CITY OF SAN JOSÉ, CALIFORNIA

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City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that **"Ordinance No. 28743"**, the original copy of which is attached hereto, was passed for publication of title on the **11th day of May, 2010,** was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **18th day of May, 2010,** by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.
VACANT:	NONE.

Said ordinance is effective as of **18th day of June, 2010.**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **25th day of May, 2010.**

(SEAL)_____
LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO 28743

AN ORDINANCE OF THE CITY OF SAN JOSE TO PROVIDE FOR A TEMPORARY BUSINESS TAX SUSPENSION PROGRAM FOR TAXPAYERS WITH THIRTY-FIVE OR FEWER EMPLOYEES THAT ENTER INTO A NEW LEASE OR RENEW AN EXISTING LEASE BETWEEN JANUARY 1 – SEPTEMBER 1, 2010 AND PAY PAST DUE OBLIGATIONS OWED THE CITY AS PROVIDED IN THE ORDINANCE

WHEREAS, the Council of the City of San José wishes to implement a Business Tax Suspension Program for the suspension of the payment of the business tax payable pursuant to Part 3 of Chapter 4.76 of the San José Municipal Code for small businesses with thirty-five (35) or fewer employees in San José that enter into a new lease or renew an existing lease in order to attract new businesses and act as an incentive for existing businesses to remain in San José; and

WHEREAS, in order to be eligible for the Business Tax Suspension Program the taxpayer must first pay all past due obligations owed the City, thereby minimizing the financial impact to the City; and

WHEREAS, by encouraging taxpayers to apply for the Business Tax Suspension Program, the City assures itself of a greater ability to collect future business tax that might have otherwise been avoided if the City did not have the taxpayers identified in its database; and

WHEREAS, by bringing taxpayers that are not in compliance with the City's business tax ordinance into compliance, the City can further generate additional revenues this fiscal year and in the future;

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

SECTION 1. The Director of Finance of the City of San José ("Director of Finance") shall administer a Business Tax Suspension Program for taxpayers that meet the qualifications set forth herein.

SECTION 2. The Business Tax Suspension Program shall be administered as follows:

A. Request for Business Tax Suspension

In order to participate in the Program, the taxpayer shall:

1. Make a written Request for Business Tax Suspension with the Director of Finance in person or by mail on any business day from June 18 through September 30, 2010, inclusive;

2. Provide documentation satisfactory to the Director of Finance that (a) the taxpayer executed a new lease or renewed an existing lease for no less than one year for space at any time between January 1 – September 1, 2010 from which the taxpayer will engage in business in San José as defined in Chapter 4.76.070; and (b) employs no more than thirty-five (35) employees in the City; and

3. Pay all past due obligations owed the City at the time the Request for Business Tax Suspension is made. For purposes of this Section, "past due obligation" means a tax, assessment, fee, deposit, charge, or any other amount of money, including interest and penalties, that the taxpayer applying for the Business Tax Suspension Program owes to the City pursuant to contract, the San José Municipal Code, or any local, state, or federal law.

4. If the Request for Business Tax Suspension is submitted to the City by mail the Request must be postmarked by the United States Postal Service no later than September 30, 2010 to be accepted, and shall include documentation

demonstrating that the taxpayer has satisfied the requirements of this Section and, where applicable, payment for any past due obligation owed the City must be included. Payment shall be made by check, money order, or credit card.

5. If a request for Business Tax Suspension is submitted to the City in person the Request must be made at the Customer Service Center, located on the First Floor of City Hall, 200 East Santa Clara Street, San José, or as otherwise directed by the Director, no later than the close of business on September 30, 2010, to be accepted and shall include documentation demonstrating that the taxpayer has satisfied the requirements of this Section and, where applicable, payment for any past due obligation owed the City must be made at this time. Payment shall be made by cash, check, money order, or credit card.

6. Checks and money orders shall be made payable to the City of San José. Where payment of a past due obligation is dishonored for any reason, the business tax suspended pursuant to this Section shall be automatically reinstated.

SECTION 3. The City shall suspend the business tax imposed pursuant to Part 3 of Chapter 4.76 of Title 4 of the San José Municipal Code that is due in calendar year 2010 for the first one thousand (1,000) taxpayers who satisfy the requirements of Section 2 above. The Business Tax Suspension Program provided under this Ordinance shall cease upon the successful application of the one thousandth taxpayer even if the application period has not ended. Notwithstanding the preceding sentence, the Director of Finance shall continue to process written Requests for Business Tax Suspension from taxpayers who satisfy the requirements of Section 2 above that are either postmarked or received in person by the City no later than the date on which the successful application of the one thousandth taxpayer was either postmarked or received.

SECTION 4. Any taxpayer who previously paid in full the business tax due in calendar year 2010 but otherwise satisfied the requirements of Section 2 above, shall have the business tax

paid in calendar year 2010 deducted as a credit from the business tax that becomes due in calendar year 2011. Any credit for the business tax paid in calendar year 2010 that exceeds the amount of the business tax due in calendar year 2011 shall not result in a refund to the taxpayer or a credit in a subsequent calendar year.

SECTION 5.

A. The Director of Finance shall publicize the Program, be authorized to issue forms and instructions, and take other actions necessary to implement this Ordinance.

B. Any taxpayer who contests the Director of Finance's determination of whether the taxpayer has satisfied the requirements of Section 2 above, may request a hearing pursuant to Section 4.76.870 of Chapter 4.76 of Title 4 of the San José Municipal Code. The Director of Finance's decision following the hearing shall be final and conclusive.

RD:KMM
05/11/10

ORD. NO. 28743

PASSED FOR PUBLICATION of title this 11th day of May, 2010, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: CAMPOS.

ABSENT: NONE.

DISQUALIFIED: NONE.

Chuck Reed

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk