

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DELEGATING 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

WHEREAS, California Government Code Section 995.8 authorizes, but does not require, the City of San José (“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; and

WHEREAS, 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; and

WHEREAS, while not all-encompassing, the following can be utilized 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; and

WHEREAS, the City Council desires to jointly delegate to the City Attorney and the City Manager the authority 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;

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

- A. The City Council hereby authorizes the City Attorney and the City Manager to jointly 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.
- B. While not all-encompassing, the following can be utilized 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.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk