



Council Agenda Report

From: Meg Williamson, Assistant City Manager

Subject: Employee Retirement Contract: Amending the California Public Employees' Retirement System Retirement Contract for Local Police Members, Second Tier Classic Local Miscellaneous Members and New Local Miscellaneous Members.

Date: November 7, 2017

Facts

1. Full-time City employees accrue retirement benefits under a contract between the City of Paso Robles and the California Public Employees' Retirement System (PERS).
2. The current PERS contract for "Police Safety" members has 3 retirement tiers with benefit formulas that are dependent upon factors such as year of service or vested enrollment. The Memorandum of Understanding between the City of Paso Robles and the POA calls for POA "Police Safety" members to contribute an additional three percent (3%) pursuant to Section 20516 towards retirement contract costs.
3. The current PERS contract for the "Miscellaneous" members (all employees other than police and fire) has 3 retirement tiers with benefit formulas that are dependent upon factors such as year of service or vested enrollment. The Memorandum of Understanding between the City of Paso Robles and SEIU and the Comprehensive Agreement between the City and the MGMT Group calls for all employees in these groups to contribute an additional three percent (3%) towards their retirement costs. For second tier classic and third tier new "Miscellaneous" members, this contribution will be pursuant to Section 20516 which is a specific form of cost-share and requires a PERS contract amendment.
4. The Memoranda of Understanding and Agreements between the City of Paso Robles and these employee groups calls for an amendment to the PERS Retirement Contract as soon as practicable. However, it is imperative that the City conclude all necessary actions prior to year-end 2017, so that a second contract change for additional agreed-upon retirement cost sharing can be initiated in time to meet a July 1, 2018 deadline.
5. The City and the Professional Firefighters (IAFF, Local 4148) continue to meet and confer over their labor contract. When agreement is reached, their Memorandum of Understanding (MOU) will be presented to City Council and any associated PERS Contract changes necessary to effectuate that MOU will follow a separate schedule.
6. There are three main steps that the City must undertake to complete the contract amendment with PERS:
 - a. ***Approve a Resolution of Intention to amend the contract***
The resolution of intention is scheduled for approval at this November 7, 2017, City Council meeting and will be sent to PERS immediately upon adoption to initiate preparation of the Final Contract Amendment for signatures and execution. Accompanying the Resolution of Intention are also requisite certifications that confirm the City's compliance with Government Codes as they relate to the PERS Contract amendment. These certifications will also be sent to PERS upon completion.
 - b. ***Adopt an Urgency Ordinance***
The Urgency Ordinance is the City's instrument authorizing the Mayor to execute the Contract amendment on behalf of the City. The ordinance will be presented as an Urgency Ordinance because of minimum PERS timelines separating adoption of the final ordinance

by a minimum of 20 days from approval of the Resolution of Intention. The first and final reading of the Urgency Ordinance is scheduled for December 5, 2017, establishing a contract amendment date of December 17, 2017 (first day of pay period following the December 6, 2017 effective date of the ordinance).

c. *Hold an Employee Election*

When employee contribution rates change a secret ballot election of the effected employee group must be conducted. This election is scheduled to conclude November 22, 2017 and certified results will be presented to PERS.

7. The schedule for taking these noted action steps is very specific and time critical for achieving the contract amendment by the scheduled December 17, 2017 payroll date. This schedule will allow the City to honor contracts and agreements reached with POA, SEIU, and Management for 2017, and an agreement reached with POA that will require an additional PERS Contract change by a July 1, 2018 deadline.

Options

1. Take no action.
2. Adopt a “Resolution of Intention” with requisite accompanying certifications, establishing the City Council’s intention to approve an amendment to the Contract between the Board of Administration of the California Public Employees’ Retirement System and the City of El Paso de Robles for its “Police Safety” and second-tier classic and third-tier new “Miscellaneous” members.
3. Provide alternative direction as may be appropriate.

Analysis and Conclusions

The Memoranda of Understanding and respective agreements between the City of Paso Robles and the POA, SEIU, and MGMT groups call for an amendment to the PERS Retirement Contract as soon as practicable. The contract amendment will allow for these employee groups to begin contributing an additional three percent (3%) towards retirement contract costs. The scheduled December 17, 2017 implementation date will provide adequate time to initiate a second contract change for additional retirement cost sharing that is to go into effect on July 1, 2018.

Fiscal Impact

The cost savings associated with employees picking up an additional 3% of retirement contract costs were factored into the negotiation of the Memorandums of Understanding with POA and SEIU, and the Comprehensive Agreement with the MGMT Group. The PERS Contract amendment will transfer costs currently incurred by the City, to employees who will have the opportunity to vote under Section 20516 to have those additional contributions credited to their member accounts as normal contributions.

Recommendation

Adopt “Resolution of Intention” No. 17-XXX with requisite certifications, establishing the City Council’s intention to approve an amendment to the Contract between the Board of Administration of the California Public Employees’ Retirement System and the City of El Paso de Robles for all members in the following classes: “Police Safety” and second-tier classic and third-tier new “Miscellaneous”.

Attachments

1. Resolution of Intention to approve an amendment to the PERS Contract with accompanying exhibits and certifications

**RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
PASO ROBLES**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Cost) of 3% for second tier classic local miscellaneous members and new local miscellaneous members; and 3% for local police members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: _____
Presiding Officer

Title

Date adopted and approved

(Amendment)
CON-302 (Rev. 3/9/2016 rc)



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Paso Robles**

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective March 1, 1974, and witnessed January 28, 1974, and as amended effective July 1, 1983, November 6, 1984, October 30, 1988, February 2, 1991, January 1, 1998, February 17, 2001, June 6, 2001, October 14, 2001, March 27, 2005, January 21, 2007 and May 27, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 19 are hereby stricken from said contract as executed effective May 27, 2012, and hereby replaced by the following paragraphs numbered 1 through 21 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members entering membership in the miscellaneous classification on or prior to May 27, 2012, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after May 27, 2012, age 62 for new local miscellaneous members, age 50 for classic local police members entering membership in the police classification on or prior to May 27, 2012, age 55 for those classic local police members entering membership for the first time in the police classification after May 27, 2012 and for classic local fire members and age 57 for new local safety members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after March 1, 1974 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

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5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **ELECTED OFFICIALS.**
6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after March 27, 2005 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Supplemental to Federal Social Security).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after March 27, 2005 and not entering membership for the first time in the miscellaneous classification after May 27, 2012 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% @ 55 Supplemental to Federal Social Security).
10. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after May 27, 2012 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Supplemental to Federal Social Security).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).

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12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local police member entering membership in the police classification on or prior to May 27, 2012 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50), Supplemental to Federal Social Security
13. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership for the first time in the police classification after May 27, 2012 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55), Supplemental to Federal Social Security.
14. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55), Supplemental to Federal Social Security.
15. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Supplemental to Federal Social Security).
16. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
 - b. Section 20965 (Credit for Unused Sick Leave).
 - c. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members and local police members only.
 - d. Section 20042 (One-Year Final Compensation) for those classic local miscellaneous members and classic local safety members entering membership on or prior to May 27, 2012.
 - e. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
 - f. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Supplemental formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after May 27, 2012.

Section 20037 (Three-Year Final Compensation) is applicable to classic local fire members entering membership for the first time with this agency in the fire classification after May 27, 2012.

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Section 21363.1 (3% @ 55 Supplemental formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after May 27, 2012.

g. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 3% for second tier classic local miscellaneous members and new local miscellaneous members and 3% for local police members.

From and after the effective date of this amendment to contract, 3% for local police members.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

17. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1983. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
18. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
19. Public Agency shall also contribute to said Retirement System as follows:
 - a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

- 20. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 21. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF PASO ROBLES

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Financial Office | Pension Contract Management
Services & Prefunding Programs
P.O. Box 942703 Sacramento, CA 94229-2703
888 CalPERS (or 888-225-7377)
TTY: (877) 249-7442 | Fax: (916) 795-4673
www.calpers.ca.gov

CERTIFICATION OF GOVERNING BODY'S ACTION

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

_____ of the
(governing body)

(public agency)

on _____.
(date)

Clerk/Secretary

Title

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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**CERTIFICATION OF COMPLIANCE WITH
GOVERNMENT CODE SECTION 20516**

I hereby certify that in accordance with Section 20516 of the Government Code, City of Paso Robles and its local miscellaneous employees and local police employees have agreed in writing to the following:

Section 20516 (Employees Sharing Additional Cost) of 3% for second tier classic local miscellaneous members and new local miscellaneous members; and 3% for local police members.

Signature

Title

Witness

Date

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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888 CalPERS (or 888-225-7377)
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www.calpers.ca.gov

**CERTIFICATION OF COMPLIANCE WITH
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code the ~~future~~
~~annual costs as determined by the System Actuary for the increase/~~change in retirement
Benefit(s) have been made public at a public meeting of the _____
(governing body)

of the _____ on _____
(public agency) (date)

which is at least two weeks prior to the adoption of the ~~Resolution /~~ Ordinance.

Adoption of the retirement benefit increase/change will not be placed on the consent
calendar.

Clerk/Secretary

Title

Date _____