

By Parker

RESOLUTION OF INTENTION No. **78490 C.M.S.**
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
CITY OF OAKLAND

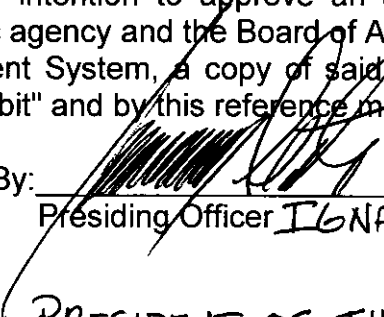
WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments 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 21354.5 (2.7% @ 55 Full formula) for local miscellaneous members and to provide a subsequent waiver period for those local miscellaneous members of the Oakland Municipal Employees Retirement System; Section 21362.2 (3% @ 50 Full formula) for local fire members; and Section 21023.5 (Public Service Credit for Peace Corps or AmeriCorps: VISTA Service) for local miscellaneous members and local safety members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: 
Presiding Officer IGNACIO DE LA FUENTE
PRESIDENT OF THE COUNCIL
Title

APR 20 2004
Date adopted and approved

RESOLUTION NO. 78490 =C.M.S.

IN COUNCIL, OAKLAND, CALIFORNIA, APR 20 2004, 20

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN and PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California



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 and June 21, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 18 are hereby stricken from said contract as executed effective June 21, 2003, and hereby replaced by the following paragraphs numbered 1 through 18 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.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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. 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).
4. 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. **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;**

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- b. THE PROVISION OF PARAGRAPH 4.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 4.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 31, 2001.

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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 THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.**
5. 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 4.a. of this contract. This exclusion shall not apply to those employees in employment of public agency on or after July 4, 1981.
 6. 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 and July 4, 1981, 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.
 7. 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.
 8. Assets heretofore accumulated with respect to police members under the local retirement system who waived their rights under that system on the effective date of this amendment to contract, 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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9. 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.
10. 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 the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
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 on or 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).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. 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).
 - d. Section 21024 (Military Service Credit as Public Service), Statutes of 1974 for local miscellaneous members only.

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- e. Section 21573 (Third Level of 1959 Survivor Benefits) for local fire members only.
 - f. Section 21024 (Military Service Credit as Public Service), Statutes of 1976 for local safety members only.
 - g. Section 20431 ("Local Police Officer" shall include city jail, detention or correctional facility employees as described in Government Code Section 20431).
 - h. 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).
 - i. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
14. 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.
15. 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.
16. 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.

17. 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.

18. 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 _____
KENNETH W. MARZION, CHIEF
ACTUARIAL & EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk