

ORDINANCE NO. 2012-16R

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 of the California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto as Exhibit "A", and by such reference made a part hereof as though herein set out in full.

SECTION 2. That 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. That 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.



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 Escondido

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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 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, July 1, 2007 and May 27, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 17 are hereby stricken from said contract as executed effective May 27, 2012, 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 fire member entering membership in the fire classification on or prior to May 27, 2012 and for those local police members entering membership in the police 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 May 27, 2012 and for those local police members entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 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, and for those local fire members entering membership on or prior to May 27, 2012 and local police 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 May 27, 2012.

Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police 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.