



## AGENDA REPORT

**Meeting Date:** July 24, 2012  
**Item Number:** H-5  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF BEVERLY HILLS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.  
**Attachments:** 1. Ordinance

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### RECOMMENDATION

Staff recommends that the City Council move to approve the ordinance entitled: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF BEVERLY HILLS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

### INTRODUCTION

This ordinance will approve an amendment to the contract between the California Public Employees' Retirement System and the City Council of the City of Beverly Hills, implementing a second tier of retirement benefits for Safety employees.

### DISCUSSION

At the City Council meeting of July 3, 2012, the City Council conducted a first reading of this ordinance.

### FISCAL IMPACT

The actuarially determined savings of this contract amendment is a reduction of 3.2% in the employer pension rate for Safety employees. This long term future savings will be realized gradually as employees working under the existing benefit formula retire and new employees working under the new benefit formula are hired.

  
\_\_\_\_\_  
Laurence S. Wiener, City Attorney

# **Attachment 1**

ORDINANCE NO. 12-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AUTHORIZING  
AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF  
BEVERLY HILLS AND THE BOARD OF ADMINISTRATION OF THE  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WHEREAS, the City of Beverly Hills contracts with the California Public Employees' Retirement System (CalPERS) to provide retirement plans for eligible employees; and

WHEREAS, as a contracting agency, the City may amend its contract(s) to provide various optional benefits offered by CalPERS.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That an amendment to the contract between the City of Beverly Hills and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto as Exhibit A, and by such reference made a part hereof as though herein set out in full.

SECTION 2. The Mayor of the City of Beverly Hills is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City.

SECTION 3. Any provision of the Beverly Hills Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any

part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 5. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code shall attest and certify to the adoption of this Ordinance, and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

SECTION 6. Effective Date. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

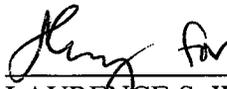
Adopted:  
Effective:

\_\_\_\_\_  
WILLIAM W. BRIEN, MD  
Mayor

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

 for JK  
\_\_\_\_\_  
JEFFREY KOLIN  
City Manager  
  
\_\_\_\_\_  
SCOTT G. MILLER  
Director of Administrative Services/  
Chief Financial Officer

**EXHIBIT A**



**EXHIBIT**

California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Beverly Hills

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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, October 7, 2005 and December 19, 2009 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 December 19, 2009, 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 members, age 50 for local safety members entering membership in the safety classification on or prior to the effective date of this amendment to contract and age 55 for local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

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 entering membership in the safety classification on or prior to the effective date of this amendment to contract 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 the effective date of this amendment to contract 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. 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) for local miscellaneous members and for safety members entering membership on or prior to the effective date of this amendment to contract.
  - 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.
  - g. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.
12. 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.
13. 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.
14. 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.
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 BEVERLY HILLS

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

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk