

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. 2003-_____ File No. _____

Ord No. 2003-_____

Agenda Item No.: 18
Date: March 21, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Human Resources Director
Cindy Titgen, Benefits and Workers' Compensation Manager

SUBJECT: Amendment to California Public Employees' Retirement System (CalPERS) Contract to Provide Section 20472 (Different Level of Benefits), Section 21362 (2% at age 50), and Section 20037 (Three-Year Final Compensation) for Local Fire Safety Employees

RECOMMENDATION:

Approval of a Resolution of Intention No. 2012-30 and the initial reading of Ordinance No. 2012-06 to amend the CalPERS contract to provide a second-tier level of benefits for employees hired after adoption of the 2% at 50 retirement benefit calculation and a three-year final compensation calculation for local Fire Safety employees.

FISCAL ANALYSIS:

Decreases in the City's CalPERS employer rate will occur as employees are hired into the Second Tier. Accordingly, budget reduction for the Fire Department will be realized in future years.

BACKGROUND:

During recent labor negotiations, the City and the Fire Association agreed to provide a second-tier of pension benefits for local Fire Safety employees employed after the date of an amendment to the CalPERS contract. The CalPERS pension benefit would be reduced from 3% at 50 to 2% at 50 (Section 21362) and the final compensation calculation would be reduced from a one-year to a three-year final compensation calculation (Section 20037).

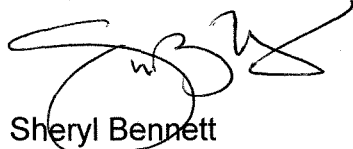
Approval of the Resolution of Intention No. 2012-30 and initial reading of the Ordinance No. 2012-06 is the first step in the process to amend the CalPERS Contract. The City is required to certify its action and its compliance with Government Code Section 7507 (Disclosure of future annual cost increase or change). Once the City certifies its action, and at least 20 days has elapsed, the final step of the process is a second reading and adoption of Ordinance No. 2012-06, which is scheduled for April

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18, 2012. The effective date of the CalPERS amendment is May 27, 2012, which is the first day of the payroll following thirty (30) days following the adoption of Ordinance No. 2012-06.

Therefore, staff requests approval of a Resolution of Intention No. 2012-30 and the initial reading of Ordinance No. 2012-06 to amend the CalPERS contract for local Fire Safety employees to provide Section 20472 (Different Level of Benefits), Section 21362 (2% at 50), and Section 20037 (Three-Year Final Compensation) effective May 27, 2012.

Respectfully submitted,



Sheryl Bennett
Director of Human Resources



Cindy Titgen
Benefits & Workers' Compensation Manager

RESOLUTION NO. 2012-30

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
OF ITS INTENTION TO APPROVE AN
AMENDMENT TO THE CONTRACT
BETWEEN THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT
SYSTEM AND THE CITY OF ESCONDIDO
FOR LOCAL FIRE MEMBERS

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 20472 (Different Level of Benefits), Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) for local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.

2. 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 "Exhibit A" and by this reference made a part hereof.



EXHIBIT "A"

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

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

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 November 1, 1958, and witnessed August 6, 1958, and as amended effective August 1, 1964, December 1, 1968, July 1, 1973, January 1, 1974, February 7, 1975, July 1, 1977, November 1, 1978, August 1, 1980, July 1, 1982, June 28, 1987, December 25, 1988, June 25, 1989, May 27, 1990, January 1, 1991, June 1, 1991, October 9, 1993, January 20, 1996, May 25, 1996, January 2, 1998, July 12, 1998, July 11, 1999, January 9, 2000, November 12, 2000, June 24, 2001, September 26, 2004 and July 1, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective July 1, 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 60 for local miscellaneous members and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1958 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. 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. **PROGRAM PERSONNEL HIRED ON OR AFTER JULY 1, 1973;
AND**
 - b. **BUS DRIVERS HIRED ON OR AFTER FEBRUARY 7, 1975.**
- 6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
- 7. This contract shall be a continuation of the contract of the Escondido 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 July 1, 1996.
- 8. 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 1, 2007 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1973, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

9. 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 1, 2007 shall be determined in accordance with Section 21354.3 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1973, termination of Social Security, for members whose service has been included in Federal Social Security (3% at age 60 Full and Modified).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local police members and for those local fire members entering membership in the fire classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local fire member entering membership for the first time in the fire classification after the effective date of this amendment to contract shall be determined in accordance with Section 21362 of said Retirement Law (2% @ 50 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21574 (Fourth Level of 1959 Survivor Benefits).
 - b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
 - c. Section 20614, Statutes of 1978, (Reduction of Normal Member Contribution Rate). From November 1, 1978 and until June 28, 1987, the normal local safety member contribution rate shall be 2.75%. Legislation repealed said Section effective September 29, 1980.
 - d. Section 20690, Statutes of 1980, (To Prospectively Revoke Section 20614, Statutes of 1978).
 - e. Section 20042 (One-Year Final Compensation) for local miscellaneous members, local police members and for those local fire members entering membership on or prior to the effective date of this amendment to contract.
 - f. Section 20965 (Credit for Unused Sick Leave).
 - g. Section 21024 (Military Service Credit as Public Service).

- h. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local police members only.
 - i. Section 21548 (Pre-Retirement Option 2W Death Benefit).
 - j. Section 20475 (Different Level of Benefits). Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.
- 13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on August 1, 1980. 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 ESCONDIDO

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

ORDINANCE NO. 2012-06

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

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN
as follows:

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

SECTION 2. The Mayor of the City of Escondido 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 and prior to the expiration of 15 days from the passage thereof shall be
published at least one time in a newspaper of general circulation, published and
circulated in the City of Escondido and thenceforth and thereafter, the same shall be in
full force and effect.



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

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF ESCONDIDO

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk