



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
Jennifer A. Maguire

SUBJECT: Defense of Public Employees
Under Government Code
Section 995.8

DATE: June 13, 2025

RECOMMENDATION

Adopt a resolution delegating joint authority to the City Attorney and City Manager to authorize the defense of City officers and employees under Government Code Section 995.8 with respect to acts or omissions in the scope of employment and upon making the findings required by Government Code Section 995.8, subject to ratification by the City Council at the next available meeting.

OUTCOME

Adoption of the resolution will result in a delegation of joint authority to the City Attorney and the City Manager to authorize the defense of City officers and employees under Government Code Section 995.8 with respect to acts or omissions in the scope of employment and upon making the findings required by Government Code Section 995.8, subject to ratification by the City Council at the next available meeting.

BACKGROUND

Under state law and existing City policies, the City is generally obligated to indemnify and fund the civil defense for all City officers and employees for actions or omissions that occur during the course and scope of their duties as City officers and employees.

Government Code section 995.8 authorizes, but does not require, the City to defend City officers and employees in criminal actions or proceedings if the City determines both that (1) the action is brought on account of an act or omission in the scope of employment for the City and (2) doing so would be in the best interests of the City and that the employee (or former employee) acted or failed to act in good faith, without actual malice, and in the interests of the City.

ANALYSIS

Given recent and unprecedented threats to utilize the federal Department of Justice and related entities against local government officials and employees, it is in the best interests of the City to provide defense for those officers and employees of the City who are acting in good faith to comply with the California Values Act (SB 54), the 2007 City Council resolution "Supporting Public Safety and Immigrant Rights" (Resolution No. 73677), the 2015 City Council resolution "Affirming the City of San José as a Welcoming City" (Resolution No. 77517), the 2025 City Council resolution "Approving the Welcoming San José Plan 2025-2030" (Resolution No. RES2025-91), and other related City policies and procedures.

This action authorizes the City Attorney and the City Manager to jointly authorize such defense, consistent with Government Code section 995.8, and expresses the City's clear intention to steadfastly stand by its employees where they are acting in good faith compliance with City policies and procedures. The resolution also provides for guidance on actions that are within the course and scope of employment: (1) for employees – job specifications, including typical duties; (2) for City Councilmembers – the City Charter and Council Policy 0-38, "City Council Expenditure and Reimbursement Policy"; and (3) for City Council Appointees – the City Charter.

PUBLIC OUTREACH/INTEREST

This memorandum and the resolution have been posted on the City's website for the June 17, 2025 City Council agenda.

CEQA

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

By _____ /s/ _____

Nora Frimann
City Attorney



Jennifer A. Maguire
City Manager

For questions, please contact Terra Chaffee at 408-535-1900