

# Agenda Report

**TO:** City Council

**DATE:** July 27, 2009

**FROM:** City Manager

**RE:** ADOPTION OF A RESOLUTION OF INTENT AND FIRST READING OF AN UNCODIFIED ORDINANCE TO AMEND THE CONTRACT BETWEEN THE CITY OF PASADENA AND THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO IMPLEMENT THE PRE-RETIREMENT OPTIONAL SETTLEMENT 2 DEATH BENEFIT (§21548) AND THE FOURTH LEVEL OF 1959 SURVIVOR BENEFITS (§21574) FOR LOCAL POLICE MEMBERS

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt the attached Resolution of Intent to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City Council of the City of Pasadena to implement the Pre-Retirement Optional Settlement 2 Death Benefit (Government Code Section 21548) and the Fourth Level of 1959 Survivor Benefits (Government Code Section 21574) for local police members; and,
2. Introduce and conduct the first reading of the Uncodified Ordinance of the City of Pasadena Amending the Contract between the City of Pasadena and the Board of Administration of the California Public Employees' Retirement System to provide the Pre-Retirement Optional Settlement 2 Death Benefit (Government Code Section 21548) and the Fourth Level of 1959 Survivor Benefits (Government Code Section 21574) for local police members.

## **BACKGROUND:**

On June 22, 2009, the City Council adopted an amendment to the Memorandum of Understanding between the City of Pasadena and the Pasadena Police Officers Association, providing for implementation of two previously approved benefits, one providing the option for a surviving spouse to receive monthly death benefit payments in lieu of a lump sum death benefit (§21548), and the other provides an increase to \$950 per month payable to a surviving spouse over the age of 60 or to

an eligible child (§21574). These benefits were previously approved for the members of the Pasadena Police Sergeants Association and the unrepresented police management employees. This action is required to implement the existing agreements.

In order to amend the CalPERS contract for these benefits, CalPERS regulations require that the City Council adopt a Resolution of Intent giving public notice of the intention to approve a specified amendment to the CalPERS contract. The contract must be amended by Ordinance, the first reading of which may be done concurrently with the Resolution of Intent, with a second reading no earlier than 20 days after the first reading of the Ordinance. The Ordinance will be effective upon publication; the contract amendment providing these benefits will be effective the beginning of the last payroll period in August 2009.


**FISCAL IMPACT:**

The fiscal impact of the amendment to the CalPERS contract to provide these benefits is estimated to be approximately \$39,213 annually. Sufficient funding has been included in the operating budget.


Government Code Section 7507 requires the following statements in regard to the implementation of these benefits:

1. Implementation of the Pre-Retirement Optional Settlement 2 Death Benefit will result in an increase in the Present Value of Benefits in the amount of \$511,109, and an increase in the Accrued Liability of \$359,622; resulting in an increase in the City's employer rate of 0.119%.
2. Implementation of the Fourth Level of 1959 Survivor Benefits would result in a first year Employer Normal Cost of \$16,070, however this amount is amortized over 5 years against excess assets of \$137,926, leaving a first year Total Employer Cost of \$0. The employees each pay \$2 per month for this benefit.

Respectfully Submitted,

  
E1 MICHAEL J. BECK  
City Manager

Approved By:

  
KARYN S. EZELL  
Director of Human Resources

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

A RESOLUTION OF INTENT TO APPROVE AN AMENDMENT TO THE  
CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY  
COUNCIL OF THE CITY OF PASADENA

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 21574 (Fourth Level of 1959 Survivor Benefits) and Section 21548 (Pre-Retirement Option 2 Death Benefit) for local police members."

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pasadena 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.

Adopted by the following vote at the meeting of the City Council on July 27, 2009:

AYES:

NOES:

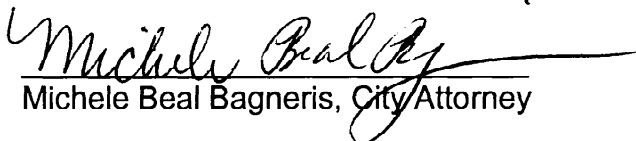
ABSTAIN:

ABSENT:

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Mark Jomsky, City Clerk

Approved as to Form:

  
Michele Beal Bagneris, City Attorney



## EXHIBIT

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 Pasadena

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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 July 1, 1945, and witnessed July 27, 1945, and as amended effective July 1, 1951, November 1, 1955, August 1, 1957, November 1, 1957, August 1, 1959, February 1, 1964, October 1, 1969, May 28, 1973, May 1, 1974, September 29, 1975, July 1, 1976, August 29, 1977, March 27, 1978, January 27, 1981, November 30, 1981, May 16, 1983, April 30, 1984, July 2, 1984, October 28, 1985, June 30, 1987, July 3, 1989, October 8, 1990, November 14, 1991, July 18, 1992, November 15, 1993, March 7, 1994, February 15, 1995, November 25, 1996, September 3, 1997 December 4, 2000, November 3, 2003, December 29, 2003, June 28, 2004, July 24, 2006, and January 8, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective January 8, 2007, and hereby replaced by the following paragraphs numbered 1 through 17 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 55 for local safety members.

PLEASE DO NOT SIGN "EXHIBIT C"

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1945 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.

PLEASE DO NOT SIGN "EXHIBIT C"

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. **ALL FIRE FIGHTERS AND POLICE OFFICERS EMPLOYED ON OR PRIOR TO AUGUST 29, 1977, WHO DID NOT WAIVER THEIR RIGHTS UNDER THE LOCAL SYSTEM ON AUGUST 29, 1977 AND JUNE 28, 2004;**
  - b. **THOSE INACTIVE FIRE FIGHTERS AND POLICE OFFICERS WHO WERE ELIGIBLE TO AND DID NOT WAIVE THEIR RIGHTS UNDER THE LOCAL SYSTEM ON NOVEMBER 30, 1981; AND**
  - c. **CITY SERVICE WORKERS HIRED ON OR AFTER JUNE 30, 1987.**
  
6. Those safety members in the local retirement system on August 29, 1977 who did not waive their rights under said local system and, upon leaving employment with the City of Pasadena, left their contributions on deposit with said local system and are members of the Public Employees' Retirement System on November 30, 1981, were provided the right to execute and file a waiver on or before November 30, 1981.
  
7. Assets heretofore accumulated with respect to members under the local retirement system who waived their rights under that system have been transferred to the Public Employees' Retirement System on August 29, 1977, November 30, 1981 and June 28, 2004 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. This contract shall be a continuation of the contract of the Pasadena Community Development Commission, 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 January 11, 1982.
9. 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 January 8, 2007 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
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 on or after January 8, 2007 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% 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 safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - c. Section 20042 (One-Year Final Compensation) for local safety members and for those miscellaneous members entering membership prior to July 2, 1984.
  - d. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members and for those local miscellaneous members entering membership prior to July 2, 1984.
  - e. Section 21024 (Military Service Credit as Public Service) for those local police members entering membership prior to May 16, 1983; for those local fire members entering membership prior to April 30, 1984 and for all local miscellaneous members.

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- f. Section 20938 (Public Service Credit for Service Under Local Retirement System). Legislation repealed said Section effective September 27, 1979.
  - g. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
  - h. Section 20475 (Different Level of Benefits). Section 20042 (One-Year Final Compensation), Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance), are not applicable to those local miscellaneous members entering membership on or after July 2, 1984; Section 21024 (Military Service Credit), is not applicable to those local police members entering membership on or after May 16, 1983, and to those local fire members entering membership on or after April 30, 1984.
  - i. Section 20422 ("Local Safety Member" shall include employees designated as Emergency Medical Technician I, II, or Emergency Medical Technician - Paramedic as described in Government Code Section 20422).
  - j. Section 20965 (Credit for Unused Sick Leave).
  - k. Section 21548 (Pre-Retirement Option 2W Death Benefit).
  - l. Section 21574 (Fourth Level of 1959 Survivor Benefits).
13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 29, 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.
14. 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.
15. 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 21574 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 and local safety 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.
16. 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.
17. 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 PASADENA

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

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

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

Attest:

\_\_\_\_\_  
Clerk