

**REPORT TO MAYOR AND COUNCIL**

**TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: August 26, 2014

**SUBJECT: ADOPT A RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO A CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) AND THE CITY OF CONCORD, AND INTRODUCE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONCORD AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF CONCORD AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) (UNCODIFIED)**

**Report in Brief**

At the council meeting held on July 22, 2014, the City Council adopted Resolution No. 14-65, A Resolution Providing Direction to Staff to Work with CalPERS to Modify Pension and Retiree Medical Benefits for Elected Officials, and directed staff to bring back to Council the necessary documents to: (1) eliminate CalPERS pension benefits for incoming, newly elected officials, and (2) significantly limit eligibility for retiree medical benefits for incoming, newly elected officials by establishing stringent vesting and retirement age criteria.

On August 4, 2014, staff met with representatives of CalPERS to determine the steps required to make the changes desired by Council. The first step is to amend the City's current contract with CalPERS to exclude elected officials elected after November 1, 2014 from the retirement benefit established for City of Concord employees. Therefore, staff recommends that Council adopt Resolution No. 14-69, A 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 Concord, and introduce Ordinance No. 14-9, An Order of the City Council of the City of Concord Authorizing an Amendment to the Contract Between the City of Concord and the Board of Administration of the California Public Employees' Retirement System (Uncodified).

**Background**

Consistent with their policy of sound fiscal management, the Mayor and the City Councilmembers have publicly voiced their desire to review and address the issue of retiree health care for elected officials; additionally, the Council has already taken steps to address retiree health care costs by requiring existing and

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retired employees, including elected officials, to pay more of their medical insurance costs. Doing this decreased the City's annual costs and unfunded liabilities significantly.

During the June 3, 2014 City Council meeting, Mayor Grayson established an ad hoc committee to study and review the City's retiree medical program for elected officials. The ad hoc committee reported back to the full Council on July 22, 2014, and recommended changes to the retiree health and retirement benefits for future elected officials. The Council adopted Resolution 14-65, A Resolution Providing Direction to Staff to Work with CalPERS to Modify Pension and Retiree Medical Benefits for Elected Officials. Specifically, the resolution directs staff to work with CalPERS to bring back to Council the necessary documents to: (1) eliminate CalPERS pension benefits for incoming, newly elected officials, and (2) significantly limit eligibility for retiree medical benefits for incoming, newly elected officials by establishing a stringent vesting and retirement age criteria.

**Discussion**

In order to implement Council's direction, several steps must be taken to change the City's contracts with CalPERS, starting with Council adopting Resolution No. 14-69, A 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 Concord and introducing Ordinance No. 14-9, An Order of the City Council of the City of Concord Authorizing an Amendment to the Contract Between the City of Concord and the Board of Administration of the California Public Employees' Retirement System (Uncodified). Once Resolution 14-69 is adopted, and Ordinance 14-9 is introduced, staff will return with the final documents required to complete the following changes:

1. The City's contract with CalPERS will be amended to exclude newly elected officials who are elected after November 1, 2014 from CalPERS retirement benefits;
2. Staff will present a Resolution Electing to Be Subject to the Public Employees' Medical and Hospital Care Act and Fixing the Employer's Contribution for Employees and the Employer's Contribution for Retirees at Different Amounts, establishing a new group pertaining only to elected officials elected after November 1, 2014 ("Non-PERS Elected Officials"); and
3. Staff will present a Resolution to Establish a Vesting Schedule for incoming, newly elected officials who are elected after November 1, 2014, to include a requirement of 30 years of consecutive elected service to the City of Concord, and a minimum retirement age of 65.

These changes will achieve the directives of this Council to (1) eliminate CalPERS pension benefits for incoming, newly elected officials, and (2) significantly limit eligibility for retiree medical benefits for

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incoming, newly elected officials by establishing stringent vesting and retirement age criteria, while still allowing elected officials to participate in the City's health plans while actively serving.

Per Government Code 36516.5, Council may not approve changes to salary and benefits for themselves, so the effective date of this change must be following the next election, in November, 2014.

**Fiscal Impact**

For current elected officials who are currently enrolled in CalPERS, the City pays 9.642% of the elected officials compensation toward CalPERS retirement benefits (equates to \$1,504 per year for council members and a \$694 per year for the Treasurer). This cost will be eliminated with future elected officials who are not already members of CalPERS or a reciprocal public retirement plan upon election.

The current cumulative annual cost for retiree health benefits for all former elected officials who have retired from the City of Concord is approximately \$29,000, representing the City's share of annual health care premiums for the four retired elected officials who receive the retiree health care benefit. Due to the new cost sharing formula, the retired elected officials also pay a portion of the cost for this benefit, and bear a percentage share of any future cost increases.

With the changes Staff is recommending, future retiree health benefit costs for newly elected officials will be nearly eliminated due to the new vesting schedule. Additionally, the City's retiree health care costs are further reduced once a retiree reaches eligibility for Federal Medical benefits (generally after reaching the age of 65). Upon Medicare eligibility, the City's CalPERS benefit is secondary to the retiree and therefore the City's costs for their health care premiums are significantly reduced.

**Public Contact**

The agenda has been posted in accordance with the legal requirements.

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**Recommendation for Action**

Staff recommends that Council adopt Resolution No. 14-69, A Resolution of Intent to Amend a Contract Between the Board of Administration of the Public Employees Retirement System and the City Council of the City of Concord and introduce Ordinance No. 14-9 by reading of the title and waiving further reading, An Order of the City Council of the City of Concord Authorizing an Amendment to the Contract Between the City of Concord and the Board of Administration of the California Public Employees' Retirement System (Uncodified).

Prepared by: Laura A. Brunson  
Human Resources Director  
Laura.Brunson@cityofconcord.org



Scott P. Johnson  
Assistant City Manager  
ScottP.Johnson@cityofconcord.org

Reviewed by: Mark S. Coon  
City Attorney  
Mark.Coon@cityofconcord.org

**Attachments:**

- Resolution No. 14-69, A 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 Concord
- Ordinance No. 14-9, An Order of the City Council of the City of Concord Authorizing an Amendment to the Contract Between the City of Concord and the Board of Administration of the California Public Employees' Retirement System (Uncodified).

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A 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 Concord**

**Resolution No. 14-69**

**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 for the exclusion of Elected Officials appointed or elected on and after the effective date of this amendment to contract.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES  
RESOLVE AS FOLLOWS:**

**Section 1.** 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.

**Section 2.** This resolution shall become effective immediately upon its passage and adoption.

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**PASSED AND ADOPTED** by the City Council of the City of Concord on August 26, 2014,  
by the following vote:

- AYES:** Councilmembers -
- NOES:** Councilmembers -
- ABSTAIN:** Councilmembers -
- ABSENT:** Councilmembers -

**I HEREBY CERTIFY** that the foregoing Resolution No. 14-69 was duly and regularly adopted at a regular meeting of the City Council of the City of Concord on August 26, 2014.

\_\_\_\_\_  
Mary Rae Lehman, CMC  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mark S. Coon  
City Attorney

Exhibit: Amendment to Contract



**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 Concord

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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 June 21, 1993, and witnessed April 29, 1993, and as amended effective October 27, 1994, June 28, 1996, June 28, 1999, June 25, 2001, October 28, 2002 and November 29, 2010 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective November 29, 2010, 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 and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after June 21, 1993 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) 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 Police Officers (herein referred to as local safety members);
  - b. 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:

**NO ADDITIONAL EXCLUSIONS**

- a. **FIREFIGHTERS;**
  - b. **POLICE CADETS HIRED AFTER OCTOBER 27, 1994; AND**
  - c. **ELECTED OFFICIALS APPOINTED OR ELECTED ON AND AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.**
6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System as of June 28, 1999 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.
7. The percentage of final compensation to be provided for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% for local miscellaneous members who were in employment on or after June 21, 1993 and not on or after October 28, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full), pursuant to Government Code Section 20515.
8. The percentage of final compensation to be provided for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% for local miscellaneous members in employment on or after October 28, 2002 and not entering membership for the first time in the miscellaneous classification after November 29, 2010 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full), pursuant to Government Code Section 20515.
9. 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 November 29, 2010 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full), pursuant to Government Code Section 20515.

10. The percentage of final compensation to be provided for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% for local safety members in employment on and after October 27, 1994 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full), pursuant to Government Code Section 20515.
11. The percentage of final compensation to be provided for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% for local safety members who were employed prior to October 27, 1994 shall be determined in accordance with Section 21362.2 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at 50 Modified).
12. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20042 (One-Year Final Compensation).
  - b. Section 20515 (Full Formula Plus Social Security) for past and future service for local miscellaneous members in employment on and after June 21, 1993 and for local safety members in employment on and after October 27, 1994. Legislation repealed said Section effective January 1, 2002.
  - c. Section 20965 (Credit for Unused Sick Leave).
  - d. Section 21548 (Pre-Retirement Option 2W Death Benefit).
  - e. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
  - f. Section 20530.1 (Credit for Local Retirement System Service for Employees of Agencies Contracted on a Prospective Basis).
  - g. Section 20475 (Different Level of Benefits). Section 21354 (2% @ 55 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after November 29, 2010.
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. 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.

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 CONCORD

BY \_\_\_\_\_  
RENEE OSTRANDER, ACTING CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

**ORDINANCE NO. 14-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONCORD  
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE  
CITY OF CONCORD AND THE BOARD OF ADMINISTRATION OF THE  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
(UNCODIFIED).**

**THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:**

**Section 1.** That an amendment to the contract between the City Council of the City of Concord and the Board of Administration of the California Public Employees Retirement System is hereby authorized, and a copy of said amendment is on file in the office of the City Clerk and is incorporated in this ordinance by reference.

**Section 2.** The Mayor of the City of Concord is hereby authorized, empowered, and directed to execute said amendment on behalf of the City of Concord.

**Section 3.** This Ordinance No. 14-9 shall become effective thirty (30) days following its passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption, including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney's Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and once within fifteen (15) days after its passage and adoption, including the vote of the Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of Concord.

\_\_\_\_\_  
Timothy Grayson  
Mayor

ATTEST:

\_\_\_\_\_  
Mary Rae Lehman, CMC  
City Clerk

(Seal)

