



AGENDA REPORT

Meeting Date: June 16, 2009
Item Number: E-3
To: Honorable Mayor & City Council
From: Scott G. Miller, Director of Administrative Services/CFO
Neil A. Comelo, Personnel Manager
Subject: 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 BEVERLY HILLS TO PROVIDE GOVERNMENT CODE SECTION 20903 (TWO YEARS ADDITIONAL SERVICE CREDIT) FOR LOCAL MISCELLANEOUS MEMBERS .

Attachments: 1. Resolution

RECOMMENDATION

Staff recommends approval of the attached Resolution of Intention to amend the City's contract with the California Public Employees' Retirement System (CalPERS) to provide Government Code Section 20903 (Two Years Additional Service Credit) for local miscellaneous members.

INTRODUCTION

The current economic downturn has had a negative impact on the City's major revenue sources and projections for FY 2009-10 are that the City will experience approximately \$18 million in reduced revenues. Consistent with the direction of the Mayor and City Council, staff is undertaking a number of steps to address this projected shortfall. As part of the strategy, staff is recommending that the City Council offer eligible employees in certain job classifications two years of additional retirement service credit with the California Public Employees' Retirement System (CalPERS) to reduce staffing levels and General Fund costs. The first step in the process to amend the City's contract with CalPERS is to adopt a resolution of intention to amend the contract. If the resolution of intention is adopted, the next step will be to comply with Government Code Section 7507's. This section requires that the estimated cost to provide the two years additional service credit benefit to all eligible employees be made public at a public meeting at least two weeks prior to the adoption of the contract amendment. The final step will be

the submission of an ordinance to the City Council for adoption of the contract amendment.

DISCUSSION

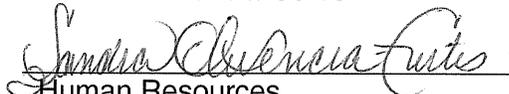
The City of Beverly Hills contracts with CalPERS to provide retirement plans for permanent employees. As a contracting agency, the City may provide two years additional service credit to eligible members who retire during a designated period.

To provide this additional service credit, it must be the City's intention, under Government Code Section 20903, to keep all vacancies created by retirements under this section or at least one vacancy in any position in any department or other organizational unit permanently unfilled, thereby resulting in an overall reduction in the work force. The conditions above meet CalPERS requirements.

BUDGET/FISCAL IMPACT

There is no cost associated with the adoption of the Resolution of Intention. The cost of offering the two years additional service credit to all eligible employees in designated classifications will be presented to the Council at a subsequent meeting, if the Resolution of Intention is adopted.

Sandra Olivencia-Curtis


Human Resources

Scott G. Miller


Department Head

**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 BEVERLY HILLS**

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 20903 (Two Years Additional Service Credit) for local miscellaneous 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

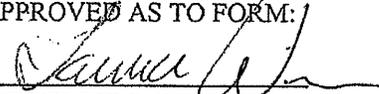
Date adopted and approved

Signature page: PERS Resolution of Intention to Approve Amendment to Contract

ATTEST:

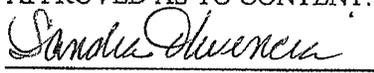
_____(SEAL
BYRON POPE
City Clerk

APPROVED AS TO FORM:

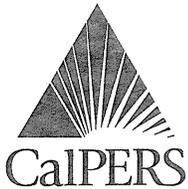


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



SANDRA OLIVENCIA
Assistant Director of Administrative
Services/Human Resources



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 Beverly Hills**

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, 1941, and witnessed July 1, 1941, and as amended effective March 1, 1946, February 1, 1948, September 1, 1953, January 1, 1956, October 1, 1958, August 1, 1959, October 18, 1969, September 7, 1973, July 5, 1975, August 6, 1977, October 21, 1978, January 9, 1982, December 25, 1982, January 2, 1988, July 9, 1994, July 5, 1997, December 11, 1998, May 19, 2001, January 8, 2005, April 30, 2005 and October 7, 2005 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective October 7, 2005, and hereby replaced by the following paragraphs numbered 1 through 15 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 members and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1941 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:

NO ADDITIONAL EXCLUSIONS

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. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after January 8, 2005 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after January 8, 2005 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 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

10. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
 - b. Section 21024 (Military Service Credit as Public Service).
 - c. Section 20042 (One-Year Final Compensation).
 - d. Section 21574 (Fourth Level of 1959 Survivor Benefits).
 - e. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local miscellaneous members only.
 - f. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on January 2, 1988. 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.
12. 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.
13. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.
 - b. 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.
 - c. 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.

14. 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.

15. 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 BEVERLY HILLS

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk