



CITY OF OAKLAND

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OAKLAND

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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Katano Kasaine

SUBJECT: Miscellaneous Second Tier Retirement DATE: April 9, 2012

City Administrator Approval

Date

4-18-12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council adopt a CalPERS Resolution of Intention and Ordinance Of The City Of Oakland To Approve An Amendment To The Contract Between The City Of Oakland And The Board Of Administration Of The California Public Employees' Retirement System (CalPERS) To Provide Section 20475, Different Level of Benefits, Section 21354.4 (2.5% @ 55 Full Formula) and Section 20037 (Three-Year Final Compensation) Applicable To City of Oakland and Port of Oakland Local Miscellaneous Members Entering Membership For The First Time In the Miscellaneous Classification After The Effective Date Of This Amendment To Contract.

EXECUTIVE SUMMARY

A CalPERS Resolution of Intention and an Ordinance have been prepared to amend the contract between the City of Oakland and the California Public Employees' Retirement System (CalPERS) to implement two new benefits authorized by the Council in the current Memoranda of Understanding between the City and the labor organizations representing miscellaneous City of Oakland employees, Service Employees International Union, Local 1021; International Federation of Professional and Technical Employees, Local 21; Deputy City Attorney I-IV Unit, International Federation of Professional and Technical Employees (IFPTE); Deputy City Attorney V and Special Counsel, IFPTE; Confidential Management Employees Association, CMEA; and International Brotherhood of Electrical Workers, Local 1245.

The Resolution and Ordinance also authorize implementation of the two new second tier retirement benefit for miscellaneous Port of Oakland employees represented by Service Employees International Union Local 1021 (SEIU) Port chapter; Western Council of Engineers (WCE); International Federation

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of Professional and Technical Engineers Local 21 (IFPTE), Port Chapter; and International Brotherhood of Electrical Workers Union Local 1245 (IBEW).

OUTCOME

The contract amendment to authorize Government Code Sections 20475 and 20037 will place newly hired miscellaneous employees in a different retirement benefit – 2.5% @ 55 and calculate final compensation at retirement based on the three consecutive years immediately preceding the effective date of retirement. These changes will ultimately result in savings for the City over the long-term.

BACKGROUND/LEGISLATIVE HISTORY

On July 26, 2011, the City Council approved Memoranda of Understanding with labor organizations representing City of Oakland miscellaneous employees, Service Employees International Union, Local 1021; International Federation of Professional and Technical Employees, Local 21; Deputy City Attorney I-IV Unit, International Federation of Professional and Technical Employees (IFPTE); Deputy City Attorney V and Special Counsel, IFPTE; Confidential Management Employees Association, CMEA; and International Brotherhood of Electrical Workers (IBEW), Local 1245. The agreements with the miscellaneous labor organizations require that the contract with CalPERS be amended and the second tier become effective 90 days after adoption of the respective Memoranda of Understanding.

Due to an administrative error, labor negotiations with organizations representing Port of Oakland miscellaneous employees were delayed resulting in implementation of the second tier beyond the timeline provided in the MOUs. On February 1, 2012 and February 8, 2012 respectively, the City of Oakland and the Port of Oakland approved agreements with Service Employees International Union (SEIU), Local 1021, Port Chapter and Western Council of Engineers, to include the second tier retirement benefit and three year final compensation provisions to their Memoranda of Understanding. The majority of the Port's employees are represented by SEIU Local 1021 and Western Council of Engineers.

The International Federation of Professional and Technical Engineers (IFPTE), Local 21, Port Chapter, was extended an opportunity to meet and confer on the amendment to the CalPERS contract to add a second tier retirement benefit. IFPTE agreed only to meet informally, met with the City informally in December 2011, and did not respond to the City's subsequent requests to meet and confer. The current International Federation of Professional and Technical Engineers (IFPTE), Local 21 Port Chapter, Memorandum of Understanding states that the Port will provide current benefits in accordance with the requirements of PERS and further states that the parties agree that in the event the Port negotiates a different Retirement Plan with other bargaining units covering a majority of the Port's employees, such Retirement Plan will also apply to this MOU.

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Finally, the International Brotherhood of Electrical Workers Union (IBEW) Local 1245 was extended an opportunity to meet and confer on the amendment to the CalPERS contract to add a second tier retirement benefit and refused to meet except as part of the current negotiations over a successor MOU, thereby waiving the right to meet and confer.

ANALYSIS

Section 20475 and Section 20037 – Different Level of Benefits and Three Years Final Compensation

California Government Code Section 20475, *Different Level of Benefits*, allows contracted agencies to amend its contract to provide a different level of retirement benefits to new employees. Individuals who become employed for the first time after the effective date of the contract amendment will be subject to the new retirement benefit. Former employees who did not withdraw contributions and existing members retain the current benefit (2.7% @ 55). Newly hired miscellaneous employees (City and Port) will be subject to the 2.5% @ 55 benefit after the effective date of this amendment to contract.

The final compensation option of three (3) years uses the highest average annual compensation earnable by an employee during the three consecutive years of employment immediately preceding the effective date of retirement.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

Coordination has occurred between the City of Oakland Employee Relations, Port of Oakland administration and labor, City Attorney's office and CalPERS.

COST SUMMARY/IMPLICATIONS

CalPERS Employer Rate Impact

Miscellaneous Employees (City and Port) – There is no immediate notable impact as a result of the proposed contract amendment. However, amendment of the PERS contract to include Government Code Sections 20475, **Different Level of Benefits** and 20037, **Three Years Final Compensation**, will result in an ultimate reduction to the Employer's normal cost of 1.8% for miscellaneous members. The two-tier retirement plan builds toward increased savings as the current workforce retires or separates from City employment for other reasons. A decrease in the

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City's Employer Contribution Rate occurs, as an increasing portion of the workforce are subject to the lesser benefit.

The employer rate reduction will occur gradually beginning on July 1, 2014 if there are second tier employees hired on or before June 30, 2012. The projected July 2014 rate will not be available until October 2013.

For fiscal years 2014-2015 and beyond, the projected cumulative amount of rate reduction that can be expected from introduction of the second tier is equal to the ratio of the City's second tier payroll to the total plan payroll two and a half years earlier. For example, if 1/10 of the miscellaneous members (City and Port) are in second tier on June 30, 2012 and the ultimate expected normal cost decrease is 1.8%, the cumulative rate reduction the City can expect by the 2014-2015 fiscal year is $1/10 \times 1.8\% = 0.18\%$ of covered payroll for miscellaneous employees. The actuarial information provided by CalPERS is included as *Attachment A*.

SUSTAINABLE OPPORTUNITIES

Economic:

Not Applicable

Environmental:

Not Applicable

Social Equity:

Not Applicable

CEQA

This report is not a project under CEQA. For questions regarding this report please contact Katano Kasaine, Treasury Manager, at (510) 238-2989.

Respectfully submitted,



Katano Kasaine
Treasury Manager

Prepared by:
Yvonne S. Hudson-Harmon, HR Manager
Retirement

- *Attachment A – CalPERS Actuarial Information Re: New 2.5% @ 55 Full Formula and Three-Year Final Compensation Second Tier for local Miscellaneous Plan Members*
- *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 Oakland*
- *Exhibit – Amendment to Contract*
- *Ordinance to Approve Amendment to the CalPERS Contract*
- *Notice and Digest*

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California Public Employees' Retirement System
 Actuarial Office
 P.O. Box 1494
 Sacramento, CA 95812-1494
 TTY: (916) 795-3240
 (888) 225-7377 phone • (916) 795-2744 fax
 www.calpers.ca.gov

August 9, 2011
 Employer Number: 828
 Employer Name: CITY OF OAKLAND
 Rate Plan: MISCELLANEOUS PLAN

Re: New 2.5% @ 55 Full Formula and Three-Year Final Compensation Second Tier for local Miscellaneous Plan members within a Non-pooled Plan (Section 20475: Different Level of Benefits Provided for New Employees)

Dear Requestor:

As requested, employer contribution rate information on your proposed second tier follows.

If you are aware of others interested in this information (i.e. payroll staff, county court employees, port districts, etc.), please inform them.

The information is based on the June 30, 2009 annual valuation. This cost analysis is good until you receive your June 30, 2010 annual valuation report.

There will be no immediate employer contribution rate impact from this amendment. Ultimately, however, your employer normal cost will decrease. If the mix of active member entry ages were the same for both the current continuing first tier employees and the new second tier employees, the decrease in the employer rate would be 1.8%.

The employer rate reduction will occur gradually, beginning on July 1, 2014, if there are second tier employees hired on or before June 30, 2012. For fiscal years 2014/2015 and beyond, the projected cumulative amount of rate reduction you can expect from introducing a second tier is equal to the ratio of your second tier payroll to your total plan payroll two and a half years earlier. For example if 1/10 of your Miscellaneous members were in second tier on June 30, 2012 and the ultimate expected normal cost decrease was 1.8%, the cumulative rate reduction you can expect by the 2014/2015 fiscal year would be $1/10 \times 1.8\% = 0.18\%$.

To initiate an amendment to the contract, please complete the attached election form and mail or FAX (916) 795-3005 the form with a letter to the Contracts Maintenance Unit, indicating your wish to contract for Section 20475 (Different Level of Benefits) and identifying the group(s) to which the benefit reduction applies.

In sections 20463 (b) and (c), the California Public Employees' Retirement Law requires the governing body of a public agency within five days of receipt of the contract amendment cost analysis, to provide each employee organization with a copy of the analysis. If this cost analysis was requested by an employee organization, the employee organization is also required within five days of receipt of the analysis, to provide a copy of the analysis to the public agency.

If you have questions, please call (888) CalPERS (225-7377).

FRTZIE ARCHULETA, ASA, MAAA
 Senior Pension Actuary, CalPERS

**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 OAKLAND**

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) and Section
20037 (Three-Year Final Compensation) are 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 Oakland



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 September 1, 1970, and witnessed June 5, 1972, and as amended effective April 9, 1973, October 4, 1975, January 10, 1976, July 1, 1976, July 4, 1981, July 30, 1983, December 6, 1985, January 1, 1988, June 30, 1992, September 25, 1993, July 1, 1996, June 14, 2000, July 7, 2001, October 13, 2001, June 21, 2003, June 19, 2004, July 2, 2005, June 3, 2009, January 23, 2010 and February 8, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective February 8, 2012, and hereby replaced by the following paragraphs numbered 1 through 21 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 February 8, 2012 and age 55 for local safety members entering membership for the first time in the safety classification after February 8, 2012.

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2. Public Agency shall participate in the Public Employees' Retirement System from and after September 1, 1970 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.

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- (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 hired for the first time as Fire Fighters on or after July 1, 1976 and those Fire Fighters prior to July 1, 1976 who waived their rights as of October 13, 2001;
 - b. Local Police Officers hired for the first time as Police Officers on or after July 1, 1976 and those Police Officers prior to July 1, 1976 who waived their rights as of June 21, 2003;
 - 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. **MISCELLANEOUS EMPLOYEES, OTHER THAN ELECTIVE OFFICERS WHO ENTERED PUBLIC AGENCY SERVICE PRIOR TO SEPTEMBER 1, 1970 AND WHO HAVE NOT EXECUTED AND FILED, IN ACCORDANCE WITH RESOLUTIONS OF THE CITY COUNCIL A WAIVER OF RIGHTS UNDER THE OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM PRIOR TO SEPTEMBER 1, 1970, OR IN THE PERIODS FEBRUARY 15, 1973 THROUGH MARCH 15, 1973, INCLUSIVE, OR NOVEMBER 24, 1975 THROUGH DECEMBER 19, 1975, INCLUSIVE, OR MAY 15, 1981 THROUGH JUNE 15, 1981, INCLUSIVE. THE EXCLUSION OF A MEMBER EXECUTING AND FILING SUCH WAIVER IN THE PERIOD MAY 15, 1981, THROUGH JUNE 15, 1981, INCLUSIVE, SHALL CEASE AND HIS MEMBERSHIP SHALL BE EFFECTIVE ON JULY 4, 1981 AND THOSE EMPLOYEES WHO DID NOT WAIVE THEIR RIGHTS AS OF JUNE 19, 2004;**

PLEASE DO NOT SIGN "EXHIBIT 0011"

- b. THE PROVISION OF PARAGRAPH 5.a. SHALL ALSO APPLY TO INDIVIDUALS HIRED PRIOR TO SEPTEMBER 1, 1970 WHO TERMINATED EMPLOYMENT WITH THE PUBLIC AGENCY, LEFT CONTRIBUTIONS ON DEPOSIT WITH OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM, AND ARE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
- c. THE PROVISION OF PARAGRAPH 5.a. SHALL NOT APPLY TO EMPLOYEES OF PUBLIC AGENCY HIRED AFTER JULY 4, 1981, AS TO FUTURE SERVICE. SUCH EMPLOYEES MAY EXECUTE A WAIVER OF RIGHTS UNDER THE OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM WITHIN 30 DAYS OF NOTICE BY LOCAL AGENCY OF RIGHT TO EXECUTE A WAIVER AND WILL RECEIVE SERVICE CREDIT IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR LOCAL SYSTEM SERVICE UPON PAYMENT OF CONTRIBUTIONS WITHDRAWN FROM THE LOCAL SYSTEM UNDER THE PROVISIONS OF GOVERNMENT CODE SECTION 20523 OR UPON TRANSFER OF MEMBER CONTRIBUTIONS FROM THE LOCAL SYSTEM UNDER THE PROVISIONS OF GOVERNMENT CODE SECTION 20530;
- d. MEMBERS OF BOARDS AND COMMISSIONS APPOINTED BY THE MAYOR OR THE CITY COUNCIL;
- e. EMPLOYEES AND MEMBERS OF THE BOARD OF EDUCATION;
- f. PERSONS EMPLOYED ON PROVISIONAL APPOINTMENTS, PURSUANT TO CITY OF OAKLAND CHARTER SECTION 803, OTHER THAN CITY OF OAKLAND EMPLOYEES WHO ARE MEMBERS OF PERS AND ACCEPT SUCH APPOINTMENT AFTER SEPTEMBER 1, 1970, AND PERSONS EMPLOYED FOR SEASONAL EMPLOYMENT PURSUANT TO SECTION 802(d) OF THE CHARTER;
- g. FIRE EMPLOYEES HIRED PRIOR TO JULY 1, 1976 WHO WILL REMAIN MEMBERS OF THE CITY OF OAKLAND FIRE AND POLICE RETIREMENT SYSTEM AND WHO DID NOT WAIVE THEIR RIGHTS UNDER THAT PLAN AS OF OCTOBER 13, 2001; AND

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- h. POLICE EMPLOYEES HIRED PRIOR TO JULY 1, 1976 WHO WILL REMAIN MEMBERS OF THE CITY OF OAKLAND FIRE AND POLICE RETIREMENT SYSTEM AND WHO DID NOT WAIVE THEIR RIGHTS UNDER THAT PLAN AS OF JUNE 21, 2003.**
6. Permanent part-time employees hired prior to September 1, 1970 were excluded from membership in the Public Employees' Retirement System prior to July 4, 1981 because they were not eligible for membership in the Oakland Municipal Employees' Retirement System and could not execute a waiver of rights pursuant to paragraph 5.a. of this contract. This exclusion shall not apply to those employees in employment of public agency on or after July 4, 1981.
7. Assets heretofore accumulated with respect to miscellaneous members under the local retirement system who waived their rights under that system on April 9, 1973, January 10, 1976, July 4, 1981 and June 19, 2004, have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
8. Assets heretofore accumulated with respect to fire members under the local retirement system who waived their rights under that system on October 13, 2001, have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
9. Assets heretofore accumulated with respect to police members under the local retirement system who waived their rights under that system on June 21, 2003, have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

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10. Public Agency and the Redevelopment Agency of the City of Oakland have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Redevelopment Agency of the City of Oakland, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of December 28, 1975. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Redevelopment Agency of the City of Oakland. Legislation repealed said Section effective January 1, 1988.
 - a. The optional provisions of Section 21354 shall apply to all past service for former employees of the Redevelopment Agency of the City of Oakland.
11. 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 June 19, 2004 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
12. 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 June 19, 2004 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 (2.7% at age 55 Full).
13. 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).
14. 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 February 8, 2012 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
15. 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 February 8, 2012 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).

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16. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
 - b. Section 21536 (Local System Service Credit Included in Basic Death Benefit) for local miscellaneous members only.
 - c. Section 20042 (One-Year Final Compensation) for local safety members entering membership on or prior to February 8, 2012 and for those local miscellaneous members entering membership on or prior to the effective date of this amendment to contract.
 - d. Section 21573 (Third Level of 1959 Survivor Benefits) for local fire members only.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 20431 ("Local Police Officer" shall include city jail, detention or correctional facility employees as described in Government Code Section 20431).
 - g. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
 - h. Section 21023.5 (Public Service Credit for Peace Corps, AmehCorps VISTA, or AmeriCorps Service).
 - i. Section 20965 (Credit for Unused Sick Leave) for local fire members only.
 - j. Section 20903 (Two Years Additional Service Credit).
 - k. Section 21024.5 (Public Service Credit for Career Federal/State Firefighter Service).

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I. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21362.2 (3% @ 50 Full formula) and Section 21363.1 (3% @ 55 Full formula) for local fire members.

From and after January 23, 2010 the fire employees of Public Agency shall be assessed an additional 4% of their compensation for a total contribution rate of 13% pursuant to Government Code Section 20516.

m. 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 February 8, 2012.

Section 21354.4 (2.5% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

17. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 4, 1975. 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.
18. 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.
19. 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 21573 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 fire 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.
20. 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.
21. 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 OAKLAND

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

BY _____
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

Witness Date

Attest:

PLEASE DO NOT SIGN "EXHIBIT ONLY"

Clerk

INTRODUCED BY COUNCILMEMBER 12 APR 18 PM 2:24


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE OF THE CITY OF OAKLAND TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF OAKLAND AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) TO PROVIDE NEW CITY OF OAKLAND AND PORT OF OAKLAND MISCELLANEOUS MEMBERS DIFFERENT LEVEL OF BENEFITS (CALIFORNIA GOVERNMENT CODE SECTION 20475), 2.5% AT 55 FULL FORMULA (CALIFORNIA GOVERNMENT CODE SECTION 21354.4) AND THREE-YEAR FINAL COMPENSATION (CALIFORNIA GOVERNMENT CODE SECTION 20037) APPLICABLE TO LOCAL MISCELLANEOUS MEMBERS ENTERING MEMBERSHIP FOR THE FIRST TIME IN THE MISCELLANEOUS CLASSIFICATION AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT

WHEREAS, on July 26, 2011, the City Council approved Memoranda of Understanding between the City of Oakland and the labor organizations representing all of the Miscellaneous, Employee labor organizations, Service Employees International Union, Local 1021; International Federation of Professional and Technical Employees, Local 21; Deputy City Attorney I-IV Unit International Federation of Professional and Technical Employees; Deputy City Attorney V and Special Counsel; Confidential Management Employees Association, CMEA; and International Brotherhood of Electrical Workers, Local 1245 to implement changes to the retirement plans; and

WHEREAS, on February 1, 2012 and February 8, 2012 respectively, the City of Oakland and the Port of Oakland approved agreements between the Port of Oakland and Service Employees International Union (SEIU), Local 1021, Port Chapter and Western Council of Engineers, to include the second tier retirement benefit and three year final compensation provisions to their Memoranda of Understanding.; and

WHEREAS, the majority of the Port's employees are represented by SEIU Local 1021 and Western Council of Engineers; and

WHEREAS, the City invited the International Federation of Professional and Technical Engineers (IFPTE), Local 21 to meet and confer on the amendment to the CalPERS contract to add a second tier retirement benefit, IFPTE agreed only to meet informally, met with the City informally in December 2011, and did not respond to City's subsequent requests to meet and

confer; and

WHEREAS, the current International Federation of Professional and Technical Engineers (IFPTE), Local 21 Port Chapter, Memorandum of Understanding states that the Port will provide current benefits in accordance with the requirements of PERS and further states that the parties agree that in the event the Port negotiates a different Retirement Plan with other bargaining units covering a majority of the Port's employees, such Retirement Plan will also apply to this MOU; and

WHEREAS, the International Brotherhood of Electrical Workers Union Local 1245 (IBEW) was extended an opportunity to meet and confer on the amendment to the CalPERS contract to add a second tier retirement benefit and has refused to meet except as part of the current negotiations over a successor MOU, thereby waiving the right to meet and confer on the matter; and

WHEREAS, current City of Oakland and Port of Oakland miscellaneous employees receive a retirement benefit of 2.7% at age 55 and final compensation based on the highest annual salary during one year of employment; and

WHEREAS, Memoranda of Understanding between the City of Oakland and the labor organizations representing miscellaneous employees, Service Employees International Union, Local 1021; International Federation of Professional and Technical Employees, Local 21; Deputy City Attorney I-IV Unit; International Federation of Professional and Technical Employees; Deputy City Attorney V and Special Counsel; Confidential Management Employees Association, CMEA; and International Brotherhood of Electrical Workers, Local 1245 provide that the City shall amend its contract with CalPERS to provide Different Level of Benefits (California Government Code Section 20475), 2.5% at 55 full formula (California Government Code Section 21354.4), for each bargaining unit member hired ninety (90) days after the adoption of the MOUs and unit members shall be subject to final compensation based on Government Code Section 20037, three consecutive years immediately preceding the effective date of retirement; and

WHEREAS, the City of Oakland and the Port of Oakland have reached agreement with both SEIU and WCE, IFPTE Local 21 MOU permits the City to move into a different retirement plan if unions representing the majority of other employees agree, and IBEW waived their right to meet and confer by refusing to meet with the City; and

WHEREAS, pursuant to the Miscellaneous employee MOUs, the City of Oakland desires to create a new retirement tier for newly hired miscellaneous employees in which they will receive a retirement benefit of 2.5% at age 55 and final compensation based three consecutive years immediately preceding the effective date of retirement; and

WHEREAS, implementation of the agreements made between the City of Oakland, Port of Oakland and the various labor organizations to implement Different Level of Benefits (California

Government Code Section 20475), three years final compensation in accordance with Government Code Section 20037, requires an amendment to the contract between the City of Oakland and the Board of Administration of the California Public Employees' Retirement System;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

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

Section 2. The President of the Council is hereby authorized, empowered and directed to execute said amendment for and on behalf of the City of Oakland.

Section 3. The effective date of this Ordinance shall be immediate if at least six Council Members vote in favor of the Ordinance, otherwise, it will take effect on the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, KERNIGHAN, NADEL, SCHAAF, DE LA FUENTE, BROOKS, KAPLAN and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

NOTICE AND DIGEST

ORDINANCE OF THE CITY OF OAKLAND TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF OAKLAND AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) TO PROVIDE NEW CITY OF OAKLAND AND PORT OF OAKLAND MISCELLANEOUS MEMBERS DIFFERENT LEVEL OF BENEFITS (CALIFORNIA GOVERNMENT CODE SECTION 20475), 2.5% AT 55 FULL FORMULA (CALIFORNIA GOVERNMENT CODE SECTION 21354.4) AND THREE-YEAR FINAL COMPENSATION (CALIFORNIA GOVERNMENT CODE SECTION 20037) APPLICABLE TO LOCAL MISCELLANEOUS MEMBERS ENTERING MEMBERSHIP FOR THE FIRST TIME IN THE MISCELLANEOUS CLASSIFICATION AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT

This Ordinance will authorize the City Administrator to amend the contract between the City of Oakland and the California Public Employees' Retirement System (CalPERS) to implement two new benefits authorized by the Council in the current Memoranda of Understanding between the City and the labor organizations representing miscellaneous City of Oakland and Port of Oakland employees, Service Employees International Union, Local 1021; International Federation of Professional and Technical Employees, Local 21; Deputy City Attorney I-IV Unit, International Federation of Professional and Technical Employees (IFPTE); Deputy City Attorney V and Special Counsel, IFPTE; Confidential Management Employees Association, CMEA; International Brotherhood of Electrical Workers, Local 1245; Service Employees International Union Local 1021 (SEIU) Port chapter; Western Council of Engineers (WCE); International Federation of Professional and Technical Engineers Local 21 (IFPTE), Port Chapter; and International Brotherhood of Electrical Workers Union Local 1245 (IBEW).

The amendment will authorize the City and Port to provide a different level of benefits in accord with California Government Code Section 20475 (2.5% @ 55 Full Formula) and Section 20037 (Three-Year Final Compensation) to City of Oakland and Port of Oakland Local Miscellaneous Members entering membership for the first time in the miscellaneous classification after the effective date of this Amendment to the CalPERS contract.