



City of Palo Alto

City Council Staff Report

(ID # 9402)

Report Type: Action Items

Meeting Date: 8/20/2018

Summary Title: Amend the Contract Between the Board of Administration of the California Public

Title: Adoption of: (1) a Resolution of Intent, and (2) an Ordinance to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Palo Alto to Implement the Share of Employer Contribution in Accordance With Section 20516 of the California Government Code and the Compensation Plan Between the City of Palo Alto and the Management and Professional Personnel and Council Appointees

From: City Manager

Lead Department: Human Resources

Recommendation

Staff recommends the City Council:

(1) Adopt the attached Resolution of Intention of the Council of the City of Palo Alto stating its intent to amend the contract between the California Public Employees' Retirement System (CalPERS) and the City of Palo Alto in order to implement the pension cost share provision in accordance with California Government Code section 20516 and the Compensation Plan between the City of Palo Alto and the Management and Professional Personnel (MGMT) employee group.

(2) Adopt, on first reading, the attached ordinance amending the City's contract with CalPERS. This ordinance will return to the Council on second reading in accordance with state law.

Background

In the most recent compensation plan for MGMT (approved by the City Council in April 2016), provisions were included for employees to accept a greater share of pension costs to assist in curtailing the City's growing pension expense. While Council has already approved these provisions in the Compensation Plan, approval of this resolution to amend the pension contracts is an administrative step required by CalPERS.

The pension cost sharing agreement includes a phase-in schedule for the employee pick-up of the employer contribution. This chart outlines the total employee share over the current Memorandums Of Agreement (MOA) and Compensation Plan terms (all ending by the close of calendar year 2018):

Employee share of CalPERS Employer Contribution

	Following council approval of this contract amendment with CalPERS	Total contribution over the course of the current MOA/Compensation Plan
IAFF	completed	3.00%
FCA	completed	3.00%
PAPOA	completed	3.00%
PAPMA	completed	3.00%
SEIU	completed	1.00%
Management and Professional	0.50%	1.00%
UMPAPA*	N/A	N/A

*No current agreement for a cost share of the CalPERS Employer contribution has been reached with the Utilities Management group at this time.

Discussion

The first step in the process is for the Council to adopt a Resolution of Intent and conduct a first reading of the ordinance amending the California Public Employees Retirement System (CalPERS) contract. An amendment to the contract, which changes the employees’ rate of contribution, requires a secret ballot election among the employees affected. This election must follow adoption of the Resolution of Intention and precede adoption of the final documents. The final ordinance will return to Council for approval of the second reading and adoption on September 10, 2018. The contract amendment will become effective during the payroll period 31 days after this ordinance is adopted.

With the employer contribution of pension costs continuing to rise, it was in the City’s best interest to negotiate a cost share arrangement with all bargaining units and implement for the non-represented groups as well. The table below shows the total contributions paid by each of the unrepresented MGMT employee groups:

<p align="center">Employee Type</p> <p>Classic: in pensions system prior to 2013 New Employee (PEPRA): 2013 and after</p>	<p align="center">Total Employee Contribution After Amendment</p>
<p>Unrepresented Management</p> <ul style="list-style-type: none"> • Classic Employee • New Employee 	<p align="center">9.00% 7.25%</p>
<p>Unrepresented Police Chief, Assistant Police Chief, Fire Chief and Fire Deputy Chiefs</p> <ul style="list-style-type: none"> • Classic Employee • New Employee 	<p align="center">12.00% 13.75%</p>

Although the cost share arrangements have already been agreed upon through the Compensation Plan, CalPERS requires this administrative step for Council to adopt a resolution in order to amend the pension contracts. This amendment seeks to bring the CalPERS contract in alignment with the current adopted Compensation Plan.

Policy Implications

This recommendation supports the City Council’s goal of reducing pension costs to the City and is consistent with existing City policies.

Resource Impact

Per the adopted Compensation Plan, the additional employee contribution to CalPERS employer contribution as outlined in this staff report is anticipated to save approximately \$166,000 across all funds, including \$115,000 in the General Fund and General Capital Fund. This savings is factored into the development of the annual budget process per the terms in the Compensation Plan.

Attachments:

- Attachment A: Resolution of Intention
- Attachment B: Ordinance amending CalPERS contract
- Attachment C: CalPERS Sample Amendment

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

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 20516 (Employees Sharing Additional Cost) of an additional 0.5% for local miscellaneous members in the Unrepresented Management group and an additional 1.5% for local safety members in the Unrepresented Safety Management group.

NOW, THEREFORE, BE IT RESOLVED 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 an "Exhibit" and by this reference made a part hereof.

By: _____
Presiding Officer

Title

Date adopted and approved

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Authorizing an Amendment to the Contract between the City of Palo Alto and the Board of Administration of the California Public Employees' Retirement System to Add Cost-Sharing Pursuant to Government Code Section 20516

The Council of the City of Palo Alto ORDAINS as follows:

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

SECTION 2. The City Manager, or his designee is authorized, empowered, and directed to execute said amendment for and on behalf of the City of Palo Alto.

SECTION 3. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Human Resources

Director of Administrative
Service

Not Yet Approved



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 Palo Alto**



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, 1942, and witnessed March 9, 1942, and as amended effective January 1, 1948, April 1, 1949, January 1, 1952, July 1, 1954, February 1, 1956, November 1, 1964, September 23, 1968, December 14, 1970, February 1, 1974, July 8, 1974, January 5, 1975, April 1, 1975, September 11, 1977, July 1, 1979, February 21, 1981, July 11, 1981, December 12, 1981, June 12, 1982, September 17, 1983, November 12, 1983, February 11, 1991, October 15, 1994, December 10, 1994, February 27, 1996, October 15, 1998, January 1, 1999, October 14, 1999, July 1, 2000, October 20, 2001, March 9, 2002, September 16, 2006, January 6, 2007, July 17, 2010, June 8, 2012, December 7, 2012, October 14, 2017 and June 9, 2018 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 18 are hereby stricken from said contract as executed effective June 9, 2018, and hereby replaced by the following paragraphs numbered 1 through 18 inclusive:

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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 classic local miscellaneous members entering membership in the miscellaneous classification on or prior to July 17, 2010, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after July 17, 2010, age 62 for new local miscellaneous members, age 50 for classic local fire members entering membership in the fire classification on or prior to June 8, 2012 and for those classic local police members entering membership in the police classification on or prior to December 7, 2012, age 55 for classic local fire members entering membership for the first time in the fire classification after June 8, 2012 and for those classic local police members entering membership for the first time in the police classification after December 7, 2012 and 57 for new local safety members
2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1942 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 attorney 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) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' 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.

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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. **PROJECT PROFESSIONAL; PROJECT MANAGER; PROJECT TECHNICIAN; PROJECT ASSISTANT; PROJECT LABORER; LANDSCAPE MAINTENANCE TRAINEE; LIBRARY PAGE; WATER SAFETY INSTRUCTOR /LIFEGUARD; RECREATION LEADER; AND POOL MANAGER HIRED ON OR AFTER OCTOBER 14, 1999.**
6. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after January 6, 2007 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after January 6, 2007 and not entering membership for the first time in the miscellaneous classification after July 17, 2010 shall be determined in accordance with Section 21354.5 of said Retirement Law.
8. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time with this agency in the miscellaneous classification after July 17, 2010 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member entering membership in the fire classification on or prior to June 8, 2012 and for those classic local police members entering membership in the police classification on or prior to December 7, 2012 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

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11. The percentage of final compensation to be provided for each year of credited current service as a classic local fire member entering membership for the first time with this agency in the fire classification after June 8, 2012 and for those classic local police members entering membership for the first time with this agency in the police classification after December 7, 2012 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21571 (Basic Level of 1959 Survivor Benefits).
 - 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 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
 - e. 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.
 - f. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members, those classic local fire members entering membership on or prior to June 8, 2012 and for classic local police members entering membership on or prior to December 7, 2012.
 - g. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.
 - h. 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.
 - i. Section 21024 (Military Service Credit as Public Service).

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- j. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for classic local miscellaneous members and classic local safety members in the following groups:

Local miscellaneous members who are Management and confidential employees;

Local police members who are Management and confidential employees;

Local fire members entering membership on or prior to June 8, 2012 who are Management and confidential employees;

Local miscellaneous members represented by local 715, SEIU AFL-CIO and CLC; and

Local police members represented by the Palo Alto Peace Officer's Association.).

- k. Section 20434.5 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform hazardous materials services as described in Government Code Section 20434.5).

- l. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local fire members only.

- m. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) is applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after July 17, 2010.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) without Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) are applicable to classic local fire members entering membership for the first time with this agency in the fire classification after June 8, 2012.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after December 7, 2012.

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n. Section 20516 (Employees Sharing Additional Cost):

From October 14, 2017 and until June 9, 2018, .5% for local miscellaneous members in the Service Employees International Union (SEIU) Local 521.

From and after October 14, 2017, 3% for local safety members in the International Association of Fire Fighters, Palo Alto Fire Chief's Association, Palo Alto Peace Officers' Association and Palo Alto Police Management Association.

From and after June 9, 2018, 1% for local miscellaneous members in the Service Employees International Union (SEIU) Local 521.

From June 9, 2018 and until the effective date of this amendment to contract, .5% for local miscellaneous members in the Unrepresented Management group.

From June 9, 2018 and until the effective date of this amendment to contract, 1.5% for local safety members in the Unrepresented Safety Management group.

From and after the effective date of this amendment to contract, 1% for local miscellaneous members in the Unrepresented Management group.

From and after the effective date of this amendment to contract, 3% for local safety members in the Unrepresented Safety Management group.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 11, 1977. 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.
15. 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.

16. Public Agency shall also contribute to said Retirement System as follows:
- a. 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.
 - b. 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.
17. 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.
18. 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 PALO ALTO

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

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