

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
VARIOUS SECTIONS OF CHAPTER 3.50 OF TITLE 3 OF
THE SAN JOSE MUNICIPAL CODE, THE SAN JOSE PTC
PLAN, TO COMPLY WITH THE PENSION PROTECTION
ACT OF 2006**

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

SECTION 1. Section 3.50.115 of Chapter 3.50 of Title 3 of the San José Municipal Code is amended to read as follows:

3.50.115 Inter-Plan Transfer

- A. If a participant terminates employment with the City and accepts employment with any other local government, or state, or tax-exempt organization which has an eligible deferred compensation plan and which plan provides for acceptance of amounts previously deferred, the participant may elect that all amounts previously deferred be transferred to the new employer's plan.
- B. Beginning January 1, 2002, a participant may transfer all or a portion of the participant's account directly to the trustee of a defined benefit governmental plan (as defined in Internal Revenue Code Section 414(d)) if such transfer is:
- 1 For the purchase of permissive service credit (as defined in Internal Revenue Code Section 415(n)(3)(A)) under such governmental plan; or
 2. A repayment to which Internal Revenue Code Section 415 does not apply by reason of subsection (k)(3) thereof.

- C. The advisory committee or the City may require such documentation regarding any plan to which a transfer may be made as it deems necessary to effectuate the transfer; to confirm that such plan is an eligible deferred compensation plan of a local government or state or defined benefit governmental plan, as applicable; or to assure that transfers are permitted under such plan.

SECTION 2. Section 3.50.116 of Chapter 3.50 of Title 3 of the San José Municipal Code is amended to read as follows:

3.50.116 Eligible Rollover Distributions

- A. Beginning January 1, 2002, a distributee may elect to take a distribution from this plan in the form of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- B. For the purposes of this Section:
1. "Distributee" includes:
 - a. An employee or former employee of the City; and
 - b. With respect to the interest of the spouse, an employee's or former employee's surviving spouse; and
 - c. With respect to the interest of the beneficiary, an employee's or former employee's designated beneficiary; and

- d. With respect to the interest of the spouse or former spouse, an employee's or former employees' spouse or former spouse who is the alternate payee under a conforming domestic relations order.
2. "Eligible retirement plan" means an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Internal Revenue Code Section 408(b), a Roth individual retirement account described in Internal Revenue Code Section 408A (for distributions after December 31, 2007), an annuity plan described in Internal Revenue Code Section 403(b), a qualified trust described in Internal Revenue Code Section 401(a), or an eligible deferred compensation plan that accepts an eligible rollover distribution.
 3. An "eligible rollover distribution" is any distribution of all or a portion of the balance to the credit of the distributee which constitutes an eligible rollover distribution under Internal Revenue Code Section 401(a)(31)(C).
- C. The advisory committee or the City may require such documentation regarding any plan to which a rollover distribution may be made as it deems necessary to effectuate the distribution; to confirm that such plan is an eligible retirement plan; or to assure that rollover distributions are permitted under such plan.
- D. Effective with respect to distributions made on or after January 1, 2010, a beneficiary other than a participant's (or former participant's) surviving spouse or a participant's (or former participant's) spouse or former spouse who is an "alternate payee" under a qualified domestic relations order is a person eligible to make a rollover with regard to the interest of the participant or former participant, subject to the limitation for such a beneficiary that an eligible retirement plan is an individual retirement account or individual retirement annuity that will be

treated as an inherited individual retirement account or annuity under Internal Revenue Code Section 402(c)(11) of the Code.

PASSED FOR PUBLICATION of title this _____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk