

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Toni Taber, C.M.C.
City Clerk

**SUBJECT: PROPOSED REVISIONS TO
COUNCIL EXPENDITURE
POLICY 0-38**

DATE: September 26, 2024

RECOMMENDATION

Refer to the City Council for the October 8, 2024 Council agenda to approve revisions to City Council Policy 0-38, City Council Expenditure and Reimbursement Policy, to provide updates for clarification and language consistency; to provide substantive updates to sections entitled Admission to Events, Training and Professional Development (formerly Membership Dues), Employee Recognition, and Unauthorized Expenditure of Public Funds; and to reorganize information for grants, monetary contributions, and in-kind contributions.

SUMMARY AND OUTCOME

Adoption of this resolution will clarify the existing allowable expenses and authority for the Mayor and Council Offices, and authorize additional expenditure of Council Office funds for ceremonials and fellowship tuitions.

BACKGROUND

Since the last revision to Council Policy 0-38 in April 2020¹, additional requests and inquiries from the Mayor and Council Offices have arisen regarding allowable expenses. The proposed Policy amendments (**Attachment** – Council Policy 0-38 – City Council Expenditure and Reimbursement Policy) outline allowable expenses to provide clarity and reduce ambiguity, as well as to authorize additional expenditures that elected officials and their staff may make for the benefit of their service to the City of San José.

¹ See April 7, 2020 City Council Agenda, Item 2.24, *available at* <https://sanjoseca.primegov.com/Portal/Meeting?meetingTemplateld=26778>

ANALYSIS

The proposed amendments provide minor edits to update formatting and consistency of language. In addition, the proposed substantive revisions described below will provide clarity and expand authorized expenses for the Mayor and Council Offices.

Admissions to Events

The proposed revisions will allow elected officials to purchase admission to events where they present ceremonials or commendations. Additionally, it will be inclusive to different family dynamics by authorizing expense for a Mayor's or Councilmember's immediate family member other than a spouse or partner.

Training and Professional Development

The proposed revision to rename the Membership Dues section reflects its broader scope to authorize fellowship tuition and outline authorized staff retreat expenses.

The Mayor and Councilmembers are regularly invited to enroll on a one-time basis in the [American Leadership Forum Silicon Valley Fellows Program](#) and the [San Jose Chamber of Commerce Leadership Cohort](#). Both programs provide exposure to a broad range of issues that impact the City's economic prosperity and quality of life, and improve elected officials' service to San José residents and businesses.

Staff Retreats are currently an allowed expense under existing sections of Council Policy 0-38, such as Food and Beverage, Office Supplies, and Consultants. Outlining requirements provide clarity and encourage hosting retreats at City-owned properties.

Employee Recognition

The proposed revisions remove an outdated reference and authorize non-cash awards for the Mayor's or Councilmember's staff. Since cash awards are not currently contemplated under the City Policy governing employee recognition for City employees², cash awards for the Mayor's or Councilmember's staff are also eliminated.

Grants, Monetary Contributions, and In-Kind Contributions

The proposed revisions improve readability and remove redundancy by combining Grants and Monetary Contributions into a single section, and separately addressing In-Kind Contributions of City staff time or use of City equipment.

Unauthorized Expenditure of Public Funds

Office decorations are often confused with Office Supplies; however, Office decorations are not an allowable expense under Council Policy 0-38. Explicitly prohibiting Office decorations will reduce ambiguity.

² [City Employee Recognition Policy 4.1.4.](#)

EVALUATION AND FOLLOW-UP

A core duty of the City Clerk is to provide administrative oversight for the Mayor and City Council Offices, including financial management. Improving clarity and reducing ambiguity of the Policy will provide transparency in determining authorized and prohibited expenses.

COORDINATION

This memorandum and updated Council Policy were coordinated with the City Attorney's Office and the Office of Employee Relations.

PUBLIC OUTREACH

This memorandum will be posted on the City's meeting agenda website for the October 2, 2024 Rules and Open Government Committee meeting and the October 8, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

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

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
TONI TABER, C.M.C.
City Clerk

For questions, please contact Amanda Hook, Senior Analyst, at (408) 535-1260.

ATTACHMENT:

Council Policy 0-38 – City Council Expenditure and Reimbursement Policy

EXHIBIT A
City of San José, California

COUNCIL POLICY

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 1 of 9	POLICY NUMBER 0-38
EFFECTIVE DATE October 16, 2007	REVISED DATE	
APPROVED BY COUNCIL ACTION 10/16/2007: Item 3.5, Res. No. 74056; 6/23/2009, Item 2.42, Res. No. 75052; 4/7/2020, Item 2.24, Res. No. 79462		

PURPOSE

The purpose of this policy is to clarify and establish guidelines regarding proper expenditures and reimbursements for Members of the City Council and their offices.

The Mayor and Councilmembers must be reimbursed for expenditures incurred in the performance of their duties or functions of office. (Charter Section 408) The office staff to the Members of the City Council must also be reimbursed for actual and necessary expenditures incurred while performing official business of the City when such expenditures are authorized or approved. (Charter Section 902)

The City Clerk will perform all administrative functions on behalf of the Mayor's Office and each Council Office, including the review and approval of expenditures, negotiation and execution of contracts and requests for reimbursement made consistent with this Policy, the San José Municipal Code, and all other City policies regarding procurement and contracts. The Mayor and Council Offices are only authorized to expend funds, and the City Clerk is only authorized to approve such expenditure, to the extent adequate funds have been appropriated by Council. The City Clerk may authorize a designee to perform these functions.

SCOPE

This comprehensive policy clarifies the authorized use of City funds to pay for all Mayor and Council Office expenditures. This policy incorporates by reference existing expenditure and reimbursement policies that apply to the Mayor, Councilmembers, and their office staffs, and establishes the parameters for other expenditures and reimbursements unique to public office.

In determining whether an expenditure is appropriate to be paid from City funds, the Council finds that the following activities by the Mayor, Councilmembers and their staffs, provide benefit to the City:

1. Meeting or otherwise communicating with constituents regarding City operations, services, projects, programs and policies; matters pending before the City Council or other governmental agencies; and other issues raised by constituents;
2. Meeting with state and federal officials regarding issues that impact City operations, services, projects, programs and policies, or the community;

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 2 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

3. Participating in local, regional, state, and national organizations whose activities impact City operations, services, projects, programs and policies;
4. Attending educational seminars or conferences to better inform public officials regarding issues that impact City operations, services, projects, programs and policies, or to improve their skills; and
5. Recognizing and promoting public service in the community.

DEFINITIONS

For the purposes of this Policy, the following terms shall be defined as specified:

Advertising

“Advertising” or “advertisement” means the payment for the placement of a message in any newspaper, magazine, or event program, or on any broadcast system, or electronic medium. However, “Advertisement” does not include the listing of contributors in an event program.

City Sponsored Event

“City Sponsored Event” means either an event to which the City has contributed funding or in-kind services in addition to the funding provided by the Mayor or Councilmember or a Special Event sponsored by the City Council.

Constituent

“Constituent” means residents of, and businesses, civic, cultural, and educational institutions within, the City of San José.

Constituent Outreach

“Constituent Outreach” means communications with constituents to promote civic involvement and public awareness of City operations, services, programs, policies, and matters pending before the City Council and to elicit input from constituents regarding such matters.

Consultant

“Consultant” means an independent contractor, in compliance with the federal Internal Revenue Service Guidelines, hired by the City to provide professional services to the Mayor or a Councilmember.

Gift

“Gift” means the voluntary transfer of any thing, service, payment or value, paid for with City funds without the City receiving a benefit in return.

Public Service Announcement

“Public Service Announcement” means a message in the public interest disseminated with the objective of raising awareness of federal, state, local or City resources, services, programs and policies, or of raising awareness of and changing public attitudes and behavior towards a social issue.

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 3 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

EXPENDITURES AND REIMBURSEMENTS

A. MAYOR AND COUNCILMEMBER COMPENSATION

Mayor and Councilmember compensation is an authorized City expenditure.

The Mayor and Councilmembers receive a salary and benefits which include medical insurance, dental insurance, life insurance, retirement benefits and car allowance. The salaries and benefits are established by the Salary Setting Commission in accordance with the City Charter Section 407.

Since the car allowance is intended to cover vehicle wear and tear and fuel costs, mileage reimbursement is not an authorized expenditure for the Mayor and Councilmembers.

B. MAYOR AND COUNCIL OFFICE STAFF COMPENSATION

The salaries and benefits of the Mayor and City Council support staff are authorized expenditures as long as the staff is hired and compensated pursuant to the City's policies and procedures.

C. RETENTION OF CONSULTANTS

The Mayor and Councilmembers may retain a Consultant to provide services to assist in the conduct of City business.

The Mayor or Councilmember must provide a description of the scope of services for the Consultant to the Office of the City Clerk. The City Clerk is authorized to execute all consultant agreements on behalf of the Mayor or Councilmembers following all applicable City contracting policies and procedures.

D. OFFICE SUPPLIES, SERVICES AND EQUIPMENT

Acquisition of office supplies, services and equipment used solely for the conduct of City business by the Mayor and Councilmembers is an authorized expenditure, subject to the review and approval of the City Clerk, and consistent with all City contracting policies and procedures. Office Supplies and Equipment remain the property of the City of San José at all times.

Expenditures for cell phones or cell phone usage, on City business are subject to the City's Cellular Telephone Policy found at City Administrative Policy 1.7.4.

Expenditures for space acquisition or modifications of the Mayor or Councilmember office spaces are subject to the provisions of Council Policy 2-4, Council Office Space Acquisition and Modification.

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 4 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

E. ADMISSION TO EVENTS

Admission to the following events for the Mayor and Councilmembers and their staffs are authorized expenditures:

1. City Sponsored Events; and
2. Fundraising Events where the proceeds of the event benefit a civic, cultural, educational, or charitable organization providing services to San José residents or businesses; or Events where the Mayor or Councilmember is presenting a ceremonial or commendation or providing remarks, for:
 - a. The Mayor or Councilmember only (one Council staff person may attend in lieu of the Mayor or Councilmember); or
 - b. The Mayor or Councilmember and their spouse, partner, or other immediate family member; or
 - c. The Mayor or Councilmember and one Council staff person; and
3. Conferences, meetings or seminars germane to city government, economic development, land use, public safety, parks and recreation services or any other area of municipal governance that the City undertakes.

Additionally, admission to an event for any City required security detail is an allowable expenditure. Payment or reimbursement by the City for admission to events which are not authorized above must be approved by the Council in advance of the payment or reimbursement.

F. TRAINING AND PROFESSIONAL DEVELOPMENT

1. Membership Dues: Membership dues are not an authorized expenditure except for memberships in those governmental associations in which the City's membership extends to its officials, such as League of California Cities, National League of Cities United States Conference of Mayors, and Sister Cities International, and committees, caucuses and constituent groups of those associations.
2. American Leadership Forum Silicon Valley Fellows Program and San Jose Chamber of Commerce Leadership Program: The Fellows Experience Tuition and Leadership San Jose Cohort Training Tuition, respectively, are authorized expenditures. The Personal Commitment Fee is not an authorized expenditure.
3. Staff Retreats: Costs associated with a Mayor or Council Office retreat are an allowable expense if the following criteria are met:
 - a. The majority of the Mayor or Council Office, or a particular team with a specific focus within the Mayor's Office, attends; and

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 5 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

- b. Expenses are already addressed under this Policy (e.g. Food and Beverage, Office Supplies, and Consultants, etc.); and
- c. Room or venue rental is chosen for a public purpose:
 - i. If within the City of San José, it is encouraged to host the retreat at a property owned by the City of San José; or
 - ii. If outside the City of San José, the property must be owned by the City of San José (e.g. San José Family Camp). Overnight stays are authorized when necessary for the location; and
- d. The retreat's purpose is for training, and allowable expenses include but are not limited to:
 - i. Educational programs or assessments to improve the Mayor or Council Office's ability to perform official duties in support of City business; or
 - ii. Facilitation of strategic planning for the Mayor or Council Office.

G. PUBLICATION SUBSCRIPTIONS

Subscriptions to the following types of publications are authorized expenditures:

1. A publication included as part of membership in an organization set forth in Section F, above; or
2. A publication specific to government, land use, municipal finance, economics, public safety, parks and recreation services; or any other area of municipal governance that the City undertakes; or
3. A local publication containing information of general interest to the community.

H. ADVERTISING

The cost of advertising is an authorized expenditure if the advertising relates to:

1. A City Sponsored Event; or
2. Recruitment of staff for the Mayor or a Council Office; or
3. Purchase of an advertisement from a non-profit entity providing services to San José residents or businesses for fundraising purposes of the non-profit in an event program or directory of the organization; or
4. Public Service Announcements during a declared national, state or local emergency.

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 6 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

Advertisements are subject to the state law restrictions regulating mass mailings. Advertisements in non-subscription newspapers, which are newspapers sent free to all residents in a particular area without the residents requesting it, are prohibited under the state mass mailing law if the advertisement features an elected official and more than 200 non-subscription newspapers are sent in a calendar month.

Advertisements paid with public funds must properly attribute the City by including the City's logo and clearly state that the advertisement is paid for by the City of San José.

To be an authorized expenditure, the design of advertisements should conform to adopted City guidelines regarding the use of the City logo and the City of San José Communications Guide. All advertising must be approved by the Office of the City Clerk prior to release and publication.

I. CONSTITUENT OUTREACH

1. Costs incurred by the Mayor or any Councilmember in conducting the following constituent outreach activities are authorized expenditures:
 - a. Communicating with constituents within the state law restrictions regulating mass mailings; or
 - b. Conducting informal surveys limited to eliciting constituent priorities or needs, except that the City will not pay for any such surveys within 12 months of any election in which the requesting official may run. Furthermore, in no event shall the City pay for any polling activities related to any person or issue that is or is expected to be the subject of a political campaign; or
 - c. Special events for the purpose of providing information to constituents on City services and programs.
2. City funds may not be used to provide gifts to constituents except as follows:
 - a. The gift is valued at less than \$50, is ceremonial or commemorative in nature, (i.e. flowers, balloons, plants, books, or City merchandise), and is given as a one-time token of appreciation for the Constituent's service to the City; or
 - b. Tickets to City-sponsored events such as State of the City valued at \$50 or less per ticket for recipients of awards or for the recognition of the constituent for service to the City and/or District. In addition, the Mayor may also purchase and provide tickets for economic development purposes to persons or organizations who have or are interested in locating their business operations in the City or in providing service to City of San José residents; or
 - c. The gift is approved in advance by the City Council.

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 7 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

J. EMPLOYEE RECOGNITION

Costs incurred by the Mayor or Councilmembers in recognition of their Office's employee performance or service are authorized expenditures. The Mayor or Councilmember may spend up to \$50 on employee recognition events, and up to \$35 in non-cash awards (e.g. gift cards) per fiscal year per employee.

K. GRANTS AND MONETARY CONTRIBUTIONS

The Mayor or a Councilmember may direct monetary contributions to a nonprofit organization, unincorporated association, or government entity as authorized expenditures only if the following criteria are met:

1. If the amount of the grant or monetary contribution is:
 - a. Over \$500, a written grant agreement is required; or
 - b. \$500 or less, the Mayor or Councilmember certifies, using a form supplied by the City Clerk, that the recipient's organization type and the contribution purpose complies with this Policy and any restrictions on the source of funding; and
2. The recipient of the grant or contribution provides services to San José residents or businesses; and
3. If the funding is from the Arena Community Fund, the contribution is for an educational, cultural, or recreational purpose; and
4. In no event shall such contributions be authorized for religious or political purposes; and
5. Any acknowledgement of the contribution by the recipient organization shall attribute the City of San José as the source of funding; and
6. Any contribution to an organization proposed by the Mayor or a Councilmember who is a member of, or receiving services from, that organization must be approved in advance by the City Council; and
7. The Mayor and Councilmembers are prohibited from proposing contributions to organizations on which they serve as Boardmembers.

L. IN-KIND CONTRIBUTIONS

The Mayor or a Councilmember may direct in-kind contributions of City staff time or use of City equipment to a nonprofit organization, unincorporated association, or government entity as authorized expenditures only if the following criteria are met:

1. The recipient provides services to San José residents; and

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 8 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

2. The contribution is for a public purpose; and
3. The Mayor or Councilmember certifies, using a form supplied by the City Clerk, that the recipient's organization type complies with this Policy and the contribution follows all applicable City and administrative policies and procedures; and
4. In no event shall such contributions be authorized for religious or political purposes; and
5. Any acknowledgement of the contribution by the recipient organization shall attribute the City of San José as the source of funding; and
6. Any contribution to an organization proposed by the Mayor or a Councilmember who is a member of, or receiving services from, that organization must be approved in advance by the City Council; and
7. The Mayor and Councilmembers are prohibited from proposing contributions to organizations on which they serve as Boardmembers.

M. TRAVEL

Costs incurred related to official travel by the Mayor, each Councilmember, and their staff, pursuant to City Council Policy No. 9-5, are authorized expenditures.

1. Authorized travel by the Mayor or Councilmembers which is fully paid by another agency and which is related to the Mayor or Councilmember's representation of the City as a member of another governmental entity (such as the Valley Transportation Authority, Metropolitan Transportation Agency, Association of Bay Area Governments, etc.) is subject to the travel and reimbursement policies and procedures of the entity which is paying for the travel.
2. Authorized travel by the Mayor or Councilmembers which is paid for through another City department is subject to provisions of Council Policy 9-5.
3. Authorized travel by the Mayor or Councilmembers for which expenses are split between another entity and the City is subject to the provisions of Council Policy 9-5.

N. FOOD AND BEVERAGE

Costs incurred by the Mayor and Council for the purchase of food and beverages under the following circumstances are authorized expenditures:

1. Pursuant to the City's Food and Beverage Expenditure Policy (City Policy Manual Section 5.1.5); or

TITLE CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICY	PAGE 9 of 9	POLICY NUMBER 0-38
----------------------------------------------------------------	-----------------------	------------------------------

2. Providing food and beverages at meetings or other events with constituents which are open to the public; or
3. Hosting meals for recipients of City commendations immediately prior to or after the Council/Board meeting at which they are honored.

The purchase of alcoholic beverages is not an authorized expenditure.

O. UNAUTHORIZED EXPENDITURE OF PUBLIC FUNDS

Unless otherwise specifically allowed under this Policy, the following costs incurred by the Mayor or Councilmembers are not authorized expenditures and will not be paid for by the City:

1. The personal portion of any trip;
2. Political or religious contributions or events;
3. Family expenditures, including a partner's expenditures when accompanying the Mayor or Councilmember on City-related business, as well as child-related, or pet-related expenditures;
4. Entertainment expenditures, sporting events (including gym, massage and/or golf related expenditures), or other cultural events; provided however, that expenditures incurred in the use of the City's box at the Arena, subject to the provisions of City Council Policy 9-11 are authorized expenditures;
5. Personal automobile expenditures, including repairs, traffic citations, insurance, or gasoline;
6. Personal losses incurred while on City business, such as losses due to theft, accident or gambling; and
7. Office decorations.

Any questions regarding the propriety of a particular type of expenditure should be resolved by the City Clerk before the expenditure is incurred.

PROCESS FOR PAYMENT AND REIMBURSEMENT AND REVIEW

All requests for reimbursements and processing of payments must be submitted to the City Clerk. The City Clerk will process requests pursuant to the applicable Section of the City Policy Manual and policies as set by the Finance Department.

All other expenditures allowed by this Policy, but not covered by the City Policy Manual or Finance Department policies must be submitted to the City Clerk for processing and reimbursement using the appropriate forms provided by the Finance Department.