

# Memorandum

**TO:** HONORABLE MAYOR  
CITY COUNCIL

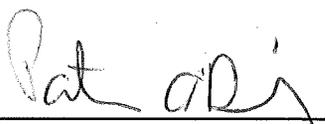
**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Proposed Ordinances to Amend  
the Municipal Code to Require  
Additional Employee Retirement  
Contributions for Fiscal Year

**DATE:** June 10, 2010

Attached are copies of Proposed Ordinances to amend the Municipal Code to require additional employee retirement contributions for fiscal year 2010-11. Amendment of the Code is needed to implement the retirement contribution provisions contained in the City's Last, Best and Final Offers, which are set for the City Council consideration on June 15, 2010 Agenda, Items 3.2-3.8.

Richard Doyle  
City Attorney

By:   
PATRICIA A. DEIGNAN  
Chief Deputy City Attorney

Attachments

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTERS 3.28 AND 3.44 OF THE SAN JOSE MUNICIPAL CODE TO ADD NEW SECTIONS 3.28.755, 3.28.995 AND 3.44.105 AND AMEND SECTIONS 3.28.770 AND 3.28.780 TO IMPLEMENT REVISIONS IN EMPLOYEE AND EMPLOYER RETIREMENT CONTRIBUTIONS FOR THE FEDERATED CITY EMPLOYEES RETIREMENT SYSTEM FOR FISCAL YEAR 2010-2011**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Part 6 of Chapter 3.28 of Title 3 of the San José Municipal Code is hereby amended by adding a new section to be numbered, entitled and to read as follows:

**3.28.755 Additional Employee Contributions for Fiscal Year 2010-2011**

Notwithstanding any other provisions of this Part 6, members of this system shall make such additional retirement contributions for fiscal years 2010-2011 as may be required by resolution adopted by the City Council or by executed agreement with a recognized bargaining unit.

SECTION 2. Section 3.28.770 of Part 6 of Chapter 3.28 of Title 3 of the San José Municipal Code is hereby amended to read as follows:

**3.28.770 Contributions - Individual Account Requirements**

- A. Each member's normal contributions, including those made under the Chapter 3.24 system and those made under this system, shall be credited by the Director of Finance to an individual account kept for such member. Such account shall

also show any and all withdrawals or redeposits of normal contributions, if any, made by the member pursuant to the provisions of the Chapter 3.24 retirement system or this system. The total normal contribution so credited to a member, plus interest, if any, on such contributions which has been credited to such account, less all such contributions which have been withdrawn and not redeposited, shall be deemed, unless and except as may be otherwise provided by other provisions of this system, to be the accumulated normal contributions of such member in this system.

B. Each member's prior service contributions, made on or after July 1, 1975 under the provisions of this system, also shall be credited by the Director of Finance to an individual account kept for such member. Such account shall also show all withdrawals of prior service contributions, if any, made by such member pursuant to the provisions of this system. The total prior service contributions thus credited to a member, plus interest if any on such contributions which has been credited to such account, less withdrawals, shall be deemed, unless and except as may be otherwise provided by other provisions of this system, to be the accumulated prior service contributions of such member in this system.

C. Each member's additional contributions made on or after July 1, 2010 under the provisions of this system, also shall be credited by the Director of Finance to an individual account kept for such member. Such account shall also show all withdrawals of additional contributions, if any, made by such member pursuant to the provisions of this system. The total additional contributions thus credited to a member, plus interest if any on such contributions which has been credited to such account, less withdrawals, shall be deemed, unless and except as may be otherwise provided by other provisions of this system, to be the accumulated additional contributions of such member in this system.

D. Payment of salaries and wages, less contributions required of a member, is in full discharge of all claims and demands whatsoever for the services rendered by the members during the periods covered by such payment, except the benefits afforded by the provisions of this Chapter.

**SECTION 3.** Section 3.28.780 of Part 6 of Chapter 3.28 of Title 3 of the San José Municipal Code is hereby amended to read as follows:

**3.28.780 Return of Contributions**

- A. Except as otherwise provided in Sections 3.28.580, 3.28.590, 3.28.785, and 3.28.2420 of this Chapter, if the membership herein of a member of this system is terminated for any reason other than death or retirement, the member shall be paid, within six (6) months after the date of such termination, all of his or her accumulated normal contributions, ~~and all of his or her accumulated prior service contributions~~ and all of his or her accumulated additional contributions.
- B. Anything elsewhere in this Chapter 3.28 to the contrary notwithstanding, if during a member's employment with the City the member is required to or elects to become a member of any other retirement system supported in whole or in part by public funds, or is required to or elects to discontinue such federated City service as qualifies him or her for membership in this system and thereafter renders City service other than federated City service, such member shall be considered as having resigned from federated City service and, except as otherwise provided in Sections 3.28.580, 3.28.590, 3.28.785, and 3.28.2420, to have terminated membership in this system, as of the date he or she becomes a member of said other system or ceases to render said federated city service as aforesaid.

- C. Except as provided in Section 3.28.785, upon termination of a member's membership in this system for any reason other than death or retirement, the member, and any and all other persons or estates who might otherwise be entitled to any rights or benefits under this system because of such member's membership, shall thereupon cease to have or be entitled to any rights or benefits under this system.

**SECTION 4.** Part 7 of Chapter 3.28 of Title 3 of the San José Municipal Code is hereby amended Code is hereby amended by adding a new section to be numbered, entitled and to read as follows:

**3.28.995 Offset to City for Additional Employee Contributions for Fiscal Year 2010-2011**

Notwithstanding any other provision of the Part 7, the City shall be entitled to offset fifty percent (50%) of the additional employee retirement contributions that are made under Section 3.28.755 against the retirement contributions that the City would otherwise be required to make under this Part 7.

**SECTION 5.** Chapter 3.44 of Title 3 of the San José Municipal Code is hereby amended Code is hereby amended by adding a new section to be numbered, entitled and to read as follows:

**3.44.105 Additional Employee Contributions for Fiscal Year 2010-2011 – Federated Employee Plan**

- A Notwithstanding any other provisions of this Chapter 3.44, members of the federated City employees retirement system shall make such additional contributions to the COLA fund for fiscal years 2010-2011 as may be required by

resolution adopted by the City Council or by executed agreement with a recognized bargaining unit.

- B. Notwithstanding any other provisions of this Chapter 3.44, the City shall be entitled to offset fifty percent (50%) of the additional employee contributions that are made under Section 3.44.105.A against the COLA fund contributions that the City would otherwise be required to make under this Part 7.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING PART 10 OF CHAPTER 3.36 OF TITLE 3 AND CHAPTER 3.44 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE TO ADD NEW SECTIONS 3.36.1525 AND 3.44.095 TO IMPLEMENT REVISIONS IN EMPLOYEE AND EMPLOYER RETIREMENT CONTRIBUTIONS FOR THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN FOR FISCAL YEAR 2010-2011**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Part 10 of Chapter 3.36 of Title 3 of the San José Municipal Code is hereby amended by adding a new section to be numbered, entitled and to read as follows:

**3.36.1525 Additional Employee Contributions and Employer Contribution Offset for Fiscal Year 2010-2011**

- A Notwithstanding any other provisions of this Part 10, members of this plan who are not subject to the provisions of City Charter Section 1111 shall make such additional retirement contributions for fiscal years 2010-2011 as may be required by resolution adopted by the City Council or by executed agreement with a recognized bargaining unit.
- B. Notwithstanding any other provision of the Part 10, the City shall be entitled to offset fifty percent (50%) of the additional employee retirement contributions that are made under subsections A. and B. of this Section 3.36.1525 against the retirement contributions that the City would otherwise be required to make under this Part 10.

SECTION 2. Chapter 3.44 of Title 3 of the San José Municipal Code is hereby amended Code by adding a new section to be numbered, entitled and to read as follows:

**3.44.095 Additional Employee Contributions for Fiscal Year 2010-2011 – Police and Fire Plans**

- A Notwithstanding any other provisions of this Chapter 3.44, members of the Police and Fire Department Retirement Plan who are not subject to the provisions of City Charter Section 1111 shall make such additional COLA fund contributions for fiscal years 2010-2011 as may be required by resolution adopted by the City Council or by executed agreement with a recognized bargaining unit.
  
- B Notwithstanding any other provisions of this Chapter 3.44, the City shall be entitled to offset fifty percent (50%) of the additional employee COLA fund contributions that are made under subsections A. and B. of this Section 3.44.095 against the COLA fund contributions that the City would otherwise be required to make under this Chapter 3.44.

RD:MD1  
6/11/10

**DRAFT**

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk