

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE ADDING
SECTION 4.04.045 AND AMENDING SECTIONS 4.04.055,
4.04.080, AND 4.04.085 OF CHAPTER 4.04 OF TITLE 4,
AND AMENDING SECTION 8.04.030 OF CHAPTER 8.04
OF TITLE 8 OF THE SAN JOSE MUNICIPAL CODE
RELATED TO THE CONTRACT AUTHORITY OF THE
INDEPENDENT POLICE AUDITOR**

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

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

SECTION 1. Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended by adding a Section to be numbered, entitled and to read as follows:

4.04.045 Contract Authority of the Independent Police Auditor

The Independent Police Auditor is hereby authorized to enter into and execute for and on behalf of the City, without the prior approval of the City Council, any contract:

- A. Whose object or purpose is related to the activities or functions of the Office of the Independent Police Auditor; and
- B. Which is not required by any applicable law to be let to the lowest responsible bidder; and
- C. Which provides for payment of money by the City; and
- D. Which has a maximum value of three hundred and twenty thousand dollars (\$320,000) (as adjusted pursuant to Section 4.04.085); and
- E. For which moneys have been appropriated and for which there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contract.

SECTION 2. Section 4.04.055 of Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended to read as follows:

4.04.055 Contract Amendment Authority of Council Appointees

- A. The City Manager, the City Attorney, City Clerk, Independent Police Auditor, and City Auditor are authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council, any amendment to a contract which does not increase the compensation for the contract to accomplish the following:

1. To extend the term of the contract for a period not to exceed six (6) consecutive months from the last City Council approved termination date; or
 2. To make minor revisions to the scope of services; or
 3. To make clerical corrections.
- B. In addition, the City Manager, the City Attorney, City Clerk, Independent Police Auditor, and City Auditor are authorized to approve assignments to contracts previously approved by the City Council when he or she has determined that the proposed assignee is at least as responsible and capable of performing the agreement as the original contractor.

SECTION 3. Section 4.04.080 of Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended to read as follows:

4.04.080 Quarterly Reports

- A. The City Manager shall prepare a quarterly report which describes all contracts having a value of One Hundred Thousand Dollars (\$100,000.00) (as adjusted pursuant to Section 4.04.085) or more that were entered into and executed by the City Manager, City Attorney, City Clerk, Independent Police Auditor, and City Auditor, in the preceding calendar quarter. The report shall identify the subject matter of the contract, the person(s) or entity(ies) with whom the contract was made and the amounts, if any, payable by or to the City under each contract.
- B. The City Attorney, City Clerk, Independent Police Auditor, and City Auditor shall provide to the City Manager the information necessary to enable the preparation

of quarterly reports. Such quarterly reports will be posted on the City's web site on a web page designated for such postings.

SECTION 4. Section 4.04.085 of Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended to read as follows:

4.04.085 Periodic Automatic Adjustments to Contract Authority Limitations and Related Figures

- A. For the purposes of this Section, "CPI" shall mean the Consumer Price Index, All Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-San José area, with all items included. In the event the CPI is no longer published, the Director shall use another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.
- B. For the purposes of this Section, "Applicable Monetary Amounts" shall mean those monetary amounts set forth in Sections 4.04.020, 4.04.030, 4.04.040, 4.04.045, 4.04.050, 4.04.080, 4.12.210, 4.12.350, 4.12.415, 4.12.420, 4.16.240A., 4.20.010 and 4.20.040.
- C. Commencing on July 1, 2013, and continuing every three (3) years thereafter on July 1st, the Applicable Monetary Amounts shall increase based on the percentage increase from the CPI which is published most immediately preceding the July 1st as of which the immediate past calculation occurred (or, for the purposes of the first calculation, July 1, 2010) to the CPI which is published most immediately preceding the July 1st as of which the new calculation shall occur. The Applicable Monetary Amounts thus adjusted shall

thereafter be rounded to the nearest ten thousand, which rounded amounts shall be the Applicable Monetary Amounts for the next three (3) years. If there is no increase in the CPI, then the Applicable Monetary Amounts shall remain unchanged.

1. Notwithstanding the foregoing, the first calculation for Applicable Monetary Amounts in Sections 4.04.020B.7., 4.20.010 and 4.20.040 shall be July 1, 2016, with any increase based on the percentage increase from the CPI which is published most immediately preceding July 1, 2013.

2. Notwithstanding the foregoing, the first calculation for Applicable Monetary Amount in Section 4.04.045 shall be July 1, 2022, with any increase based on the percentage increase from the CPI which is published most immediately preceding July 1, 2019.

D. The foregoing calculations shall be made by the Director, as defined in Section 4.12.020 of this Code, and the effective Applicable Monetary Amounts shall be posted on the City's web site on a web page designated for such postings.

SECTION 5. Section 8.04.030 of Chapter 8.04 of Title 8 of the San José Municipal Code is hereby amended to read as follows:

8.04.030 Conflict of Interest of the Office of the ~~Independent~~ Police Auditor

A. The ~~Independent Police Auditor~~ ~~police-auditor~~ may appoint or designate an alternate police auditor to assume the duties and responsibilities of the ~~Independent Police Auditor~~ ~~police-auditor~~ for the limited purpose of reviewing internal affairs unit investigations of complaints in which the ~~Independent Police Auditor~~ ~~police-auditor~~ has a conflict of interest that warrants disqualification of the ~~office of the police-auditor~~ Office of the Independent Police Auditor.

~~B. The police auditor is hereby authorized to enter into and execute for and on behalf of the City, without the prior approval of the City Council, any contract:~~

~~1. For the purpose specified in subsection A. above; and~~

~~2. Which has a maximum value of two hundred fifty thousand dollars (\$250,000.00); and~~

~~3. For which moneys have been appropriated and for which there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contract.~~

CB. The alternate police auditor appointed pursuant to subsection A. shall have the duties and responsibilities related to the review of internal affairs unit investigations of complaints set forth in this Chapter, including but not limited to the responsibility of maintaining the confidentiality of police department records and information set forth in Section 8.04.010 E.

PASSED FOR PUBLICATION of title this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk