

*STAFF REPORT**CITY OF OCEANSIDE*

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DATE: August 31, 2011

TO: Honorable Mayor and City Councilmembers

FROM: Human Resources Department

SUBJECT: **RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF OCEANSIDE**

**SYNOPSIS**

The City Council recently approved the implementation of a two-tier retirement system with CalPERS by approving the Memorandum of Understanding (MOU) between various bargaining units and the City. The MOUs contain language which allows the City to implement a two-tier retirement system for new hires. This action was accomplished through the meet and confer process with the Management Employees of the City of Oceanside (MECO), the Western Council of Engineers (WCE), the Oceanside City Employees' Association (OCEA), and with Oceanside Police Officers' Association Non-Sworn (OPOA-NS) for miscellaneous employees. The revisions to the MOUs do not include public safety employees. Staff recommends that the City Council adopt the attached resolution of intention to approve an amendment to contract between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Oceanside.

**BACKGROUND**

The City began exploring options for reducing retirement costs several months ago to address budgetary concerns. Currently, the retirement formula for miscellaneous employees is 2.7% at 55 years of age. It was determined the most practical option to reduce retirement costs was to reduce costs for future City employees. This resulted in changes to the retirement plan for new hires as follows:

1. The retirement formula will be changed to 2% at 60 years of age.
2. CalPERS will use the 3-year final average earnings formula for the final compensation calculation.
3. This will affect only new hires and not current employees.

## **ANALYSIS**

The City is obligated to follow the process mandated by CalPERS to amend the City's contract. The process involves the following:

1. City Council approves the resolution of intention to amend the CalPERS contract.
2. The Resolution of Intention is submitted to CalPERS.
3. A representative from CalPERS, upon receiving the resolution, will provide the City with the necessary documents for adoption by the City Council. Detailed requirements and procedures will be outlined in a cover letter sent with the documents which will include the adoption of an ordinance.
4. The contract will be effective the first of the month after CalPERS receives the required documents from the City.

## **FISCAL IMPACT**

There is no immediate fiscal impact associated with implementing the changes to the retirement provision as described above. It is estimated the City will realize long-term saving over the next ten years as a result of this action, but employee turnover and other factors will influence the extent of any projected savings.

## **COMMISSION OR COMMITTEE REPORT**

Does not apply.

## **CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

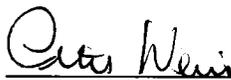
**RECOMMENDATION**

Staff recommends that the City Council adopt the attached resolution approving a resolution of intention to approve an amendment to contract between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Oceanside.

PREPARED BY:

SUBMITTED BY:

  
\_\_\_\_\_  
Marsha Davis  
Interim Human Resources Director

  
\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

  
\_\_\_\_\_

ATTACHMENTS:  
Resolution

1 RESOLUTION NO. \_\_\_\_\_

2 A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF  
3 THE CITY OF OCEANSIDE TO APPROVE AN AMENDMENT  
4 TO CONTRACT BETWEEN THE BOARD OF  
5 ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES'  
6 RETIREMENT SYSTEM AND THE CITY COUNCIL CITY OF  
OCEANSIDE

7 Whereas, the Public Employees' Retirement Law permits the participation of public  
8 agencies and their employees in the Public Employees' Retirement System by the execution of a  
9 contract , and sets forth the procedure by which said public agencies may elect to subject  
10 themselves and their employees to amendments to said Law; and

11 Whereas, one of the steps in the procedures to amend this contract is the adoption by the  
12 governing body of the public agency of a resolution giving notice of its intention to approve an  
13 amendment to said contract, which resolution shall contain a summary for the change proposed  
14 in the said contract and

15 Whereas, the following is a statement of the proposed change:

16 To provide Section 20475 (Different Levels of Benefits).  
17 Section 21353 (2%@60 Full Formula) and Section 20037  
18 (Three-Year Final Compensation) are applicable to local  
19 Miscellaneous members entering membership for the first  
20 Time in the miscellaneous classification after the effective  
21 date of this amendment.

22 NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oceanside  
23 does hereby give notice of intention to approve an amendment to the contract between the City  
24 of Oceanside and the Board of Administration of the Public employees' Retirement System, a  
25 copy of said amendment being attached hereto, as an "Exhibit" and by this reference made part  
26 hereof.

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1 PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this  
2 day of \_\_\_\_\_, 2011, by the following vote:

3 AYES:

4 NAYES:

5 ABSENT:

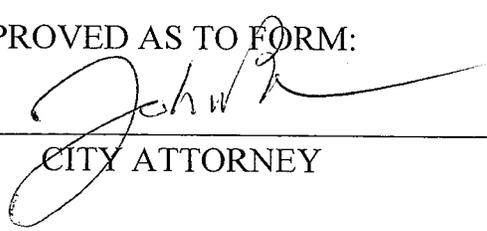
6 ABSTAIN:

7 \_\_\_\_\_  
8 MAYOR, CITY OF OCEANSIDE

9 ATTEST:

10 \_\_\_\_\_  
11 CITY CLERK

12 APPROVED AS TO FORM:

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14 \_\_\_\_\_  
15 CITY ATTORNEY

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**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 Oceanside



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 January 1, 1955, and witnessed September 8, 1954, and as amended effective July 1, 1959, July 1, 1963, January 1, 1966, February 16, 1970, October 1, 1973, July 1, 1974, November 30, 1975, December 31, 1976, September 17, 1978, July 1, 1979, January 6, 1980, March 2, 1980, July 6, 1980, August 31, 1980, March 15, 1981, December 29, 1985, January 8, 1989, December 21, 1991, July 25, 1992, July 22, 1995, February 11, 1996, June 30, 1996, May 3, 1998, June 24, 2001, July 20, 2003 and July 12, 2009 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective July 12, 2009, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract 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 January 1, 1955 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.

PLEASE DO NOT SIGN "EXHIBIT ON" V"

- (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 (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Ocean Beach Lifeguards (included as local safety members);
  - d. 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. **THE FOLLOWING SEASONAL EMPLOYEES OF THE RECREATION DEPARTMENT WHO ENTERED EMPLOYMENT AFTER DECEMBER 31, 1965:**  
**LIFEGUARDS**  
**SWIMMING POOL CASHIERS**  
**SWIMMING COACH**  
**PLAYGROUND SUPERVISORS AND PLAYGROUND LEADERS**  
**TENNIS SUPERVISORS**  
**PIER TRAM DRIVERS**  
**BEACH ACTIVITY SUPERVISORS**  
**BEACH MAINTENANCE PERSONS**  
**AFTER SCHOOL PLAYGROUND DIRECTORS; AND**
  - b. **THE FOLLOWING PERSONS WHO ENTERED EMPLOYMENT AFTER DECEMBER 31, 1965:**  
**LIBRARY PAGES**  
**SCHOOL CROSSING GUARDS**

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6. This contract shall be a continuation of the contract of the Oceanside Small Craft Harbor District, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred July 1, 1995.
  - a. All benefits provided under this contract shall apply to all past service for former employees of the Oceanside Small Craft Harbor District.
7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after July 12, 2009 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1960, the effective date of Social Security coverage, and prior to December 31, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after July 12, 2009 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, subject to the reduction provided therein for service on and after January 1, 1960, the effective date of Social Security coverage, and prior to December 31, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. 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).

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11. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members, local fire members and local police members only.
  - b. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - c. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
  - d. Section 20042 (One-Year Final Compensation) for local fire members, local police members, ocean beach lifeguards and for those local miscellaneous members entering membership on or prior to the effective date of this amendment to contract.
  - e. Section 21024 (Military Service Credit as Public Service).
  - f. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.
  - g. Section 21326 (One-Time 1% to 7% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to July 1, 1974). Legislation repealed said Section effective January 1, 2002.
  - h. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - i. Section 21427 (Improved Nonindustrial Disability Allowance) for local fire members only.
  - j. Section 20965 (Credit for Unused Sick Leave).
  - k. Section 20423 ("Local Safety Member" shall include Harbor or Port Police Officers as described in Government Code Section 20423).
  - l. Section 20421 ("Local Safety Member" shall include ocean beach lifeguards of a city as described in Government Code Section 20421).

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- m. 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).
  - n. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 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.
12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on December 31, 1976. 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.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
14. Public Agency shall also contribute to said Retirement System as follows:
- a. 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 miscellaneous members, local fire members, and local police members.
  - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 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 ocean beach lifeguards.
  - c. 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.

15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF OCEANSIDE

BY \_\_\_\_\_  
DARRYL WATSON, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest:

\_\_\_\_\_  
Clerk

