



Memorandum

To: Mayor and City Council

From: Councilmember Pete Constant

Subject: City's CalPERS Contract

Date: December 19, 2011

Approved: 

RECOMMENDATION:

I recommend that the City Council take the following actions:

1. Adopt a resolution giving notice of the City's intention to terminate its contract with CalPERS and direct staff to deliver this resolution to CalPERS.
2. Upon receipt of a preliminary valuation report from CalPERS, direct the City Attorney to present the findings of the report to the City Council at the next City Council meeting, at which time, the City Council may choose to adopt an ordinance or resolution terminating its contract with CalPERS.

BACKGROUND:

On June 7, 2011, the City Council approved a memo I issued directing the City Attorney to seek a determination letter from CalPERS clarifying the method by which the City can opt-out of participation in the CalPERS retirement plan for future councilmembers. Also included in the memo was direction for the City Attorney and City Clerk to research all possible options for discontinuance of the City's CalPERS contract.

A memo from the City Attorney's Office dated December 15, 2011, outlines the options available to the City Council relating to its CalPERS contract. The City Attorney's Office determined that the City Council may amend or terminate its contract with CalPERS as it relates to future elected councilmembers. Further, the City Attorney's Office determined that, once enrolled in CalPERS, a councilmember cannot cancel his or her membership in order to participate in a defined contribution plan, and the City's contract cannot be amended to provide a lower defined benefit formula for current participants. However, the City Council may terminate its contract with CalPERS and accept liability for any deficit in funding for earned benefits. CalPERS will not prepare a preliminary valuation report for the City until the City Council adopts and delivers to CalPERS a resolution of its intention to terminate its contract. Additionally, an individual councilmember cannot opt-out of CalPERS and remains a member until separation from the City.

Defined benefit plans are traditionally used to encourage long-term tenure among employees and minimize employee turnover. These justifications do not apply to councilmembers who can serve no more than two four-year terms and typically hold office for no more than eight years.

ANALYSIS:

With the adoption, in June, of my memo requesting an examination of our options related to the City's participation in CalPERS, we began a discussion about eliminating the retirement plan provided to members of the City Council. The cost to the City of the CalPERS plan has increased due to the amortization of the plan's substantial unfunded liabilities. The CalPERS plan for San José's councilmembers is underfunded by a half-million dollars. Employer contribution rates will continue to escalate and far exceed the City Council's percent-of-salary target for pension benefits. Table 1 illustrates this recent cost escalation.

Table 1: Required Employer Contributions (Source: City of San José Office of Employee Relations)

	FY2010-11	FY2011-12	FY2012-13
Employer Normal Cost	\$71,565	\$79,101	\$76,934
Risk Pool Payment	6,796	19,096	19,891
Amortization of Side Fund	52,366	61,630	63,633
Total Employer Contribution	130,727	159,827	160,458
Employer's Contribution Rates			
Normal Cost	7.740%	7.684%	7.720%
Risk Pool Payment	0.735%	1.855%	1.996%
Amortization of Side Fund	5.664%	5.987%	6.385%
Total Employer Contribution	14.139%	15.526%	16.101%
Employee Contribution Rate	7%	7%	7%
Total Contribution Rate	21.139%	22.526%	23.101%

CONCLUSION:

Given the options laid out by the City Attorney, our best option is to terminate the City's contract with CalPERS. With the Council pursuing pension reform, the mayor and councilmembers should personally lead by example by eliminating defined benefit pensions for city councilmembers.