allow electronic data tracking of facilities’ inspections to confirm that an HMBP is in place. Target date: 12-09.

04-08 AN AUDIT OF SAN JOSÉ FAMILY CAMP

#5 (Parks, Recreation, And Neighborhood Services/CC) - Reconcile permitted camp tent platforms with U.S. Forest Service Permit. Remove non-permitted tent platforms or obtain permit amendment to allow additional platforms. (Priority 3)

IMPLEMENTED. PRNS executed a Collection Agreement with the US Forest Service to perform surveys, write reports and carry out any needed environmental analysis pursuant to the National Environmental Protection Act. According to PRNS, staff is working with the USDA Forest Service to finalize the renewal of the Family Camp Special Use Permit. PRNS has included the additional platforms in the new Special Use Permit. The US Forest Service has provided a conditional 20 year Special Use Permit, which requires PRNS to complete a Master Plan. According to PRNS, PRNS has begun the Master Planning process in collaboration with the US Forest Service.

05-01: AN AUDIT OF THE PUBLIC ART PROGRAM

#6 (Office of Economic Development/CC) - Track and report information on pooled public art project funds to the City Council and the City Manager's Budget Office. (Priority 3)

IMPLEMENTED. The Office of Economic Development tracks public art projects through the City's Capital Project Management System, which is accessible on the City's website. The Five Year Public Art Work Plan is incorporated into the 2010-2014 Capital Budget.

06-01: AN AUDIT OF CITYWIDE GRANT OVERSIGHT

#2 (Office of Economic Development/GM) – Develop a Citywide grant database to provide comprehensive grant information, facilitate better grant awarding decisions and grantee monitoring, and help ensure grantee compliance with grant requirements. (Priority 3)

PARTLY IMPLEMENTED. The Office of Economic Development (OED) staff is in the process of compiling an excel program database that details all grants the City awarded in order to update the information for 2009-10 while the citywide grants database is being implemented. Staff expects that the citywide grants database will be fully operational by January 2010. Also see Recommendation #1, Report #08-04. Target date: 1-10.

06-02: AN AUDIT OF THE SAN JOSE MUNICIPAL WATER SYSTEM FIRE HYDRANT MAINTENANCE AND REPAIR PROGRAM

#5 (Environmental Services Department/RO) – Negotiate the ownership, maintenance, and replacement of about 13,500 fire hydrants with the private water companies in San Jose service areas. (Priority 2)

PARTLY IMPLEMENTED. Environmental Services Department staff contacted San Jose Water Company (SJWC) and Great Oaks Water Company (GOWC) to inquire about their interest in acquiring the City-owned fire hydrants. SJWC offered \$1 per hydrant, citing that hydrants do not represent revenue opportunities for them but add to their operating and maintenance (O&M) costs. GOWC has filed a rate case with the California Public Utilities Commission (CPUC) requesting CPUC approval to allow the recovery of hydrant O&M costs in its rates. If the CPUC approves its request, GOWC is also willing to take over the hydrants in its territory for \$1 each. Staff is discussing the offer with the City Attorney's Office and will issue a recommendation this fall. Target date: 12-09.

06-04: THE 2004-05 ANNUAL PERFORMANCE AUDIT OF TEAM SAN JOSE, INC.

#14 (Team San Jose/CH) – Work with the Office of Equality Assurance and provide required documentation in order to fully meet the City's Living Wage and Prevailing Wage Policies as required in the Management Agreement. (Priority 3)

PARTLY IMPLEMENTED. The director of OEA met with representatives from Team San Jose on 2/25/09 to discuss Team San Jose's obligations as it relates to prevailing wage and living wage requirements in their contract with the City. Additionally, OEA provided TSJ with wording to include in their quotes and service orders as it relates to prevailing wage or living wage as well as soft copies of relevant forms and instructions. As a follow-up to this meeting, TSJ has provided the Office of Equality Assurance with all of its contracts for review. Review of these contracts and determination of TSJ's compliance to these policies has not yet been completed. Target date: 12-09.

#16 (Team San Jose/CH) – Develop and implement a workplan to correct ADA noncompliant items and notify the City accordingly. (Priority 3)

PARTLY IMPLEMENTED. The previous Management Agreement between the City and TSJ required that TSJ develop a work plan to correct or avoid any violations or non-compliance with the Americans Disabilities Act of 1990 (ADA). TSJ has completed the ADA accessibility survey in November 2008. The RDA will coordinate with various City departments to complete the review of TSJ's ADA Assessment and begin developing a workplan and timeline. Some items will be addressed during the expansion process with improvement and upgrades, however all other ADA items will be identified and addressed depending on funding availability. Target date: 12-09.

07-03: AN AUDIT OF THE TRAFFIC CALMING PROGRAM

#11 (San Jose Police Department/RM) - Develop a performance measure to monitor the three Traffic Enforcement Unit officers that replaced the NASCOP program. (Priority 3) [Revised at 6/21/07 PSFSS Committee meeting]

PARTLY IMPLEMENTED. The three new Traffic Enforcement Officers were deployed in early February 2009. Therefore, the Police Department has set a new target date of August 2009, which will provide six months of data with the three officers in place. Target date: 12-09.

07-04: AN AUDIT OF DEPARTMENT OF TRANSPORTATION'S EFFORTS TO SECURE FEDERAL HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION (HBRR) FUNDS

#2 (Department of Transportation/RM) - Prepare and submit an indirect cost rate proposal to Caltrans for approval. (Priority 3)

PARTLY IMPLEMENTED. An indirect cost rate proposal developed by the city's Finance Department was submitted to Caltrans for approval in September 2008. The indirect rate proposal was not accepted by Caltrans. DOT and the Finance Department will be resubmitting a proposal to Caltrans in October 2009. Target date: 12-09.

POTENTIAL BUDGET IMPACT: TBD.

07-06: AN AUDIT OF THE MANAGEMENT OF THE CITY'S TAX-EXEMPT BOND PROGRAM AND USE OF INTERFUND LOANS TO PROVIDE FINANCING FOR CAPITAL BOND PROJECTS

#1 (Finance Department/JL) - Improve controls over the administration of the tax-exempt bond program and processes to mitigate negative cash balances in the City's Cash Pool caused by bond programs and adequately address other negative balances. (Priority 1)

PARTLY IMPLEMENTED. Debt Management staff developed a negative cash balance report which is reviewed monthly and summarized in the monthly Investment Reports to City Council. However, the average negative cash balance of \$40 million per month in City bond fund accounts has increased to an average of \$49 million during 2007-08. The Department has implemented policies and procedures addressing timeframes for submitting reimbursement which should reduce negative balances, and has drafted procedures which, when implemented, should ensure proper allocation of interest. Target date: 12-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#2 (Finance Department/JL) - Work with the City Attorney's Office to evaluate what, if any, foregone interest to restricted funds may need to be repaid. (Priority 1)

CLOSED. The City Attorney's Office has stated that each participating fund was allocated interest, that legal authorities over special revenue funds do not require that a particular interest rate be earned, that no principal was lost, and that each participating fund within the pool remains whole consistent with the legal authorities cited by the Auditor's Office.

#3 (Finance Department/JL) - Develop and implement procedures to ensure proper allocation of interest to restricted funds held within the City Cash Pool. (Priority 1 – may require additional staff resources)

PARTLY IMPLEMENTED. According to the Finance Department, a draft policy and procedures are in progress; they are currently working on an implementation plan. We will continue to work with the Finance Department towards resolving any outstanding audit related issues. Target date: 12-09.

#4 (Finance Department/JL) - Develop procedures applicable to all types of bond financings that incorporate appropriate timeframes for Project Managers and the Finance Department Debt Management Group review of the bond allocation process. (Priority 1)

IMPLEMENTED. The Finance Department developed a Disbursement of Bond Proceeds procedure which was implemented on a trial basis in April 2009. Disbursement requests are due to the Debt Management Work Group within 30 calendar days of the accounting period close.

#5 (Finance Department/JL) - Implement a Compliance Check List and a Form of Bond Proceeds Allocation Certificate to ensure appropriate documentation and timeframe compliance for each bond issuance. (Priority 2)

IMPLEMENTED. The Finance Department and the City Attorney's Office have worked with the City's bond counsel to ensure that the City's debt financings include appropriate documentation and timeframe compliance for all bonds. The City's Schedule of Transcript Documents and Certificates as to Arbitrage (included in all City tax exempt bond financings) both serve a similar role to the example Compliance Check List and Form of Bond Proceeds Allocation Certificate we provided as appendices to our audit.

#6 (Finance Department/JL) - Work with the City Attorney's Office to develop written policies and procedures for Project Managers and other City staff to determine eligible and ineligible expenditures for each type of bond financing. (Priority 1)

IMPLEMENTED. The Finance Department has created a Disbursement of Bond Proceeds procedure which was implemented on a trial basis in April 2009. The procedure provides guidance to Project Managers and other City staff on timelines for the reimbursement process, examples of reimbursement requests, and eligible and ineligible expenditures.

#7 (Finance Department/JL) - Annual audits of Measures O and P be added to the external auditor's scope of work. (Priority 1)

IMPLEMENTED. The agreement with Macias, Gini & Company, LLP was amended to include an audit of the financial statements of the Park Bond Projects Capital Project Fund and Branch Libraries Bond Projects Capital Project Fund ("Parks and Libraries Bond Funds") for the period of fiscal years 2001-02 through 2007-08. The audits were completed and the reports issued to the Parks Bond Citizen Oversight Committee on April 1, 2009 and the Library Commission Oversight Committee on April 8, 2009, respectively.

#8 (City Manager's Office/JL) - Work with the City Attorney's Office to evaluate and report on methods to remedy any potential past compliance issues associated with the loans from restricted funds. (Priority 1)

IMPLEMENTED. The audit report identified several concerns with how the City was handling interfund loans. To correct for missed interest on an interfund loan to the Old City Hall Renovation, the Administration brought forward a \$65,000 interest payment as part of the 2006-07 Annual Report. In addition, the 2008-09 Adopted Operating and Capital Budgets included loan repayments for portions of all outstanding loans. Furthermore, the Budget Office developed a new summary of interfund loans in Capital and Operating Funds which provides a description for each interfund loan, loan terms, the amount outstanding, and the 2008-09 budgeted payments. The City Attorney's Office also addressed our concerns regarding making repayment of the Coyote Valley Water project loan in compliance with Proposition 218. The City Attorney's Office confirmed with ESD staff that that Municipal Water had, and is projected to have, adequate revenue from non-potable (recycled) water sales and from potable water sales within Coyote Valley to make the scheduled debt service payments.

#9 (Budget Office/JL) - Develop and implement a formal written policy on interfund loans, including the establishment of a prudent investor standard, and written procedures on how to manage and enforce such a policy. (Priority 1)

PARTLY IMPLEMENTED. The Administration amended the City's Operating Budget and Capital Improvement Program Policy to incorporate the treatment of Interfund Loans as part of the 2007-08 Annual Report actions that were approved by the City Council on October 21, 2008. Staff from the Finance Department and the Budget Office will work together to draft procedures to manage and enforce the policy. However workload demands from the economic downturn have impacted the ability of staff to prepare these procedures. Target date: 12-09.

MEMO 5-5-08: REVIEW OF ALLIED WASTE EXPENDITURES FOR THE PERIOD OF APRIL 1, 2007 THROUGH FEBRUARY 29, 2008

#1 (Environmental Services Department/CC) - Follow-up with BFI and seek reimbursement for the \$60.69 overcharge and the \$629.98 unsupported transaction. (Priority 3)

IMPLEMENTED. ESD received credit for the \$690.67 of overcharges and unsupported transactions through the July 2008 BFI invoice billing.

MEMO 8-8-08: A REVIEW OF THE DEPARTMENT OF PUBLIC WORKS' OVERSIGHT OF THE FOXWORTHY BRIDGE PROJECT

#1 (Planning, Building and Code Enforcement Department, in cooperation with the Department of Public Works/RM) - Ensure that the language in the General Development Plans conditions of approval is clear and sufficiently detailed as to what conditions have been approved by the City Council, and that significant changes are returned to the City Council. (Priority 2)

PARTLY IMPLEMENTED. Planning staff from the Department of Planning, Building and Code Enforcement is assisting the City Attorney's Office in the preparation of an ordinance amending Municipal Code Title 20 to specify that when there is a proposed change to a condition of an approved rezoning and the proposal does not meet the intended goal of the original approval, or increases the obligation to the City, the matter shall come before the City Council for approval. The ordinance is expected to be heard by the City Council by December 2009. Target date: 12-09.

#2 (Planning, Building and Code Enforcement Department/RM) - Affirmatively state findings for required off-site improvements (“exactions”) when the substitution of improvements or mitigation is included in the permit. Furthermore, such findings should show a reasonable connection (“nexus”) between the impact caused by the project and the exaction. This may require the City Council to revise Title 20 of the Municipal Code. (Priority 2)

PARTLY IMPLEMENTED. Planning staff has drafted procedures which it plans to incorporate into the procedures manual and trained staff on the drafting of appropriate language to include in the General Development Standards. Such update includes the drafting of language to include the goal(s) of any required mitigation or required off-site improvements such that if there is the ability to alter the specifics at the discretion of others, the goal is still accomplished. Should said goal not be able to be met by any proposed alteration, the procedures require that the change needs to be approved by the City Council. Planning staff already ensures a reasonable connection (“nexus”) between the impact caused by the project and the requirement typically through the review of reports associated with the project, including but not limited to traffic, biotic, geologic, historic, noise, etc. With the implementation of the above measures, Title 20 would not need to be further revised. Target date: 12-09.

#3 (Department of Public Works/RM) - Use Title 19 procedures to require off-site improvements, and develop procedures that limit use of City-Private developer agreements to insure consistency and conformity with: (1) the requirements of the land use approvals for the project and (2) all the requirements needed for Council authorization for such agreements under the circumstances specified in Title 14 of the Municipal Code. (Priority 3)

PARTLY IMPLEMENTED. The Department of Public Works is working with the City Attorney’s Office on proposed ordinance amendments to implement this recommendation. The proposed ordinance amendment is expected to be heard by the City Council in October 2009. Target date: 10-09.

#4 (Department of Public Works/RM) - Propose revisions to Municipal Code Sections 14.04.490 and 14.04.510 to streamline the quarterly reporting requirements for City-Private Developer Agreements, and to delete the requirement for DPW to file the City-Private developer agreements with the Department of Finance within five days of executing the agreements. (Priority 3)

PARTLY IMPLEMENTED. The Department of Public Works is working with the City Attorney’s Office on proposed ordinance amendments to implement this recommendation. The proposed ordinance amendment is expected to be heard by the City Council in October 2009. Target date: 10-09.

08-02: AN AUDIT OF RETIREMENT SERVICES' TRAVEL EXPENSES

#1 (Boards/MH) - Promote a culture of fiscal prudence and encourage the most economical and practical travel accommodations. (Priority 3)

IMPLEMENTED. The boards' adoption of the revised citywide travel policy formalizes its efforts in promoting prudent travel. The Federated Retirement Board adopted the citywide travel policy as its own travel policy on May 14, 2009; the Police & Fire Retirement Board adopted the citywide travel policy as its own travel policy on June 4, 2009. The audit team reviewed travel records related to travel that occurred since the Boards' adoption of the citywide travel policy, and found that the travel activity as of September 9, 2009, was compliant with the citywide travel policy.

#2 (Finance Department/MH) - Require travelers to provide written justification when exceeding the estimated travel costs noted on the Travel Request Form. (Priority 2)

IMPLEMENTED. As part of the revised citywide travel policy, the Finance Department added the following in section 4.4, "*Reasonableness of Travel Costs: Travelers shall attach an explanation to the Statement to document any excessive costs, last minute travel arrangements, as well as significant variances between estimated and actual expenditures of travel expenditures.*"

#3 (Boards/MH) - Actively seek conference rates, government rates, and other general travel discounts. (Priority 3)

IMPLEMENTED. The Boards' adoption of the revised citywide travel policy formalizes its efforts in actively seeking conference rates, government rates, and other general travel discounts, because the revised citywide travel policy compels travelers to "*to take advantage of lower rates and available discounts.*" The Federated Retirement Board adopted the citywide travel policy as its own travel policy on May 14, 2009; the Police & Fire Retirement Board adopted the citywide travel policy as its own travel policy on June 4, 2009. The audit team reviewed travel records related to travel that occurred since the Boards' adoption of the citywide travel policy, and found that travelers as of September 9, 2009 secured available travel discounts.

#5 (Boards/MH) - Adopt the City of San José Employee Travel Policy as their own. (Priority 2)

IMPLEMENTED. The Federated Retirement Board adopted the citywide travel policy as its own travel policy on May 14, 2009; the Police & Fire Retirement Board adopted the citywide travel policy as its own travel policy on June 4, 2009. The audit team reviewed travel records related to travel that occurred since the Boards' adoption of the citywide travel policy, and found that the travel activity as of September 9, 2009 was compliant with the citywide travel policy.

#6 (Boards/MH) - Establish reasonable parameters for travel and training. (Priority 3)

NOT IMPLEMENTED. According to Retirement Services staff, the two Boards have not yet adopted supplemental policies because of a recent turn-over in the Boards' committee membership. Target date: 12-09.

#7 (Boards/MH) - Require mandatory training on travel policies for Boardmembers and Staff. (Priority 3)

PARTLY IMPLEMENTED. Retirement Services staff report that they have provided informal advising on the citywide travel policy. The audit team reviewed travel records related to travel that occurred since the boards' adoption of the citywide travel policy, and found that the travel activity as of September 9, 2009, was compliant with the citywide travel policy. Retirement Services staff report that they will provide boardmembers and staff with formal training. Target date: 12-09.

#8 (Finance Department/MH) - Incorporate language into the City of San José Employee Travel Policy that requires written justification for last-minute travel arrangements. (Priority 3)

IMPLEMENTED. As part of the revised citywide travel policy, the Finance Department added the following in section 4.4, "*Reasonableness of Travel Costs: Travelers shall attach an explanation to the Statement to document any excessive costs, last minute travel arrangements, as well as significant variances between estimated and actual expenditures of travel expenditures.*"

#10 (Finance Department/MH) - Revise the City of San José Employee Travel Policy to require travelers to include event brochures and itineraries with their Travel Request Forms and Statements of Travel Expenses to help approving officials verify that expenses are related to approved travel activities. (Priority 3)

IMPLEMENTED. As part of the revised citywide travel policy, the Finance Department added the following in section 6.3.4, "*Meals: Event brochures/agendas are a required documentation to accompany the travel Statement.*"

#11 (Finance Department/MH) - Provide training for RSD and City employees who process travel documents. (Priority 3)

IMPLEMENTED. On March 30, 2009, the Finance Department provided training on the revised citywide travel policy and posted the video on the City's intranet site.

#12 (Finance Department/MH) - Require actual receipts, proof of payment, or in unique circumstances, written explanations for missing receipts or proof of payment. (Priority 1)

IMPLEMENTED. As part of the revised citywide travel policy, the Finance Department added the following in section 3.13: "*Travelers shall document all allowable and authorized travel-related expenditures with itemized receipts, invoices, or other acceptable documentation. The City will not reimburse travelers for unauthorized travel expenditures. For missing documentation, the traveler shall*

attach a written explanation detailing the expenditure and reasons for the missing receipt to the Statement.”

#13 (Finance Department/MH) - Revise the City of San José Employee Travel Policy to require travelers to clearly disclose, itemize, and account for group expenses. (Priority 3)

IMPLEMENTED. As part of the revised citywide travel policy, the Finance Department added the following in section 3.14: *“For Group expenditures incurred by one traveler, the affected traveler shall submit with the respective receipts an itemized breakdown of each traveler's expenses.”*

#15 (Finance Department/MH) - Add language to the Travel Request Form that requests signatories to verify that all expenses will be incurred for the purpose of City business. (Priority 1)

IMPLEMENTED. As part of the revised Statement of Travel Activity, the Finance Department added text to the signature prompt that reads: *“My signature above indicates that I have read and understand the City's Travel Policy and that this Statement complies with the policy and its intent. I also verify that expenses reported on this form were incurred by me for City business purposes only.”*

#16 (Boards/MH) - Establish controls to ensure compliance with the San José Municipal Code Chapter 12.08 Prohibition of Gifts. (Priority 2)

NOT IMPLEMENTED. Retirement Services reports that the Federated Board's Policy Committee and the Police & Fire Board's Audit Committee are planning to develop policies to ensure boardmembers' compliance with the San José Municipal Code Chapter 12.08: Prohibition of Gifts. Target date: 12-09.

#21 (Boards/MH) - Develop and enforce travel report guidelines for all board-funded travel activities per AB 1234. (Priority 2)

NOT IMPLEMENTED. According to Retirement Services staff, once board vacancies are filled, both boards plan to develop supplemental policies that outline reporting guidelines for all board-funded travel activities. Target date: 12-09.

#23 (Boards/MH) - Adopt supplemental policies to limit the number of Boardmembers traveling together and post events as required by the Brown Act. (Priority 3)

NOT IMPLEMENTED. According to Retirement Services staff, once board vacancies are filled, both boards plan to develop supplemental policies that outline guidelines on many travel-related matters for board travel. Target date: 12-09.

08-03: AN AUDIT OF COMMERCIAL SOLID WASTE FRANCHISE AND AB 939 FEE COLLECTION PROGRAM

#1 (Environmental Services Department/CH) - A resolution to the City's dispute with Allied Waste to ensure that the monies that school districts have already paid to Allied Waste are paid to the City and reimbursed to the school districts in a timely manner including outstanding disputes with other franchise haulers. (Priority 3)

PARTLY IMPLEMENTED. In November 2008, the City and Allied Waste settled the dispute regarding fees associated with the service to school districts. Fees have been paid by Allied Waste to the City for those 16 schools districts which have agreements to the City. The remaining are in the process of being reimbursed. ESD is awaiting an official notification from Stevens Creek Disposal & Recycling to begin resolving the dispute. Target date: 12-09.

#3 (Environmental Services Department in consultation with the City Attorney's Office/CH) - Propose to the City Council that the City's agreement with the County of Santa Clara be amended to clarify whether the County should pay the AB 939 fees, and consider including reporting requirements in return for the City reimbursement of the County's franchise fees. (Priority 3)

NOT IMPLEMENTED. The Administration, in coordination with the City Attorney's Office, has agreed to discuss this issue with the County, but prefers to defer this issue in light of other more pressing issues. Target date: TBD.

#7 (Environmental Services Department/CH) - Re-evaluate what kind of information and in what manner a hauler could provide that would make ESD's monitoring efforts more valuable and efficient. (Priority 3)

IMPLEMENTED. Staff has re-evaluated the report template, as well as the internal data gathering mechanisms. The franchise agreement beginning July 1, 2009 contains new reporting requirements to help improve ESD's monitoring efforts of haulers' reporting. In addition, ESD has refined the report template to include a more user-friendly interface. These changes went into effect with the new franchise agreements starting July 1, 2009.

#10 (Environmental Services Department/CH) - Work with the Division of Code Enforcement to develop regular required training for collection vehicle drivers. (Priority 3)

IMPLEMENTED. ESD has met with Code Enforcement staff and agreed that the new franchise agreement will not contain a requirement for regular training for collection vehicle drivers. According to ESD, given that code changes related to vehicle drivers have not occurred within the time since these agreements were drafted, ESD has decided to remove this specific requirement from the franchise agreement. If there is a change in the code or any issues of non-compliance arise, ESD staff will work with the haulers to ensure that driver training is provided. The new franchise agreements have taken effect for all commercial haulers on July 1, 2009.

08-04: AN AUDIT OF THE CITY'S OVERSIGHT OF FINANCIAL ASSISTANCE TO COMMUNITY-BASED ORGANIZATIONS

#1 (City Administration/CH) - Complete and expand the grants manual and proposed grants database to cover other forms of financial assistance. (Priority 3)

PARTLY IMPLEMENTED. The grants manual is now complete. However, the grants management database is still in progress with an expected date for full implementation in January 2010. Status updates on completed steps towards full implementation have been provided at the monthly Grants Management Working Group meetings. Also see Recommendation #2, Report #06-01. Target date: 1-10.

#3 (City Administration/CH) - Develop an annual summary of funding by recipient (perhaps in the annual operating budget) that shows all forms of financial assistance. (Priority 3)

PARTLY IMPLEMENTED. An annual summary of funding by recipient has been developed. The *Status of Non-Profit Community-Based Organization Partnerships* was presented at the Rules and Open Government Committee on April 29, 2009 included an attachment that provides details of funding to recipients of City financial assistance for FY 2008-09. However, *all* forms of financial assistance including rental subsidies for use of City-owned facilities (see Recommendation #16, Report #08-04) and other furnishing of goods, services, or facilities have not been determined and included in the summary.

#5 (City Administration or the City Auditor/CH) - Prepare an annual report to City Council based on a review of the financial audits of community-based organizations that meet the criteria established by Recommendation # 4 including:

- *Financial ratios;*
- *Summary of external audit findings; and*
- *Percentage of agency revenue comprised of City funding. (Priority 3)*

PARTLY IMPLEMENTED. Discussions between the Administration and City Auditor up to the present have resulted in a decision for City Auditor to assume implementation of this recommendation. The City Auditor's Workplan for 2009-2010 includes *Annual Financial Scan of City-Funded Community-Based Organizations* which will be a review and analysis of the annual financial statements submitted by outside organizations receiving more than \$200,000 in City funding in FY 2008-09. The report will summarize key financial ratios, findings of the agencies' external auditors, and percent of funding from the City. Target date: 6-10.

#7 (City Administration/CH) - Establish a monitoring program for CBO operators that gathers, documents, and consistently evaluates financial statements and other documents for indications of the organization's financial health, governance, and performance; and develop policies and procedures for resolving questions and for escalating response for non-compliance (e.g. written notification if an organization has not provided required documents), so that the City and CBO organizations know what to expect. (Priority 3)

IMPLEMENTED. The Grants Manual and manual for the Management of Operations and Maintenance Agreements document the required steps and procedures for CBO operators' monitoring and oversight responsibilities. As presented in the *Status of Non-Profit Community-Based Organization Partnerships* to City Council on 7-1-09. Key elements of the Non-profit Strategic Engagement Platform consist of an Early Warning System, Enhanced Communications (which include Non-profit Strategic Engagement Committee, Grants Management Working Group, and Grants Management Oversight Team), Funders' Collaborative, increased staff capacity, mobilization of technical assistance with non-profits, an assessment tool and updates on the Asset Management Program.

#8 (General Services & City Administration/CH) - Track maintenance of all CBO-operated facilities to identify deferred maintenance and enforce operating and maintenance agreement provisions if the scheduled maintenance is not performed. (Priority 3)

PARTLY IMPLEMENTED. The Manual for the Management of Operations and Maintenance Agreements was distributed on 7-1-09 and includes a section on tracking maintenance that was prepared by the General Services Department. Currently, the maintenance oversight is unfunded (eliminated in previous annual budgets). Future plan is to engage a cross-Departmental effort in the oversight of these agreements that will involve the Office of Economic Development, Office of Cultural Affairs, and General Services. With this effort underway, regular meetings will occur with the expectation that the budget for maintenance oversight will be re-funded so that enforcement will be conducted as needed. Target date: 6-10.

#9 (General Services/CH) - Clarify when the 7-1 policy should apply to leases with CBOs of City facilities. (Priority 3)

NOT IMPLEMENTED. *Asset Management – Recommended Principles and Key Activities* was presented to the City Council on 3-24-09. The principles related to the use of City property at below-market lease rates include: 1) Agreements should be five years or less; 2) Upon expiration of below market agreements, continuation of existing uses and terms shall be based on a competitive operator selection process. However, if no long-term City use for the property has been identified, the non-profit may be given an exclusive negotiation period for purchase and/or market rate lease of the property.

According to the Administration, Council Policy 7-1 will be revised to conform to these principles outlined. The revised Council Policy 7-1 will *not* apply leases with CBOs in community center reuse sites because these leases are governed by Council Policy 7-12. Council Policy 7-1 *will* apply to non-profit leases in other City-owned property. The revised policy is scheduled to be completed prior to December 2009. Target date: 12-09.

#10 (General Services/CH) - Identify all the CBO leases and other agreements for long-term use of City-owned properties, and assign responsibility for monitoring each of them. (Priority 3)

PARTLY IMPLEMENTED. The leased property spreadsheet, which includes CBO leases, will be housed within the Real Estate Asset Management Division. The Division has hired an outside consultant who is currently assisting in assessing the market value of the leases currently administered by the City's Real Estate Division. The Division will also identify other CBO leases and other agreements for long-term use of City-owned facilities across other departments. The Division will be responsible for overall identification and tracking of CBO leases, while the day-to-day management of these leases will remain with the management departments. Target date: 12-09.

#11 (General Services/CH) –

- 1) Develop a centralized spreadsheet to track the status of CBO leases and other long-term use agreements for City-owned properties with CBOs including key terms and rental payments.***
- 2) Bring current all expired leases, rental payments, insurance certificates, and other required reporting documentation. (Priority 3)***

PARTLY IMPLEMENTED. The Real Estate Asset Management Division has contracted with an outside consultant to assess the value of all existing City lease agreements administered by the Division as part of the Division's comprehensive review of these leases. The current spreadsheet in use by the Division will be modified and updated with a profile of each lease, in order to track and monitor more effectively CBO lease and other long-term use agreements for City-owned properties. The Division will then notify the departments if leases under their management are expired, have past-due rental payments, have non-compliant insurance certificates, or missing other required reporting documentations. The Division will work with the departments to ensure all lease terms are made current. Target date: 12-09.

#12 (General Services/CH) - Establish policies and procedures regarding billing and collection for CBO leases and other agreements with CBOs for the long-term use for City-owned properties. (Priority 3)

NOT IMPLEMENTED. The Real Estate Asset Management is in the process of identifying CBO leases and other agreements for the long-term use of City-owned facilities. The Division has begun invoicing CBOs with past-due rental payments, however has not yet begun developing policies and procedures for billing and collection of CBO leases and other agreements. Target date: 12-09.

#13 (General Services/CH) - Establish a Citywide policy for enforcement of lease provisions and include provisions for non-compliance in future leases. (Priority 3)

PARTLY IMPLEMENTED. Enforcement of lease provision policy will be included in the revised Council Policy 7-1, in conformance to the *Asset Management – Recommended Principles and Key Activities*, which is currently in progress. Target date: 12-09.

#14 (General Services/CH) - Centralize basic real estate functions or train City department staff on consistent implementation and monitoring of CBO leases and other agreements. (Priority 3)

NOT IMPLEMENTED. The Real Estate Asset Management Division is in the process of compiling and assessing data on CBO leases and other agreements for the purposes of oversight. While oversight of CBO leases and other agreements will be centralized at the Division, day-to-day implementation and monitoring of these leases will remain with departments currently managing them. The Property Acquisition and Disposition Committee, made up of departments currently managing leases, will take the lead on training City department staff on consistent implementation and monitoring of CBO leases and other agreements. Target date: 12-09.

#15 (General Services/CH) - Develop a process to ensure that the City coordinates its oversight and monitoring of individual CBO leases and other long-term use agreements for City-owned properties with the oversight and monitoring of individual CBO grants or other forms of financial assistance. (Priority 3)

NOT IMPLEMENTED. As part of the process of compiling and assessing lease data, the Real Estate Asset Management Division will also be identifying leases that receive City grants and include relevant grant information in the spreadsheet. The Division will be coordinating its efforts with departments responsible for providing grants oversight and monitoring through the Non-Profit Strategic Engagement Platform managed by the City Manager's Office. The Real Estate Asset Management Division staff is also represented at the monthly Grants Management Working Group meetings. Target date: 12-09.

#16 (General Services/CH) - Identify all of the City's leases to CBO organizations, estimate the rental subsidy of these leases, and prepare an annual public report listing each CBO organization and the estimated amount of the subsidy. (Priority 3)

PARTLY IMPLEMENTED. The Real Estate Asset Management Division has contracted with an outside consultant to conduct a comprehensive review of all existing City lease agreements administered by the Division. As part of their scope, the consultants will identify and recommend process/procedures for evaluating "fair market value" of leased properties. In January, the Division will be submitting a public report to the Public Safety, Finance, and Strategic Support Committee that includes a list of identified CBO leases and their corresponding estimated city

subsidy. The Division estimates it will complete the rental subsidy calculations on all CBO leases by June 2010. Also see Recommendation #3, Report #08-04. Target date: 6-10.

#17 (General Services/CH) - Establish an approval/renewal process for CBO leases and other agreements for long-term use for City-owned properties as they come due. (Priority 3)

NOT IMPLEMENTED. The Real Estate Asset Management Division is in the process of identifying and assessing leases under its management and those of other departments. The Division will begin developing an approval/renewal process once this task. The approval/renewal process will conform to the Asset Management - Recommended Principles and Key Activities approved by the Council in March 2009. According to the Administration, Council Policy 7-1 and corresponding implementation guidelines will detail an open and competitive process for selecting non-profit organizations for tenancy. The policy will allow current non-profit lessees to participate in the competitive process if they wish to renew their below-market leased contract. Target date: 12-09.

#20 (City Administration/CH) - Consider other alternatives to fiscal agents and explore alternative methods to provide insurance coverage for smaller grant programs. (Priority 3)

PARTLY IMPLEMENTED. A working group has been established, which consists of representatives from Risk Management, the City Attorney's office, Office of Cultural Affairs, Housing, PRNS, and Office of Economic Development, to consider alternatives to fiscal agents and alternatives to providing insurance coverage for smaller grant programs. This group will also develop policies and procedures for alternatives to fiscal agents and will be applied to the Grants Manual.

The group is currently in the process of listing the current grants that use fiscal agents, with their reasons for using one. After this process is completed, the group will investigate the nature of the relationship between the City, the fiscal agent, and the end grantee. As the risks to the City become evident, they will compile a summary document with recommended mitigations for each risk identified. Target date: 12-09.

09-02: 2007-08 ANNUAL PERFORMANCE AUDIT OF TEAM SAN JOSE, INC.

#1 (City Manager/CH) - Request that the City Council ratify the decision by the Administration to waive its right to delete the fixed payment of \$150,000 from the preset management fee for year four and, potentially, year five of the current Management Agreement. (Priority 1)

IMPLEMENTED. On 3-3-09, the City Council voted unanimously to ratify the Administration's decision to waive the City's right under the current agreement with Team San Jose, Inc. for the management of the San Jose Convention Center and

Cultural Facilities to delete the fixed payment of \$150,000 from the management fee for year four of the agreement and authorize the City Manager to exercise this waiver for year five of the agreement.

09-03: AUDIT OF THE CITY OF SAN JOSÉ'S WORKERS' COMPENSATION PROGRAM

#1 (Office of Employee Relations/RO) - Propose structural changes to the City's Workers' Compensation Program that would include (1) reducing the City's policy of providing up to nine months of a disability leave supplement pay at 85 percent for non-sworn and one full year at 100 percent for sworn employees and (2) implementing a retirement benefit payment offset for sworn employees receiving disability retirement payments that replicates the offset for retired non-sworn employees. (Priority 2)

NOT IMPLEMENTED. According to the Office of Employee Relations, the structural changes to the City's Workers' Compensation Program this recommendation proposes are subject to meet and confer with the City's bargaining units. Any proposed changes will have their merits evaluated within the context of the City's overall negotiation strategy. Target date: TBD.

#2 (Risk Management & Human Resources/RO) - Assign to the City's Return-To Work-Coordinator the responsibility for identifying for each of the departments, with the highest frequency of workers' compensation claims, the number of lost work hours attributable to employees off work due to a workplace injury. Each month, this report shall be made available to the City Manager and to each department director to facilitate the department directors' efforts to have the injured employees return to work as soon as the workers' medical conditions allow. (Priority 3)

PARTLY IMPLEMENTED. According to the Human Resources Department Risk Management Division, each department currently receives disability leave reports outlining usage for each employee. These reports are being produced and distributed on a bi-weekly basis. Risk Management staff is exploring ways to analyze and organize disability leave information to increase applicability and understanding. Target date: 12-09.

#3 (San José Police and Fire Departments & Human Resources/RO) - The Police Chief and the Fire Chief work with Risk Management to identify the reasons for the recent significant increase in the time away from work among their injured police officers and firefighters, so that they may be in a better position to address the escalating cost of disability leave payments in their departments. (Priority 3)

PARTLY IMPLEMENTED. Risk Management conducts quarterly meetings with the Police and Fire Chiefs to discuss safety, disability leave, and other workers' compensation issues. The quarterly meeting scheduled in October will focus directly on disability leave usage. Target date: 12-09.

#4 (Human Resources/RO) - Reconsider the feasibility of restoring the Wellness Coordinator position for the Wellness Program and implementing a comprehensive Wellness-Fitness Program for the Fire Department. (Priority 3)

PARTLY IMPLEMENTED. In August 2009, Risk Management requested that the San Jose Fire Department (SJFD) consider the restoration of a comprehensive wellness program. Risk Management researched best practices of similar-sized agencies and prepared a detailed wellness plan proposing that the SJFD consider restoring staffing and resources to wellness. The proposed plan includes the following components: (1) Health and Fitness Coordinator, (2) Mandatory Fitness Training for Sworn Fire Employees, and (3) Mandatory Physical Examinations and Standards.

According to the SJFD's Administrative Officer, Fire Administration staff, the Human Resources Safety Division Deputy Director, and the City Physician met to discuss implementing changes to the Annual Medical Exam process and to discuss implementing a comprehensive fitness program. The SJFD will continue to work with the Human Resources Department to implement changes to the Annual Medical Exams and to develop a proposal for a comprehensive fitness program. Target date: Spring 2010.

POTENTIAL BUDGET IMPACT: TBD.

#5 (Human Resources/RO) - Implement the 2007 consultant recommendation to include the accomplishment of safety goals as one of the goals to be considered in the City's performance review process in which the City Council reviews each department's performance during the budget study sessions each spring. (Priority 3)

PARTLY IMPLEMENTED. In August 2009, Risk Management prepared a memorandum notifying the five most risk-exposed City departments – Fire; Police; General Services; Parks, Recreation and Neighborhood Services; and Transportation – that the departments will be responsible for reporting safety goals, investigations, and disciplines as outlined by Risk Management's 8 Point Safety Plan. Target date: 6-10.

#6 (Risk Management and the City Manager's Budget Office/RO) - For the City Departments whose employees file most of the City's workers' compensation claims, establish a line item in each department's operating budget that would cover the department's projected workers' compensation costs. Departments that spend more than they have available in their departmental budget would have to approach the City Council for a budget augmentation. (Priority 3)

IMPLEMENTED. In the 2009-2010 Adopted Budget, the Workers' Compensation claims funding formerly within the Citywide Expenses category was allocated by department for those departments with the highest occurrence of Workers' Compensation claims rather than funded collectively as a single appropriation. Individual Citywide Workers' Compensation claims appropriations were established for the following: Police; Transportation; Fire; General Services; Parks, Recreation

and Neighborhood Services; and 'Other' Departments. Any future adjustments to these individual appropriations will be brought forward for City Council consideration.

#7 (Risk Management & Human Resources/RO) - Prepare a quarterly report to the Public Safety, Finance, and Strategic Support Committee that covers the City's Workers' Compensation Program. This report should identify (1) workers' compensation claims costs for each of the City departments who have the highest frequency of workers' compensation claims, (2) total costs compared to the budgeted costs for each department, and (3) significant components of cost (e.g., the cost for medical treatments, payments of temporary disability, payments of disability leave supplements, and/or payments for permanent disabilities). Risk Management should also make this report available to each of the department directors, whose departments account for the bulk of the City's claims, as a way to closely monitor the City's overall and departmental costs of workers' compensation. (Priority 3)

PARTLY IMPLEMENTED. According to Risk Management, work is in progress on a comprehensive quarterly report which will detail all the recommended information. The report is currently in draft form, expected to be issued in late September, and will henceforth be updated and presented to the Public Safety, Finance, and Strategic Support Committee quarterly. Target date: 9-09.

09-04: AUDIT OF THE SAN JOSÉ POLICE DEPARTMENT'S AUTO THEFT UNIT

#1 (San Jose Police Department & Auto Theft Unit/RM) - Periodically brief patrol on auto theft trends and utilize real-time mapped information and communicate this information to the Regional Auto Theft Task Force. (Priority 3)

PARTLY IMPLEMENTED. Auto Theft Unit investigators brief patrol and Regional Auto Theft Task Force personnel on auto theft trends as they are identified. This is accomplished by investigators attending patrol briefings and by providing alert bulletins, which are posted in the patrol briefing room. Procedures for this process have been formally documented and are included in the Auto Theft Unit Procedures Manual.

The Project Manager for the proposed Automated Field Reporting/Records Management System (AFR/RMS) will present the AFR/RMS Request for Proposal (RFP) to the City Council in October 2009. It is estimated that, upon approval of the RFP by the City Council, the AFR portion of the system will be working within a year, which will allow for limited near real-time mapping capabilities to Crime Analysts in the Crime Analysis Unit. This information will be disseminated to the Auto Theft Unit. The estimated implementation date of the AFR/RMS is September 2012. Once the full AFR/RMS system is in place, officers will have immediate mapping access. Target date: 9-12.

#2 (San Jose Police Department/RM) - Periodically brief its command and patrol staff regarding juvenile auto theft trends and changes to juvenile protocols. (Priority 3)

IMPLEMENTED. When juvenile auto theft trends are identified, the Auto Theft Unit staff coordinates the sharing of information with the Patrol Division and the Regional Auto Theft Task Force staff. The Santa Clara County Chiefs of Police Association is in process of formalizing issues to juvenile protocols. Upon completion of the protocol, the Police Department's Research & Development Unit will provide appropriate updates to Department staff.

The procedures pertaining to juvenile auto theft trends have been documented and are included in the Auto Theft Unit Procedures Manual.

#3 (San Jose Police Department/DC) - Shift the equivalent of three sworn positions in the Auto Theft Unit to proactive responsibilities, or reallocate those positions elsewhere in the San José Police Department. (Priority 3)

IMPLEMENTED. The Police Department has shifted the equivalent of two sworn positions to proactive activities, and the third sworn position is currently vacant. Proactive activities have been limited due to illnesses and temporary redeployments.

#4 (Auto Theft Unit/DC) - Include information related to proactive activities in its Quarterly Program Management Reports to the Chief such as number of investigations, number of arrests resulting from those investigations, and highlights of proactive activities. (Priority 3)

IMPLEMENTED. The Auto Theft Unit is including proactive activity information in its Program Management Reports to the Chief. Furthermore, the procedure for this process has been documented in the Auto Theft Unit's Procedures Manual.

#5 (San Jose Police Department/DC) - Explore the feasibility of using specially trained civilian staff for administrative assignments such as in-custody arrest documentation. (Priority 3)

NOT IMPLEMENTED. The Auditor's Office is currently performing an audit of sworn and non-sworn positions in the Police Department. The City Auditor's Office will review the use of specially trained civilian staff as part of the current audit. Target date: 12-09.

#6 (San Jose Police Department/DC) - To the extent possible, ensure that the proposed automated field reporting and records management system reduces duplication of auto theft data entry and automates quality control processes. (Priority 3)

PARTLY IMPLEMENTED. The Project Manager for the proposed Automated Field Reporting/Records Management System (AFR/RMS) will present the AFR/RMS Request for Proposal (RFP) to Council in October 2009. Quality control processes and elimination of redundancy are requirements in the RFP. The estimated implementation of the AFR/RMS is September 2012. Target date: 9-12.

#7 (San Jose Police Department/RM) - Explore the feasibility of taking some auto theft reports by phone when officers cannot respond to calls in a timely manner because they are too busy, or when callers cannot wait for officers to respond. (Priority 3)

CLOSED. The Police Department has explored the feasibility of taking some auto thefts reports over the phone, and determined that phone reporting is not feasible. Specifically, the Police Department contacted other jurisdictions and the National Insurance Crime Bureau. Based on these inquiries, the Police Department has concerns regarding the potential for fraudulent reporting of auto thefts.

#8 (Auto Theft Unit/RM) - Develop written procedures regarding the proper classification of auto theft case clearances in the Records Management System. (Priority 3)

IMPLEMENTED. The procedures for the proper classifications of auto theft case clearances in the Records Management System have been documented in the Auto Theft Unit's Procedures Manual.

#9 (San Jose Police Department/RM) - Develop written procedures for proper closing of cases in the Records Management System, including applicable quality control processes. (Priority 3)

IMPLEMENTED. The procedures for the proper closing of cases in the Records Management System, including applicable quality control processes, have been documented and included in the Auto Theft Unit's Procedures Manual.

#10 (San Jose Police Department/RM) - Develop written procedures for proper closing of cases in the Records Management System, including applicable quality control processes. (Priority 3)

IMPLEMENTED. The Project Manager for the proposed Automated Field Reporting/Records Management System (AFR/RMS) will present the AFR/RMS Request for Proposal (RFP) to the City Council in October 2009. Reporting capabilities, such as the ability to monitor aged cases will be a function of new RMS systems and are included in the RFP.

Given the estimated three-year time frame to implement the AFR/RMS, the Auto Theft Unit has implemented a non-automated tracking process to ensure that aged cases are identified and an appropriate disposition is determined. This process has been documented in the Auto Theft Unit's Procedures Manual. Therefore, this recommendation is implemented because the non-automated tracking process is sufficient to address the problem of aged cases pending the implementation of the new AFR/RMS.

#11 (San Jose Police Department & Auto Theft Unit/RM) - Use the number of open cases from investigator spreadsheets as of the end of the quarter to report the number of open cases in the Quarterly Program Management Report to the Chief. (Priority 3)

PARTLY IMPLEMENTED. The Auto Theft Unit has developed procedures to document the number of open cases, and plans to include the total number of open cases from the investigator spreadsheets in the Quarterly Program Management Report to the Chief. Target date: 10-09.

#12 (San Jose Police Department/RM) - Develop written procedures to ensure that it correctly classifies cases with limited solvability/conviction factors and cases that lack staffing for assignment. (Priority 3)

IMPLEMENTED. The Auto Theft Unit has developed and documented procedures in the Auto Theft Unit's Procedures Manual for correctly classifying auto theft cases in the Records Management System as described in this recommendation.

#13 (San Jose Police Department/RM) - Consider adding a classification for cases that are not investigated due to limited solvability or conviction factors in the proposed records management system. (Priority 3)

PARTLY IMPLEMENTED. The Project Manager for the proposed Automated Field Reporting/Records Management System (AFR/RMS) will present the AFR/RMS Request for Proposal (RFP) to the City Council in October 2009. The Police Department will have the option to change or add classifications in the new AFR/RMS system. The AFR/RMS Project Manager indicated that once the AFR/RMS is fully implemented, specific Department/Bureau/Unit needs and programming will be assessed. The estimated implementation date of the AFR/RMS is September 2012. Target date: 9-12.

#14 (Operations Support Services Division/DC) - Develop and implement written procedures to ensure that the Records Management System reflects Auto Theft Unit review of entries for all auto theft reports. (Priority 3)

IMPLEMENTED. The Police Department has created a procedure to ensure all reported auto thefts are routed to the Auto Theft Unit for review. This procedure has been documented in the Operations Support Services Division (OSSD) Auto Desk guidelines. This procedure is being monitored on a monthly basis by OSSD staff to ensure all appropriate corrections to data are made within the RMS.

#15 (Auto Theft Unit/DC) - Develop written comprehensive policies and procedures for investigations including procedures for maintaining Unit databases and handling fingerprint lab results, and procedures for assignment and classification entries in the Records Management System. (Priority 3)

IMPLEMENTED. Comprehensive policies and procedures as described in this recommendation have been documented in the Auto Theft Unit's Procedures Manual.

APPENDIX A

DEFINITIONS OF PRIORITY 1, 2, AND 3 AUDIT RECOMMENDATIONS

The City of San Jose's City Policy Manual (6.1.2) defines the classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class¹	Description	Implementation Category	Implementation Action³
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring. ²	Priority	Immediate
2	A potential for incurring significant fiscal or equivalent fiscal or equivalent non-fiscal losses exists. ²	Priority	Within 60 days
3	Operation or administrative process will be improved.	General	60 days to one year

¹ The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number.

² For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of \$50,000 or more to be involved or for a potential loss (including unrealized revenue increases) of \$100,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens.

³ The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration.