



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: July 19, 2021

Approved

Date

7/26/2021

**SUBJECT: PROPOSED AMENDMENTS TO THE PTC DEFERRED
COMPENSATION PLAN AND TIER 3 DEFINED CONTRIBUTION
RETIREMENT PLAN RELATING TO COUNCILMEMBERS**

RECOMMENDATION

- (a) Approve an ordinance to amend Chapter 3.50 of Title 3 of the San José Municipal Code to provide that councilmembers shall no longer actively participate in the PTC Deferred Compensation Plan effective October 3, 2021 and amend Chapter 3.49 of Title 3 of the San José Municipal Code to provide for participation by councilmembers in the Defined Contribution Plan for Unit 99 Employees effective October 3, 2021.
- (b) Adopt a resolution to:
 - (1) Approve an amendment to the Basic Plan Document for the PTC Plan effective October 3, 2021 to provide that councilmembers shall no longer actively participate in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the PTC Plan set forth in Chapter 3.50 of the Municipal Code; and
 - (2) Approve an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees effective October 3, 2021 to provide for participation by councilmembers in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the Defined Contribution 401(a) Plan set forth in Chapter 3.49 of the Municipal Code.

OUTCOME

Approval of the proposed ordinance and resolution will result in amendments to the PTC Plan and the Defined Contribution 401(a) Plan (hereinafter, "Tier 3 Plan") related to councilmember retirement options. The amendment to the PTC Plan will prohibit councilmembers from actively participating in the PTC plan effective October 3, 2021. The amendment to the Tier 3 Plan will allow councilmembers that were formerly in the PTC Plan to participate in the Tier 3 plan effective October 3, 2021.

BACKGROUND

Upon commencement of office with the City, councilmembers are offered a choice between the CalPERS defined benefit pension plan and the City's defined contribution PTC Plan for retirement options. The City's PTC Plan is a mandatory plan in lieu of social security for certain classifications of employees and councilmembers that are not eligible for membership in the City's defined benefit retirement plans. Most participants of the PTC Plan are required to contribute 3.75% of their salary into the Plan and the City makes a matching contribution of 3.75%. As of January 2016, councilmembers who elect to participate in the PTC plan are required to contribute 3.75% of their salary and the City makes a 6.55% contribution into the Plan.

Since the PTC plan's inception in 1992, the only investment option is a stability of principal investment vehicle; the current offering is called the Stable Value fund. By design this investment option is low risk thus producing a relatively low rate of return.

In 2013, the City began offering a 401(a) defined contribution plan, known as the Tier 3 Plan, to all new executive management or professional employees in Unit 99 who elect to opt out of the City's defined benefit Federated Employees Retirement Plan. Similar to the PTC Plan, participants in the Tier 3 plan are required to contribute 3.75% of their salary and the City matches their contribution. Unlike the PTC plan, the Tier 3 plan provides over thirty investment options for participants to choose from; the investments offered provide a range of levels of risk and potentially better rates of return than the PTC plan.

ANALYSIS

During the February 3, 2021 Rules and Open Government Committee meeting, City staff was directed to bring to the City Council amendments to the PTC Plan and Tier 3 Plan that would replace the PTC Plan retirement option with the Tier 3 Plan retirement option for councilmembers. As a general tax rule, current members in one retirement plan cannot make an election to move to another retirement plan. Thus, the City must mandate that all current

councilmembers in the PTC Plan are required to join the Tier 3 Plan and are no longer allowed to actively participate in the PTC Plan.

Based on the direction from the Rules Committee, the proposed amendments to the PTC Plan and Tier 3 Plan will require all councilmembers currently enrolled in the PTC Plan to be moved to the Tier 3 Plan and future incoming councilmembers offered the choice of CalPERS or the Tier 3 Plan as retirement options. It is important to note that any funds in a councilmember's PTC Plan account will remain in such account and that participation in the Tier 3 Plan commences prospectively effective October 3, 2021. The contributions will remain in the PTC plan account until a councilmember has a "distributable event," like leaving City office.

Following the approval of the proposed ordinance and resolution, all councilmembers currently in the PTC Plan will be moved into the Tier 3 Plan and councilmember and City contributions made on or after October 3, 2021 will be made to the Tier 3 Plan. The contributions will remain at the rate of 3.75% with a 6.55% City matching contribution. Prior to October 3, 2021, Staff will provide current councilmembers who are participating in the PTC Plan with the necessary forms relating to investment options as participants of the Tier 3 Plan.

CONCLUSION

In order to provide City Council members currently enrolled in the PTC more investment options, staff recommends the proposed ordinance prohibiting councilmembers from actively participating in the PTC plan effective October 3, 2021 and allow councilmembers that were formerly in the PTC Plan to participate in the Tier 3 plan effective October 3, 2021.

EVALUATION AND FOLLOW-UP

If the City Council approves the proposed ordinance for publication, the ordinance will be placed on the City Council agenda for final approval on August 24, 2021 and will become effective on October 3, 2021.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on the Climate Smart San José energy, water, or mobility goals.

HONORABLE MAYOR AND CITY COUNCIL

July 19, 2021

Subject: Proposed Amendments to the PTC Deferred Compensation Plan & Tier 3 Defined Contribution Retirement Plan Relating to Councilmembers

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PUBLIC OUTREACH

This memorandum will be posted on the City's website in advance of the August 10, 2021 City Council meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

There are no applicable commissions for this memo.

CEQA

Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment.



JENNIFER SCHEMBRI
Director of Human Resources

If you have any questions, please contact Emily Hendon, Benefits Division Manager at (408) 975-1448.