

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 APR 23 PM 6:50

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Office of Personnel Resource Management
DATE: May 5, 2009

RE: **A Resolution of Intention and Ordinance of the City of Oakland Authorizing an Amendment to the Contract Between the City of Oakland and the Board of Administration of the California Public Employees' Retirement System (CalPERS) That Authorizes California Government Code Section 20903, Two Years Additional Service Credit For Local Miscellaneous Members and Local Safety Members**

SUMMARY

A Resolution and an Ordinance have been prepared to amend the contract between the City of Oakland and the California Public Employees' Retirement System (CalPERS) to provide the optional benefit of additional service credit of two years for local miscellaneous members and local safety members. The PERS Two Years Additional Service Credit benefit is an optional benefit through CalPERS established under California Government Code Section 20903, which allows contracted agencies to provide two additional years of service credit to members who retire during a designated window period because of impending mandatory transfers, layoffs or demotions.

Before the Two Years Additional Service Credit benefit can be offered to employees, the agency's contract with CalPERS must be amended to include the benefit. To amend the contract, CalPERS requires that the City adopt a prescribed resolution and a companion ordinance. If the Resolution and Ordinance accompanying this report are adopted, the City's contract with CalPERS would be amended effective June 3, 2009 if the Ordinance passes with six affirmative votes or June 10, 2009 if the Ordinance passes with less than six affirmative votes. Adoption of the Resolution and passage of the Ordinance would allow the City the option of offering the CalPERS Retirement Incentive benefit under specific conditions and at specific times, but would *not require* the City to do so.

Action on the attached Resolution and Ordinance would allow the City only the *option* of offering the additional service credits, but would not implement the actual program. A report and resolution with full analysis of the associated costs would be provided before the option could be exercised.

FISCAL IMPACT

There is no fiscal impact associated with the Resolution and Ordinance amending the contract between the City of Oakland and the Public Employees' Retirement System to add California Government Code Section 20903. Costs or savings do not occur until the Two Years Additional Service Credit benefit is actually implemented.

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OPRM: Two Years Additional Service Credit

The additional cost to the City is calculated by determining which individuals meet the minimum eligibility for retirement and who are employed in the designated classification, department, or organizational unit to whom the benefit is being offered; and by establishing the annual pay rate, age, and CalPERS cost factor for each eligible employee. Cost estimates would then be based on a calculation if all eligible employees exercised the option to obtain an additional two years service credit and retire. The cost estimate will be further refined once the window periods end and actual retirement applications are received.

If the City chooses to offer the CalPERS benefit, the additional retirement cost for all eligible employees who retire during the designated window period would be reflected in the City's employer contribution rate commencing with the fiscal year starting two years after the end of the designated window period.

It should be noted that there may be an additional cost to the City (called an "experience loss") if the total number of members retiring in the fiscal year exceeds the number predicted by the actuarial assumptions. According to CalPERS, an experience loss occurs very often when the two years service credit is offered because some members retire who would have otherwise waited until later years. The impact on the employer rate can be determined when a plan is developed indicating what classifications will be offered the two years additional service credit and retirement benefit.

BACKGROUND

The Board of Administration, California Public Employees' Retirement System (CalPERS) and the City of Oakland entered into a contract effective September 1, 1970 making its employees members of CalPERS for retirement benefits and services. Employees who are included as members in the CalPERS system include local safety members (sworn police and sworn fire) and employees other than local safety members, referred to as local miscellaneous members.

Certain optional benefits may be added to the City's contract with CalPERS by amendment to the contract. California Government Code Section 20903, Two Years Additional Service Credit, is an optional benefit an agency may provide through a contract amendment. This benefit allows members to retire during a designated window period because of impending mandatory transfer, layoff, or demotions and receive two additional years of service credit at no cost to the member and if the following conditions are met:

1. The member is employed in a specified job classification, department or organizational unit and retired within the period designated by the Council.
2. The designated period must be subsequent to the effective date of the contract amendment and cannot be less than 90 or more than 180 days in length.
3. The Council must certify that it is electing to be subject to the provisions of California Government Code Section 20903 due to mandatory transfers, layoffs and/or demotions that constitute at least one percent of the job classification, department or organizational unit.

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4. The Council must certify that it is the intention at the time Section 20903 becomes operative that any vacancies created by retirements under this section or at least one vacancy in any position in any department or organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the workforce of such department or organizational unit.

To be eligible for this service credit, a member must have at least five years of service credit, be in employment status with the City of Oakland for at least one day during the designated window period and retire during the designated period.

KEY ISSUES AND IMPACTS

The two years additional service credit optional benefit offered by CalPERS is designed to give employers another option to meet mandatory workforce reductions. Once the contract is amended to provide two years additional service credit to a retiring member, the City will take the following steps:

1. Designate the job classification(s), department(s), or unit(s) eligible for this benefit (e.g., miscellaneous or safety employees, fire, police, secretaries, Finance Department, Human Resources Department, etc.) Anyone employed in the designated unit or classification is eligible for the two years service credit if all other requirements are met. *The benefit cannot be provided on the basis of employee organization or unrepresented groups.* This decision is scheduled for the May 12, 2009 Finance & Management Committee, and will be forwarded to the City Council upon the Committee's recommendation.
2. Designate a time period of 90 to 180 days during which an eligible member must retire to receive the additional service credit. Because the member must be in employment status and retire during the designated period, the retirement date may not be the first day of the designated period.
3. Certify the City determined that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served by granting such additional service credit.
4. Certify the City is electing to become subject to the provisions of Section 20903 because of impending mandatory transfers, demotions, and layoffs that constitute at least one percent (1%) of the designated job classification, department or organizational unit resulting from the curtailment of, or change in the manner of performing its service.
5. Certify that it is the City's intention at the time Section 20903 becomes operative that any vacancies created by retirements under this section or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the workforce of such department or organizational unit.
6. Certify each member's eligibility to receive the additional service credit and non-receipt of unemployment insurance payments during the specified period.

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The timeline to implement the "Golden Handshake" program, should the City Council elect to do so, is as follows:

- May 5** Council adopts CalPERS Resolution of Intention and first reading of the Ordinance
- June 2 (or 9)** Council adopts Ordinance (Ordinance is effective June 2nd if approved with six votes; effective June 9th if approved with less than six votes)
- June 3 (or 10)** Effective date of amendment to CalPERS contract
- June 16** Present positions for two years additional service credit and costs to City Council
- June 30** Adopt CalPERS Resolution of Intention to open window period
- July 1** Open window for no less than 90 days and no more than 180 days

SUSTAINABLE OPPORTUNITIES

There are no direct economic, environmental, or social equity opportunities resulting from this action.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed action does not impact disability and senior citizen access.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that City Council approve the Resolution and Ordinance amending the contract with CalPERS to allow two years additional service credit for local miscellaneous members and local safety members in accordance with California Government Code Section 20903.

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OPRM: Two Years Additional Service Credit

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the Resolution and Ordinance amending the contract with CalPERS to allow two years additional service credit for local miscellaneous members and local safety members.

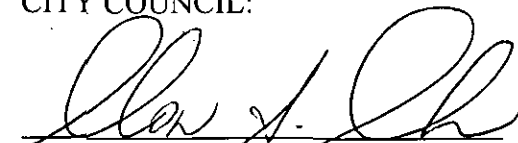
Respectfully submitted,



Wendell Pryor, Director
Office of Personnel Resource Management

Prepared by:
Yvonne S. Hudson, HR Manager
Retirement and Benefits

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

Item: _____
City Council
May 5, 2009

INTRODUCED BY COUNCILMEMBER _____

Tracy Chris
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 APR 23 PM 6:52

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE OF THE CITY OF OAKLAND AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF OAKLAND AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) THAT AUTHORIZES CALIFORNIA GOVERNMENT CODE SECTION 20903, TWO YEARS ADDITIONAL SERVICE CREDIT FOR LOCAL MISCELLANEOUS MEMBERS AND LOCAL SAFETY MEMBERS

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by 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, the City of Oakland has elected to amend its contract with the Public Employees' Retirement System to include Government Code Section 20903, Two Years Additional Service Credit for local miscellaneous members and local safety members which allows contracted agencies to provide two years additional service credit to members who retire during a designated window period because of impending mandatory transfers, layoffs, or demotions; and

WHEREAS, implementation of Government Code Section 20903 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 to include Government Code Section 20903, Two Years Additional Service Credit for local miscellaneous members and local safety members is hereby authorized, a copy of said amendment being attached hereto as Exhibit 1, and by such reference made part hereof as though herein set out in full.

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

Section 3. Pursuant to City Charter Section 216, this ordinance will be effective immediately if it receives at least six affirmative votes upon final adoption; otherwise this ordinance will be effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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

DATE OF ATTESTATION: _____

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF GOVERNING BODY'S ACTION

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the _____ of the
(governing body)

_____ of the
(public agency)

on _____
(date)

Clerk/Secretary

Title

**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 20903 (Two Years Additional Service Credit) 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

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 and July 2, 2005 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 July 2, 2005, and hereby replaced by the following paragraphs numbered 1 through 19 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.

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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.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

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- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- 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;**
 - 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;**

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- 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;
- 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.
- i. MISCELLANEOUS EMPLOYEES HIRED PRIOR TO SEPTEMBER 1, 1970 WHO REMAINED MEMBERS OF THE OAKLAND MUNICIPAL EMPLOYEES RETIREMENT SYSTEM AND WHO DID NOT WAIVE THEIR RIGHTS UNDER THAT PLAN AS OF JUNE 19, 2004.

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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 4.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.
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.

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- 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 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 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).
14. 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 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).

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- h. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps 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).
- 15. 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.
- 16. 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.
- 17. 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.
- 18. 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.

19. 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

LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

**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 20903 (Two Years Additional Service Credit) 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

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 and July 2, 2005 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 July 2, 2005, and hereby replaced by the following paragraphs numbered 1 through 19 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. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims; demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- 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;**
 - 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;**

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- 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;
- 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.
- i. MISCELLANEOUS EMPLOYEES HIRED PRIOR TO SEPTEMBER 1, 1970 WHO REMAINED MEMBERS OF THE OAKLAND MUNICIPAL EMPLOYEES RETIREMENT SYSTEM AND WHO DID NOT WAIVE THEIR RIGHTS UNDER THAT PLAN AS OF JUNE 19, 2004.

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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 4.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.
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.

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- 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 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 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).
14. 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 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).

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- h. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps 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).
15. 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.
16. 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.
17. 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.
18. 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.

19. 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 _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk