

# *Memorandum*

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**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

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

**DATE:** April 1, 2020

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## **RECOMMENDATION**

Adopt a resolution approving revisions to City Council Policy 0-38, City Council Expenditure and Reimbursement Policy allowing advertisement expenditures related to Public Service Announcements during a declared national, state or local emergency.

## **OUTCOME**

Adoption of this resolution will allow the Mayor and Council Offices to spend Council Office funds on advertising related to public service announcements during a declared national, state or local emergency.

## **BACKGROUND**

At the March 24, 2020 Council meeting, Council directed staff to return to Council on April 7 with an amendment to Council Policy 0-38 to allow Council Offices to spend funds on advertising related to public service announcements during a public emergency.

## **ANALYSIS**

The proposed amendment allows the Mayor and Council Offices to spend Council Office funds on advertising related to public service announcements during a declared national, state or local emergency. Public Service Announcement is defined in the proposed policy as 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. Advertising involves paying City funds to place a message in a newspaper, magazine, event program, on any broadcast system, or electronic medium.

Advertisements are subject to the state law restrictions regulating mass mailings. Under California Government Code Section 89002(a)(4), advertising in non-subscription newspapers are prohibited under the state mass mailing law if the advertisement features an elected official and more than 200 newspapers are sent in a calendar month. A non-subscription newspaper is a newspaper that is sent free to all residents in a particular area without residents requesting it, such as the Cambrian Resident, Evergreen Times, Willow Glen Times, Almaden Times, and The Villager. If the advertisement has no reference to the elected official or the official's district office, the advertisement is permitted in non-subscription newspapers under the state mass mailing law.

Advertising in subscription newspapers, such as The San Jose Mercury News, where residents must subscribe in order to receive the newspaper, are allowed under the state mass mailing law, even if they feature an elected official.

### **CONCLUSION**

The proposed amendment will allow the Mayor and Council Offices to spend Council Office funds on advertising related to messages 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, during a declared national, state or local emergency.

### **EVALUATION AND FOLLOW-UP**

This item was requested by the City Council to return to the City Council at its April 7, 2020 Council meeting.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals

### **COORDINATION**

This memorandum has been coordinated with the City Clerk's Office and the City Manager's Office.

### **COMMISSION RECOMMENDATION/INPUT**

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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.

RICHARD DOYLE  
City Attorney

By: /s/ Neelam Naidu  
Neelam Naidu  
Senior Deputy City Attorney

For questions, please contact Neelam Naidu, Senior Deputy City Attorney at (408) 535-1990.