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DATE: October 12, 2011

TO: Honorable Mayor and City Councilmembers

FROM: Human Resources Department

SUBJECT: **INTRODUCTION OF AN ORDINANCE TO AMEND THE 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 Resolution of Intention amending the current California Public Employees' Retirement System (CalPERS) contract to implement a two-tier retirement system with CalPERS. The City Council previously approved Memorandum of Understanding (MOUs) between various bargaining units and the City allowing 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 Ordinance 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 modify the retirement formula future non-safety 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 non-safety 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 approved the Resolution of Intention to amend the CalPERS contract on August 31, 2011.
2. The Resolution of Intention was submitted to CalPERS on September 19, 2011.
3. CalPERS has provided the City with the necessary documents for adoption by the City Council. Detailed requirements and procedures are outlined in the cover letter sent with the contracts and are included as attachments to this action for 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 following final approval of the Ordinance.

**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 introduce the attached ordinance approving an amendment to the contract between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Oceanside.

PREPARED BY:

SUBMITTED BY:



Patricia Nunez  
Human Resources Director



Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager



ATTACHMENTS:

Letter from CalPERS dated September 23, 2011  
CalPERS Contract  
Ordinance



**Employer Services Division**  
P.O. Box 942709  
Sacramento, CA 94229-2709  
Telecommunications Device for the Deaf - (916) 795-3240  
**888 CalPERS** (or **888-225-7377**) FAX (916) 795-3005

September 23, 2011

Employer Code #0334  
Reply to Section 105

Ms. Patricia Nunez  
Human Resources Director  
City of Oceanside  
300 North Coast Highway  
Oceanside, CA 92054-2885

Dear Ms. Nunez:

We have received the Resolution of Intention to amend your CalPERS contract to provide 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.

Enclosed are the following documents necessary to complete the proposed amendment:

1. Amendment to Contract.
2. Certification of Final Action of Governing Body (Form CON-5).

Your agency adopted the Resolution of Intention on August 31, 2011, therefore, the earliest date the final Ordinance could have been adopted was September 20, 2011, pursuant to Government Code Section 20471. THERE ARE NO EXCEPTIONS TO THIS LAW.

The effective date of this amendment may be as early as the day following the effective date of the Ordinance. Please insert the amendment effective date on the last page of the Amendment to Contract.

The following documents must be returned to this office. ORIGINAL SIGNATURES ARE REQUIRED ON ALL DOCUMENTS.

1. Amendment to Contract, two original executed sets.
2. Ordinance, original or certified copy.
3. Certification of Final Action of Governing Body (CON-5), original.

Please notify your personnel/payroll staff and any others who submit payroll or membership documents to CalPERS on behalf of the agency, such as county courts and port districts, of the following information as of the effective date of the amendment to the contract:

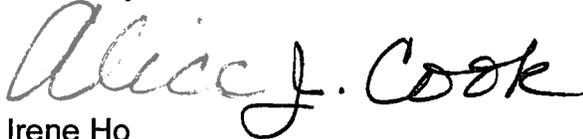
- The local miscellaneous member contribution rate will be 7% of reportable earnings for those local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to the contract.
- Coverage group 70101 should be used to identify those local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to the contract.

**Please do not retype the Amendment to Contract and/or agreement documents. Only documents provided by this office will be accepted. If you have a problem with any of the documents, please contact this office prior to presenting to your governing body for adoption. Another contract amendment cannot be started until this amendment is completed or cancelled.**

A copy of the contract will be returned for your records after it has been executed by CalPERS.

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

Sincerely,



*for*  
Irene Ho  
Employer Representative  
Public Agency Contract Services

IH:pm

Enclosures

cc: San Diego Regional Office



California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

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

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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.

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.

- (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**

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).

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).

- 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

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF OCEANSIDE  
AUTHORIZING AN AMENDMENT TO THE CONTRACT  
BETWEEN THE CITY COUNCIL OF THE CITY OF  
OCEANSIDE AND THE BOARD OF ADMINISTRATION OF  
THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT  
SYSTEM

The City Council of the City of Oceanside DOES ORDAIN as follows:

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

SECTION 2. The Mayor is hereby authorized, empowered and directed to execute said amendment for and on behalf of said agency.

SECTION 3. This ordinance shall take effect 30 days after the date of its adoption. Within 15 days of adoption, the City Clerk shall publish this ordinance in a newspaper of general circulation, pursuant to state statute.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California held on the \_\_\_\_\_, day of \_\_\_\_\_ 2011, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside, California held on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

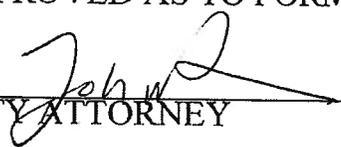
AYES:  
NOES:  
ABSENT:  
ABSTENTION:

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

