

**REPORT TO MAYOR AND COUNCIL**

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: September 23, 2014

SUBJECT: ADOPT 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)

Report in Brief

At the council meeting held on July 22, 2014, 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 26, 2014, Council adopted Resolution No. 14-62, 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 introduced 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).

Staff now recommends that Council adopt 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).

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 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

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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

Since Council adopted Resolution 14-65 directing staff to work with CalPERS to modify pension and retiree medical benefits for Elected Officials, staff and Councilmembers have taking several steps to change the City's contracts with CalPERS. One of the last steps required is for Council to adopt 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). This amendment will exclude future Elected Officials, elected after November 1, 2014, from participating in the pension benefits with CalPERS.

Additionally, staff recently learned new information that will achieve even greater savings for the City of Concord by making the changes to the City's retirement benefits for Elected Officials that Council directed. Recently, staff learned that by excluding the Elected Officials from the CalPERS retirement pension benefit, future Elected Officials no longer have the ability to elect to participate in the City's retirement benefit with CalPERS, even if they are already members of CalPERS or another reciprocal public retirement system through another public agency when elected. This is contrary to previous information received from CalPERS, where staff was informed that any newly Elected Officials, who are members of CalPERS or another reciprocal public retirement system upon election, could not be excluded from participation in the CalPERS retirement benefit with the City of Concord. This new information will achieve even greater savings for the City of Concord, as it will no longer contribute any funds toward pension benefits for any newly Elected Officials who are elected after November 1, 2014.

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

Fiscal Impact

The City currently pays 9.642% toward retirement benefits for elected officials (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.

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Additionally, with the new information staff recently learned from CalPERS, costs towards retirement benefits for newly Elected Officials, elected after November 1, 2014, will be eliminated. The City currently pays 9.642% toward retirement benefits for elected officials.

Public Contact

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

Recommendation for Action

Staff recommends that Council adopt 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).

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

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



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

Attachment: Ordinance No. 14-9

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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:

Joelle Fockler, CMC
Deputy City Clerk

(Seal)

1 Ordinance No. 14-9 was duly and regularly introduced at a regular meeting of the City Council
2 of the City of Concord held on August 26, 2014, and was thereafter duly and regularly passed and
3 adopted at a regular meeting of the City Council of the City of Concord on September 23, 2014, by
4 the following vote:

5 **AYES:** Councilmembers -

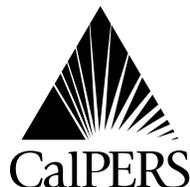
6 **NOES:** Councilmembers -

7 **ABSTAIN:** Councilmembers -

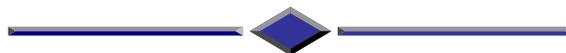
8 **ABSENT:** Councilmembers -

9 **I HEREBY CERTIFY** that the foregoing is a true and correct copy of an ordinance duly and
10 regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

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13 _____
14 Joelle Fockler, CMC
15 Deputy City Clerk
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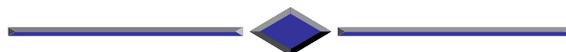


California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

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



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).

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