SAW:SH:JMD
7/27/2026

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 3.48.070 OF CHAPTER 3.48, TITLE 3 OF THE SAN JOSE MUNICIPAL CODE

WHEREAS, the City of San José has established and maintains a voluntary deferred compensation plan; and

WHEREAS, the City Manager administers the City's Deferred Compensation Plan and has the sole authority to enforce the Plan; and

WHEREAS, the Deferred Compensation Advisory Committee has the authority to make decisions on behalf of the City as to the investment policy, the choice and nature of investments to be available under the Plan, and enter into agreements on behalf of the City for investment advice under the Plan where the fees to be paid under such an agreement are to be paid by participants of the Plan or where there is no amount to be paid by the City under the agreement; and

WHEREAS, state laws provide the types of investments that may be selected for deferred compensation plans; and

WHEREAS, the proposed amendment seeks to incorporate state laws relating to investments available to deferred compensation funds like the City's Deferred Compensation Plan; and

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"), it has been determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008; 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. Section 3.48.070 of Chapter 3.48 of Title 3 of the San José Municipal Code is amended to read as follows:

3.48.70 Deferred compensation fund.

A. The City shall establish a deferred compensation fund to which all deferred compensation shall be credited at such times as the compensation would have been payable to individual employees if not a participant in the Plan, and to which all inter-plan transfer and direct rollover amounts accepted by the Plan shall be credited as received. Separate accounts will be established for each employee participating which will include all amounts of deferred compensation, inter-plan transfer amounts, direct rollover amounts, investments made, shares acquired and earnings and gains on investments. Each account will be valued at least semiannually.

B. On executing the participation agreement, the employee shall designate his or her investment choice prospectively only. The Advisory Committee shall select funds and investments to be offered for amounts of deferred compensation in the types of investments set forth in Sections 53601 and 53602 of the Government Code of the State of California and other investment types available to deferred compensation funds under State law including corporate stocks, bonds, and securities, mutual funds, savings and loan accounts, credit union accounts, life insurance policies, variable and fixed annuities, mortgages, deeds of trust, or other security interests in real or personal property, which the Advisory Committee's sole judgment determines to be suitable investments under this Plan. A deferred compensation fund is a public pension or retirement fund for the purposes of Section 17 of Article XVI of the Constitution of the State of California. Nothing in this Section shall be construed to permit any type of investment prohibited by the Constitution of the State of California.

PASSED FOR PUBLICATION of title this _____ day of August, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

____
MATT MAHAN
Mayor

ATTEST:

____
TONI J. TABER, MMC
City Clerk