

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 4.04.020 AND 4.04.055 OF CHAPTER 4.04, SECTIONS 4.12.018, 4.12.028, 4.12.055, AND 4.12.410 OF CHAPTER 4.12, AND SECTIONS 4.24.010 AND 4.24.020 OF CHAPTER 4.24 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO STREAMLINE CITY PROCESSES IN THE AREAS OF PROCUREMENT, CONTRACT AUTHORITY, AND SETTLEMENT AUTHORITY

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-010 (City Organizational and Administrative Activities resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code is amended to read as follows:

4.04.020 Contract Authority of the City Manager

- A. The City Manager is authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council, any contract, for which:
1. Moneys have been appropriated; and
 2. There is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contract; and
 3. The total monetary value expended or received by the City does not exceed the amount listed below with respect to the type of contract:
 - a. Emergency purchases pursuant to Section 4.12.220 regardless of the amount expended;
 - b. Agreements for the lease or purchase of supplies, materials and equipment including services incidental to such lease or purchase, having a maximum value of one million, four-hundred thirty thousand dollars (\$1,~~4300~~0,000) (as adjusted pursuant to Section 4.04.085, starting on July 1, 2025), provided that the value of services incidental to such lease or purchase shall not exceed ~~the lesser of two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085) or~~ twenty-five percent (25%) of the total contract value unless those incidental services are general services;
 - c. Agreements for professional consulting services having a maximum value of ~~two-three~~ hundred fifty thousand dollars (\$~~23~~50,000) (as adjusted pursuant to Section 4.04.085, starting on July 1, 2025);

d. Agreements for general services having a maximum value of one million four hundred thirty thousand dollars (\$1,430,000) (as adjusted pursuant to Section 4.04.085, starting on July 1, 2025);

ed. Agreements relating to the grant of funds to or from the City and agreements for the acquisition of public artwork having a maximum value of two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085);

fe. Sponsorship Agreements (as described in Section 4.04.010A.7.) having a maximum value of two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085), each with a term not exceeding three (3) years, and which otherwise comply with City Council policy; and

gf. All other types of contracts having a maximum value of ~~one-three~~ hundred fifty thousand dollars (\$~~400~~350,000) (as adjusted pursuant to Section 4.04.085, starting on July 1, 2025).

B. In addition, the City Manager is authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council the following:

1. Any contract for the payment of fees imposed on the developer of a residential project pursuant to Chapter 14.25 or Chapter 19.38 of this Code;

2. Leases, licenses or other agreements for use of property where the City is a lessee/user or lessor/grantor, where the rental payments or other fixed consideration do/does not exceed a cumulative total of two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085);
3. One or more amendments to a lease, where City is a lessee or lessor, for the purpose of undertaking a cumulative total of no more than one hundred thousand dollars (\$100,000) (as adjusted pursuant to Section 4.04.085) in improvements to the leased property over the term of the lease, including option periods;
4. Tenant estoppel certificates on behalf of the City, where City is a landlord, tenant or subtenant under an existing lease;
5. Agreements for the purchase or donation of fee interests in real property or for the grant of easements to the City, and all documents necessary to complete the purchase, where:
 - a. The real property or the easement is being acquired in order to implement a project approved by the City Council; and
 - b. The grant of easement or acquisition of real property has been determined to present no significant toxics liability; and
 - c. The compensation to the seller of the real property or grantor of the easement for the interest to be conveyed does not exceed two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085) and all costs of purchase and additional costs of

escrow and closing are lawfully available in accordance with Subsections 4.04.020A.1. and 2. above.

6. Temporary construction easements for terms not exceeding two (2) years where the City is grantor or grantee and the compensation for the temporary construction easement rights does not exceed two hundred fifty thousand dollars (\$250,000) (as adjusted pursuant to Section 4.04.085); and
7. Agreements for the sale of fee interests in real property where:
 - a. The real property has been declared surplus to the needs of the City by the City Council as provided in Chapter 4.20 or the disposition otherwise conforms to the Surplus Land Act (Cal. Gov. Code § 54220 et seq.), as may be amended from time to time; and
 - b. The process for conducting the sale was a competitive process or otherwise complies with the provisions of Chapter 4.20; and
 - c. The real property is not independently developable (as defined in Chapter 4.20); and
 - d. The sales price is less than six hundred thousand dollars (\$600,000) (as adjusted pursuant to Section 4.04.085), and such sales price is not less than the estimated fair market value of the real property; and
 - e. Any reservation of easements or other rights to the City is limited to those reasonably necessary to support present or future public

infrastructure, including, without limitation, rights-of-way and utilities.

8. Agreements for the granting of easements in real property where:
 - a. The value of the grant of easement(s) is less than six hundred thousand dollars (\$600,000) (as adjusted pursuant to Section 4.04.085), and such value is not less than the estimated fair market value of the easement; and
 - b. The purpose of the easement(s) is limited to those reasonably necessary to support present or future public infrastructure, including, without limitation, rights-of-way and private or public utilities.
- C. No provision of this Chapter is intended to limit the authority of the City Manager or any Council appointee from seeking approval of a specific action by the City Council, nor is it intended to limit the authority of the City Council to place limitations on the City Manager's or other Council appointee's authority with respect to entering into specific contracts.

SECTION 2. Section 4.04.055 of Chapter 4.04 of Title 4 of the San José Municipal Code is amended to read as follows:

4.04.055 Contract Amendment Authority of Council Appointees

- A. The City Manager, the City Attorney, City Clerk, Independent Police Auditor, and City Auditor are authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council, any amendment to a

contract which does not increase the compensation for the contract to accomplish the following:

1. To extend the term of the contract ~~for a period not to exceed six (6) consecutive months from the last City Council approved termination date;~~
or
2. To make minor revisions to the scope of services; or
3. To make clerical corrections.

B. In addition, the City Manager, the City Attorney, City Clerk, Independent Police Auditor, and City Auditor are authorized to approve assignments to contracts previously approved by the City Council when he or she has determined that the proposed assignee is at least as responsible and capable of performing the agreement as the original contractor.

SECTION 3. Section 4.12.018 of Chapter 4.12 of Title 4 of the San José Municipal Code is amended to read as follows:

4.12.018 Competitive Procurement Threshold

"Competitive Procurement Threshold" means ~~Ten-Fifteen~~ Thousand Dollars (\$~~150,000.00~~), ~~as automatically adjusted to remain aligned with the Federal Micro-Purchase Threshold as defined in Title 48, Code of Federal Regulations, Part 2, section 401.~~

SECTION 4. Section 4.12.028 of Chapter 4.12 of Title 4 of the San José Municipal Code is amended to read as follows:

4.12.028 Informal Procurement Threshold

"Informal Procurement Threshold" means ~~Two-Three~~ Hundred Fifty Thousand Dollars (\$~~3250,000.00~~), as adjusted pursuant to Section 4.04.085, starting on July 1, 2025~~as automatically adjusted to remain aligned with the Federal Simplified Acquisition Threshold as defined in Title 48, Code of Federal Regulations, Part 2, section 101.~~

SECTION 5. Section 4.12.055 of Chapter 4.12 of Title 4 of the San José Municipal Code is amended to read as follows:

4.12.055 Services

A. "Services" means:

1. Any work performed or services rendered by an independent contractor, with or without the furnishing of materials, to do the following:
 - a. Maintenance or nonstructural repair of City buildings, structures or improvements, which does not require engineering plans, specifications or design, including but not limited to unscheduled replacement of broken window panes, fire extinguisher maintenance, minor roof repairs, elevator maintenance, custodial services and pest control;
 - b. Repair, modification, and maintenance of City equipment and software;
 - c. Cleaning, analysis, testing, moving, removal or disposal (otherwise than by sale) of City materials, supplies and equipment;

- d. Replanting, care, or maintenance of public grounds, including but not limited to trees, shrubbery, flowers and lawns, which does not require engineering plans, specifications or designs;
- e. Provide temporary personnel services;
- f. Provide other miscellaneous services to facilitate department operations;
- g. Perform repair, demolition or other work required to abate nuisances pursuant to this Code;
- h. Install and implement information technology projects; or
- i. Perform technical or professional services.

~~2. Software licensing and maintenance.~~

~~32.~~ Leasing or rental of personal property for use by the City.

B. "Services" shall not include:

- 1. Any Public Works Project as defined in Section 1217(a)(1) of the San José City Charter, or any purchases of materials, supplies or equipment;
- 2. Services performed under a grant agreement between the City and a grantee of a City program;

3. Services for the design, fabrication or installation of a work of art; or
 4. Services performed under a concession agreement between the City and a licensee or permittee on City property.
- C. Consistent with the definition of Public Works Project in Section 1217(a)(1) of the San José City Charter, Services involving maintenance can include repairs, construction, erection, improvement or demolition incidental to such maintenance. To be "incidental" to such maintenance, the procurement must demonstrate that the repairs, construction, erection, improvement or demolition are:
1. Absolutely necessary to the proper completion of the maintenance; and
 2. A minor component of the maintenance considering factors such as the cost and complexity of the maintenance, and the cost and complexity of the repairs, construction, erection, improvement or demolition.

SECTION 6. Section 4.12.410 of Chapter 4.12 of Title 4 of the San José Municipal Code is amended to read as follows:

4.12.410 Right to Protest

~~Any interested party may file a protest regarding the procurement decisions authorized under this Chapter.~~A. Only the following persons have standing to protest a bid:

1. A potential bidder who demonstrates it did not submit a bid because of an error in the procurement process; and

2. A bidder who demonstrates it would have a reasonable possibility of being awarded the contract if the City were to sustain its protest.

B. There will be no additional protest period, even if a timely submitted protest results in a change to which bidder will be awarded the contract.

SECTION 7. Section 4.24.010 of Chapter 4.24 of Title 4 of the San José Municipal Code is amended to read as follows:

4.24.010 Claims Against The City

- A. Whenever the City Attorney deems it to be in the best interests of the City to do so, the City Attorney is hereby authorized to compromise and settle claims and actions for damages against the City, and/or against its officers and employees for conduct within the course and scope of their employment with the City where:
1. The case involves claims related to sanitary sewer backup intrusions and the amount to be paid by the City does not exceed twenty-five thousand dollars (\$25,000); or
 2. All other cases in which the amount to be paid by the City does not exceed ~~ten~~ twenty thousand dollars (\$~~1~~20,000).
- B. The City Attorney is hereby authorized to enter into agreements on behalf of the City and its officers and employees as necessary to effectuate any authorized compromise and settlement.
- C. The authority to compromise and settle provided by subdivision A. includes the authority of the City Attorney to accept or reject any arbitration award, settlement

demand or other offer to compromise which is within the monetary authority provided by subdivision A.

- D. The settlement authority of the City Attorney may be increased by the City Council on a case-by-case basis.
- E. The City Attorney shall report annually to the City Council the claims or actions against the City settled for an amount from one thousand dollars (\$1,000) to ten thousand dollars (\$10,000).

SECTION 8. Section 4.24.020 of Chapter 4.24 of Title 4 of the San José Municipal Code is amended to read as follows:

4.24.020 City's Claims and Actions Against Others

- A. The City Attorney is hereby authorized to file legal actions to collect any and all claims for damages or other money owed to the City. The City Attorney is further authorized to forego initiation or pursuit of any legal action for damages or money owed to the City whenever the City Attorney determines that:
 - 1. The City's claim is likely to be ultimately uncollectible; or
 - 2. Collection would not be reasonably cost effective taking into consideration the probable necessary costs to the City in pursuing collection and the likelihood of collection; or
 - 3. The City's claim is not a valid, enforceable claim of the City.

- B. The City Attorney is hereby authorized to compromise and settle any claim for damages or other money owed to the City where the amount of the City's claim does not exceed ~~twenty~~fifty thousand dollars (\$~~25~~50,000), or the City's claim exceeds ~~twenty~~fifty thousand dollars (\$~~25~~50,000) and the difference between the amount claimed by the City and the settlement amount does not exceed ~~twenty~~fifty thousand dollars (\$~~25~~50,000), whenever the City Attorney deems the compromise and settlement to be in the City's best interest.
- C. For purposes of any decision to forego collection of a claim pursuant to subdivision A., or a compromise and settlement pursuant to subdivision B., the City Attorney is authorized to dismiss any legal action that has been filed and to enter into any agreement on behalf of the City of San José which is necessary to effectuate a compromise and settlement. To the extent the full amount owing to the City on any claim is not collected due to a decision to forego or a compromise and settlement pursuant to subdivisions A. and B., respectively, the uncollected amount shall be deemed written off as uncollectible.
- D. The Director of Finance is hereby authorized to bring actions in the Small Claims Court to collect any and all claims for damages or other money owed to the City which are within the jurisdiction of the Small Claims Court.
- E. The Director of Finance is hereby authorized to compromise and settle any and all claims for damages or other money owed to the City where the amount of the City's claim does not exceed five thousand dollars (\$5,000), or the City's claim exceeds five thousand dollars (\$5,000) and the difference between the amount claimed by the City and the settlement amount does not exceed five thousand dollars (\$5,000), whenever the Director of Finance deems the compromise and settlement to be in the City's best interest. For purposes of any compromise and settlement pursuant to this provision, the Director of Finance is authorized to

enter into any agreement for or on behalf of the City necessary to effectuate the compromise and settlement. To the extent the full amount owing to the City on any claim is not collected due to a compromise and settlement pursuant to this provision, the uncollected amount shall be deemed written off as uncollectible.

- F. The City Manager is hereby authorized to compromise and settle any and all claims for damages or other money owed to the City where the amount of the City's claim does not exceed five thousand dollars (\$5,000), or the City's claim exceeds five thousand dollars (\$5,000) and the difference between the amount claimed by the City and the settlement amount does not exceed five thousand dollars (\$5,000), whenever the City Manager deems the compromise and settlement to be in the City's best interest. For purposes of any compromise and settlement pursuant to this provision, the City Manager is authorized to enter into any agreement for or on behalf of the City necessary to effectuate the compromise and settlement. To the extent the full amount owing to the City on any claim is not collected due to a compromise and settlement pursuant to this provision, the uncollected amount shall be deemed written off as uncollectible.

PASSED FOR PUBLICATION of title this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk