



STAFF REPORT

DATE: MARCH 6, 2012
 TO: HONORABLE MAYOR AND CITY COUNCIL
 FROM: ROD FOSTER, CITY MANAGER
 PREPARED BY: BONNIE JOHNSON, MANAGEMENT SERVICES DIRECTOR
 SUBJECT: TWO-TIER RETIREMENT FOR MISCELLANEOUS EMPLOYEES

RECOMMENDED ACTION

It is recommended that the City Council approve the Resolution of Intention to amend the City's contract with CalPERS for Miscellaneous (non-safety) Personnel.

GOAL STATEMENT

The proposed action will support the City's goal of meeting its ongoing fiscal obligations.

BACKGROUND

During the past calendar year, the City reached agreements with its miscellaneous employee groups which included implementation of a two-tier retirement system for new members. At the time the City approached PERS, they were backlogged with actuarial requests and indicated it would be early 2012 before the change could be implemented. Pursuant to the amendment, new miscellaneous employees hired after the effective date of this amendment will be subject to a 2.5% at 55 retirement formula. Approval of the Resolution of Intention is required to amend the current CalPERS contract for the miscellaneous employee group. However, no earlier than 20 days after the adoption of the resolution, an ordinance must also be approved to formally amend the current miscellaneous retirement plan.

ISSUES/ANALYSIS

The City in conjunction with CalPERS, has completed an actuarial analysis which estimates the impact of the new 2.5% @ 55 retirement formula. Although there are no current members subject to the new formula, the analysis projects an overall reduction in future costs to the City. Once the new tier is populated, an updated actuarial will be completed and more predictive information will be available for budgeting purposes. This analysis will also be aided by the fact that other local agencies are constructing similar two tier plans.

FISCAL IMPACTS

The recently completed actuarial study projects that over time the City's annual contribution rate for the miscellaneous group will decrease. However, any future savings from this amendment is dependent upon the overall plan population, i.e. current members versus new hires.

ALTERNATIVES

1. Provide alternate direction to staff.

ATTACHMENTS

1. Resolution of Intention to Approve an Amendment to Contract with CalPERS (with Exhibit)

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

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 20475 (Different Level of Benefits).
Section 21354.4 (2.5% @ 55 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

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



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 Colton

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 July 1, 1945, and witnessed May 28, 1945, and as amended effective February 1, 1948, July 1, 1954, January 1, 1960, September 1, 1962, February 2, 1973, June 30, 1977, January 6, 1978, December 23, 1978, July 7, 1979, March 29, 1980, September 24, 1983, July 13, 1985, July 17, 1993, January 24, 1998, July 11, 1998, October 28, 2000, June 6, 2001, July 7, 2001, December 8, 2001, December 7, 2002, June 6, 2003, May 6, 2005 and October 15, 2011 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective October 15, 2011, and hereby replaced by the following paragraphs numbered 1 through 16 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 local miscellaneous, age 50 for local safety members entering membership in the safety classification on or prior to October 15, 2011 and age 55 for local safety members entering membership for the first time in the safety classification after October 15, 2011.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1945 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 attorneys 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) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than 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.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
- 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).
- 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. **PERSONS COMPENSATED ON AN HOURLY BASIS HIRED AFTER SEPTEMBER 1, 1962.**
- 6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after December 7, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 31, 1979, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
- 7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after December 7, 2002 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 31, 1979, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).

8. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to October 15, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after October 15, 2011 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 21024 (Military Service Credit as Public Service).
 - c. Section 20614, Statutes of 1978, (Reduction of Normal Member Contribution Rate). From July 7, 1979 and until September 24, 1993, the normal local miscellaneous member contribution rate shall be 3.5% and the normal local fire member contribution rate shall be 4.5%. From July 7, 1979 until July 17, 1993, the normal local police member contribution rate shall be 4.5%. Legislation repealed said Section effective September 29, 1980.
 - d. Section 20690, Statutes of 1980, (To Prospectively Revoke Section 20614, Statutes of 1978).
 - e. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members only.
 - f. Section 21574 (Fourth Level of 1959 Survivor Benefits).
 - g. Section 20903 (Two Years Additional Service Credit).

15. 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.
16. 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 COLTON

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDENTIAL OFFICER

Witness Date

Attest:

Clerk