



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. 28852**", the original copy of which is attached hereto, was passed for publication of title on the **16th day of November, 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 **30th day of November, 2010**, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, HERRERA, KALRA, LICCARDO,
OLIVERIO; PYLE.

NOES: NONE.

ABSENT: CONSTANT, NGUYEN; REED.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **31st day of December, 2010**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **1st day of December, 2010**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 28852

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING CHAPTER 3.48 OF TITLE 3 OF THE SAN
JOSE MUNICIPAL CODE TO ALLOW THE CITY OF SAN
JOSE DEFERRED COMPENSATION PLAN TO ACCEPT
ROLLOVERS OF ELIGIBLE DISTRIBUTIONS FROM THE
CITY OF SAN JOSE'S PENSION PLANS AND CREDIT
SUCH DISTRIBUTIONS TO TERMINATED EMPLOYEES'
CITY OF SAN JOSE DEFERRED COMPENSATION PLAN
ACCOUNTS**

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

SECTION 1. Section 3.48.058 of Chapter 3.48 of Title 3 of the San Jose
Municipal Code is amended to read as follows:

3.48.058 Eligible Rollover Distributions

- A. Incoming Rollovers.
1. Beginning January 1, 2002, this plan may accept an eligible rollover distribution of pre-tax contributions from an eligible retirement plan maintained by another employer and credit such rolled-over amounts to a participant's account under this plan.
 2. Beginning January 1, 2009, within twelve (12) months of a former City employee's separation from City service, this plan may accept an eligible rollover distribution of pre-tax contributions from an eligible retirement plan maintained by the City and credit such rolled-over amounts to the former employee's account under this plan.
 3. The plan shall separately account for eligible rollover distributions accepted from any eligible retirement plan that is not an eligible deferred compensation plan maintained by an eligible governmental employer.
 4. For the purpose of this subsection A., "eligible retirement plan" means an annuity plan described in Internal Revenue Code Section 403(b), a qualified trust described in Internal Code Section 401(a), or an eligible governmental deferred compensation plan.

B. Outgoing Rollovers.

1. 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.
2. For the purposes of this subsection B.:
 - a. "Distributee" includes:
 - i. An employee or former employee of the city; and
 - ii. With respect to the interest of the spouse, an employee's or former employee's surviving spouse; and
 - iii. With respect to the interest of the beneficiary, an employee's or former employee's designated beneficiary; and
 - iv. 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.
 - b. "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), 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.

- C. 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). For the purposes of distributions from other plans rolled-over into this plan, the term "eligible rollover distribution" shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

- D. The advisory committee or the city may require such documentation regarding any plan from which a rollover distribution may be accepted or 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.

- E. For the purposes of Internal Revenue Code Section 72(t), a distribution from this plan shall be treated as a distribution from a qualified retirement plan to the extent that such distribution is attributable to an amount rolled-over from a qualified retirement plan (as defined in Internal Revenue Code Section 4974(c)).

PASSED FOR PUBLICATION of title this 16th day of November, 2010, by the following vote:

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

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk