



Memorandum

TO: HONORABLE MAYOR AND
MEMBERS OF THE CITY
COUNCIL

FROM: Councilmember Kamei
Councilmember Cohen
Councilmember Candelas

SUBJECT: Item 3.10: Pay for
Performance

DATE: June 6, 2025

Approved:

RECOMMENDATION

1. Affirm the authority of the independent Salary Setting Commission and reaffirm the current process of setting Mayor and Council compensation independent of influence by the Mayor and Council.

BACKGROUND

In 2018, 85% of San José voters approved a charter amendment to establish an independent Salary Setting Commission, removing the authority to set City Council salaries from elected officials themselves.¹ This reform codified a clear expression of the public's desire to ensure that decisions about Council compensation remain fair, objective, and insulated against political interests. The Commission has since served as a safeguard, upholding a transparent process for salary adjustments that reflects the responsibilities of public office while avoiding conflicts of interest.²

¹ In November 2018, San José voters overwhelmingly approved Measure U, a City Charter amendment establishing an independent Salary Setting Commission to determine the compensation of the Mayor and City Council. The measure passed with 85.93% of the vote. See:

Santa Clara County Registrar of Voters, *2018 General Election Results — Local Measures — City of San Jose Measure U* at https://results.enr.clarityelections.com/CA/Santa_Clara/92418/Web02.222611/#/cid/137

² The Salary Setting Commission's recommendations are published annually and reflect an independent assessment of Council compensation based on public input, job responsibilities, and comparability data. See: City of San José, *2024 Salary Setting Commission Final Report* <https://www.sanjoseca.gov/home/showpublisheddocument/114981/638635378480570000>

The current proposal to introduce a “pay-for-performance” model for Council compensation developed by Mayor Mahan and Vice Mayor Foley reflects an innovative approach to public sector accountability.³ Their leadership in seeking to enhance transparency and drive results is appreciated, and the spirit of exploring new regulations to better serve the people of San José is commendable. As with any new and creative initiative, it is critical to examine whether a pay-for-performance model, commonly used in the private sector, is a constitutionally sound or effective mechanism for elected officials in a representative democracy. The concept draws from performance-based compensation systems common in for-profit organizations where executives employ financial incentives to drive productivity and shareholder returns and is not readily transferable to the unique context of democratic governance.

ANALYSIS

Pay-for-performance systems are designed to align employee behavior with organizational profit goals by incentivizing individual productivity through measurable outcomes. In the private sector, shareholders and owners define success, and management structures exist to enforce accountability to their interests. By contrast, elected officials in a representative democracy are accountable to the public through mechanisms such as elections, public hearings, recalls, and media scrutiny. In a representative democracy, voters, not internal performance evaluations or productivity metrics, are the appropriate and constitutional arbiters of elected officials’ effectiveness.

Councilmembers operate within a complex system of interdependent agencies and legal frameworks. Their electoral and constitutional mandate is to respond to community needs. Unlike a private enterprise driven by market forces and profitability, City government is responsible for balancing competing priorities, responding to emergent issues, and ensuring the equitable distribution of public services across diverse communities.⁴

³ Our offices have not identified any other *municipal* examples of performance-based pay tied to elected official compensation. The closest tangential approximation appears to be the California State Legislature’s approach to budget deadlines. In 2010, California voters approved Proposition 25, which included a provision withholding legislative pay if the state budget was not passed by the June 15 constitutional deadline (see: https://lao.ca.gov/ballot/2010/25_11_2010.aspx). While this reform has technically ensured on-time budgets ever since, it has also led to lawmakers adopting so-called “placeholder” budgets to meet the deadline and preserve their compensation. As reported in *CalMatters*, these budgets are often passed in skeletal form to meet the constitutionally mandated timeline, and then significantly revised later through numerous budget trailer bills — a workaround that raises concerns about transparency and the integrity of the budget process. (See <https://calmatters.org/commentary/2020/06/california-budget-tax-increase/>.) This is the only precedent we have found where pay-for-performance models have been applied to elected officials, and the results illustrate the limitations and unintended consequences of such frameworks, even when applied to something as objective as specific deadline.

⁴ Research in public administration suggests that while performance-related pay (PRP) can yield some motivational benefits, its overall impact on actual performance outcomes in government settings is limited. A recent meta-analysis found a statistically small positive effect of PRP on employee and performance outcomes in the public sector. See: Van der Wal, Z., Mussagulova, B., & Chen, C. (2023). *Does Performance-Related Pay Work? A Meta-Analysis of Public Administration Studies*, <https://www.tandfonline.com/doi/full/10.1080/25741292.2023.2205756#d1e325>

Tying personal compensation to specific metrics may initially sound good. However, such metrics—particularly those selected and evaluated by the Council itself—would create incentives for short-term decision-making or setting less ambitious goals to ensure salary retention. This approach also risks undermining the representative function of Councilmembers, who are elected to serve the unique needs of their districts. San José is a diverse city, home to distinct communities, and Councilmembers must navigate district-specific concerns that may not align neatly with citywide benchmarks chosen by a majority vote of the Council. A rigid focus on uniform metrics may discourage necessary dissent, thoughtful deliberation, or advocacy for policies that prioritize long-term equity and sustainability over immediate, quantifiable outcomes.

Moreover, public accountability is critical, which is why it is already robustly embedded in the democratic process. Councilmembers are subject to public scrutiny, competitive elections, term limits, recall mechanisms, and ethical oversight.⁵ These safeguards exist precisely to ensure that elected officials act in the public interest, not for personal financial gain. The notion that additional financial incentives are necessary to motivate elected officials fundamentally misrepresents the nature of public service. Individuals who seek elected office should be doing so to represent their constituents, uphold democratic principles, and contribute to the public good.

Elected officials are accountable to the voters, not to shareholders or financial benchmarks. San José has an established system in place for determining Council salaries that is fair, independent, and designed to promote public trust. Any proposed changes to that system should be evaluated with caution and with careful attention to the risks of undermining democratic accountability, distorting policy priorities, and eroding the independence of elected office.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.

⁵ Public accountability for local elected officials in California is enforced through multiple mechanisms, including the Political Reform Act of 1974, which governs campaign finance, conflicts of interest, and financial disclosures (see: <https://fppc.ca.gov/the-law.html>); oversight by the City of San Jose Board of Fair Campaign and Political Practices (BFCCP), which enforces local ethics and election rules (see: <https://www.sanjoseca.gov/your-government/appointees/city-clerk/boards-commissions/boards-commissions-links/board-of-fair-campaign-political-practices>); state recall laws (see: <https://www.sos.ca.gov/elections/recalls>) and the public transparency ensured by the Brown Act and California Public Records Act. These frameworks collectively provide rigorous safeguards to ensure ethical conduct and public trust in government.