RESOLUTION NO. 75635

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING AND RESTATING RESOLUTION NO. 72859 REGARDING THE SUPPLEMENTAL RETIREE BENEFIT RESERVE OF THE FEDERATED CITY EMPLOYEES RETIREMENT FUND, TO SUSPEND THE DISTRIBUTION OF FUNDS FROM THE RESERVE DURING FISCAL YEAR 2010-2011

WHEREAS, pursuant to Section 3.28.340 D of the San José Municipal Code, the Board of Administration for the Federated City Employees Retirement System (the "Board") has established the Supplemental Retiree Benefit Reserve (the "SRBR") in the Federated City Employees Retirement Fund; and

WHEREAS, Section 3.28.340 D 1. provides that distributions from the SRBR shall be made only for the benefit of retired members, survivors of members, and survivors of retired members of the Federated City Employees Retirement System (the "System"); and

WHEREAS, Section 3.28.340 D 3. further provides that the Board shall make distributions in accordance with a methodology recommended by the Board and approved by the City Council; and

WHEREAS, pursuant to a recommendation by the Board, on December 16, 2003, the City Council adopted Resolution No. 71870 approving a methodology for calculating the amount of distributions from the SRBR; and

WHEREAS, on August 23, 2005, the City Council adopted Resolution No. 72859 which restated the provisions of Resolution 71780 to include surviving registered domestic partners in the SRBR distribution on the same basis as surviving spouses; and

WHEREAS, the City Council desires to amend and restate Resolution 72859 so that the distribution of funds from the SRBR be suspended during Fiscal Year 2010-2011;

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

SECTION 1. The City Council hereby approves the methodology for the distribution of moneys from the Supplemental Retiree Benefits Reserve of the Federated City Employees Retirement Fund recommended by the Board and described in this Resolution, except for fiscal year 2009-10, when there shall be no distribution of moneys from the Supplemental Retiree Benefits Reserve of the Federated City Employees Retirement Fund.

SECTION 2. This approval shall remain in effect until such time as the Board recommends a subsequent methodology and the Council adopts a resolution approving the subsequent methodology.

SECTION 3. Total Annual Distribution.

A. The Total Annual Distribution for calendar year 2003 shall be One Million Dollars ($1,000,000).

B. The Total Annual Distribution for each calendar year beginning calendar year 2004 shall be the sum of (a) the amount, if any, in excess of the Minimum Balance, and (b) the annual interest earned in the SRBR as of June 30 in the year of distribution. For any year in which the actual balance in the SRBR as of June 30 in the year of distribution is less than or equal to the Minimum Balance, the total distribution for that year shall be limited to the annual interest earned in the SRBR.

SECTION 4. Eligible Distribution Points.

A. For the purposed of calculating the distribution to be made to each eligible recipient, distribution points shall be assigned for Years of Service and for Years Retired as follows:

1. Years Of Service (YOS) Points:

   a. For each Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.

   b. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, there shall be assigned one (1) point for each year of the Retiree's Federated City service.

   c. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, there shall be assigned one (1) point for each year of the Active Member's Federated City service.

   d. For each Surviving Children's Unit, there shall be assigned one (1) point for each year of the deceased person's Federated City service.

   e. For each Optional Settlement Beneficiary, there shall be assigned one (1) point for each year of the deceased person's Federated City service.

2. Years Retired (YR) Points:

   a. For each Retiree, there shall be assigned the number of points equivalent to the number of years from the effective date of the

Retiree's retirement to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.

b. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, there shall be assigned the number of points equivalent to the sum of:

i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and

ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula.

c. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).

d. For each Surviving Children's Unit:

i. In the case where the deceased parent was a Retiree, there shall be assigned the number of points equivalent to the sum of:

(1) The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and

(2) The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree receives as a retirement benefit under the System's benefit formula.

ii. In the case where the deceased parent was an Active Member, there shall be assigned the number of points equivalent to the number of years from the date of the Active Member's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary earned by the Active Member as of the date of death. For the purposes of this paragraph, the percent of Final Average Salary shall not be less than forty percent (40%).

e. For each Optional Settlement Beneficiary, there shall be assigned the number of points equivalent to the sum of:

i. The number of years from the effective date of the Retiree's retirement to the date of the Retiree's death multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula, and

ii. The number of years from the date of the Retiree's death to the June 30 in the year for which the Total Annual Distribution is calculated multiplied by the percent of Final Average Salary the Retiree received as a retirement benefit under the System's benefit formula.

B. Eligible Distribution Points shall be calculated for each eligible recipient as follows:

1. For each Retiree, the Eligible Distribution Points are the sum of the YOS points and the YR points.

2. For each Surviving Spouse or Surviving Domestic Partner of a Retiree, the Eligible Distribution Points are:

   a. The sum of the YOS points and the YR points, multiplied by

   b. The percent of the Retiree's benefit that is being received by the Surviving Spouse or the Surviving Domestic Partner as a monthly benefit.

3. For each Surviving Spouse or Surviving Domestic Partner of an Active Member, the Eligible Distribution Points are the sum of the YOS points and the YR points.

4. For the Surviving Children's Unit, the Eligible Distribution Points are:

a. The sum of the YOS points and the YR points, multiplied by

b. The percent of the Retiree's or Active Member's benefit that would be received by the Surviving Spouse or Surviving Domestic Partner if there were a Surviving Spouse or Surviving Domestic Partner, and further multiplied by

c. Twenty-five percent (25%) if there is only one child in the Surviving Children's Unit or fifty percent (50%) if there are two children in the Surviving Children's Unit or seventy-five percent (75%) if there are three or more children in the Surviving Children's Unit.

5. For the Optional Settlement Beneficiary, the Eligible Distribution Points are:

a. The sum of the YOS points and the YR points, multiplied by

b. The percent of the Retiree's benefit that is being received by the Optional Settlement Beneficiary as monthly benefit.

C. For the purposes of the calculation of Eligible Distribution Points, the number of years in each calculation shall be the actual number of years rounded to the nearest five decimal places.

SECTION 5. Distribution Point Value.

The Distribution Point Value shall be determined by dividing the Total Annual Distribution (as determined pursuant to SECTION 3 above) by the total number of Eligible Distribution Points for all eligible recipients.

SECTION 6. Allocation of Total Annual Distribution.

A. The distribution to be made to each eligible Retiree, Surviving Spouse of a Retiree, Surviving Domestic Partner of a Retiree, Surviving Spouse of an Active Member, Surviving Domestic Partner of an Active Member, and Optional Settlement Beneficiary shall be the eligible recipient's Eligible Distribution Points multiplied by the Distribution Point Value.

B. The distribution to be made to each eligible surviving child shall be the Surviving Children's Unit's Eligible Distribution Points multiplied by the Distribution Point Value and divided by the number of children in the Unit.

SECTION 7. For the purposes of this Resolution, the following definitions shall apply:

A. "Retiree" means a person who has retired from the Federated City Employees Retirement System under the provisions of the System. "Retiree" does not include any person who has separated from City service but is not receiving a benefit from the Plan.

B. "Surviving Spouse of a Retiree" means the person who meets the eligibility requirements for a surviving spouse benefit under Part 12 of Chapter 3.28 of the San José Municipal Code. "Surviving Spouse of a Retiree" does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.

C. "Surviving Domestic Partner of a Retiree" means the person who meets the eligibility requirements for a surviving domestic partner benefit under Part 12 of Chapter 3.28 of the San José Municipal Code. "Surviving Domestic Partner of a

Retiree" does not include any person who is receiving a payment from the Retirement Fund solely because of a domestic relations order dividing the community interest in the retirement benefits.

D. "Surviving Spouse of an Active Member" means the person who meets the eligibility requirements for a surviving spouse benefit under Part 11 of Chapter 3.28 of the San José Municipal Code. "Surviving Spouse of an Active Member" does not include any person who would receive a payment from the Retirement Fund upon the retirement of the Active Member solely because of a domestic relations order dividing the community interest in the retirement benefits.

E. "Surviving Domestic Partner of an Active Member" means the person who meets the eligibility requirements for a surviving domestic partner benefit under Part 11 of Chapter 3.28 of the San José Municipal Code. "Surviving Domestic Partner of an Active Member" does not include any person who would receive a payment from the Retirement Fund upon the retirement of the Active Member solely because of a domestic relations order dividing the community interest in the retirement benefits.

F. "Surviving Children's Unit" means all eligible surviving children who are receiving surviving children's benefits under the applicable provisions of the Federated City Employees Retirement System.

G. "Optional Settlement Beneficiary" means a person who is receiving a monthly payment from the System because of an election made pursuant to Part 13 of Chapter 3.28 of the San José Municipal Code.

H. "Minimum Balance" means the dollar amount determined by multiplying Seven Thousand Dollars ($7,000) by the total number of eligible recipients in existence on June 30 in the year for which the Total Annual Distribution is calculated.

SECTION 8. In the event a person is a Retiree, a Surviving Spouse of a Retiree, a Surviving Domestic Partner of a Retiree, a Surviving Spouse of an Active Member, a Surviving Domestic Partner of an Active Member, a member of a Surviving Children's Unit, or an Optional Settlement Beneficiary on June 30 in the year for which the Total Annual Distribution is calculated, but dies before the distribution for that year is made:

A. The amount that would have been paid to the Retiree shall be paid:

1. To the deceased's person's eligible survivor(s), or

2. If there is no eligible survivor, to the deceased person's named beneficiary, or

3. If there is no eligible survivor and no living named beneficiary, to the deceased person's estate.

B. The amount that would have been paid to the Surviving Spouse of a Retiree, the Surviving Domestic Partner of a Retiree, the Surviving Spouse of an Active Member, or the Surviving Domestic Partner of an Active Member shall be paid:

1. To the Surviving Children's Unit, or

2. If there is no Surviving Children's Unit, to the estate of the Surviving Spouse or the Surviving Domestic Partner, whichever is applicable.

C. The amount that would have been paid to a member of the Surviving Children's Unit shall be paid to the remaining members of the Surviving Children's Unit in equal shares. If there is no member of the Survivor Unit surviving, the amount that would have been paid shall revert to the SRBR balance to be carried over to the next distribution year.

D. The amount that would have been paid to an Optional Settlement Beneficiary shall be paid to the Optional Settlement Beneficiary's estate.

SECTION 9. All calculations made pursuant to this Resolution shall be made as of June 30 in the year for which the Total Annual Distribution is calculated. In the event an adjustment is made in the Years of Service, Years Retired, or percent of Final Average Salary for any eligible recipient and such adjustment is made after June 30 in the year for which the Total Annual Distribution is calculated, there shall be no adjustment to any calculation made pursuant to this Resolution.

SECTION 10. This resolution amends, restates and supersedes Resolution No. 72859.

ADOPTED this 16th day of November, 2010, by the following vote:

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

NOES: CAMPOS, CHU, KALRA.

ABSENT: NONE.

DISQUALIFIED: NONE.

Chuck Reed

CHUCK REED
Mayor

ATTEST:

Lee Price

LEE PRICE, MMC
City Clerk