

**RESOLUTION NO. 18-155**

**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 EMERYVILLE**

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 1 % for classic local police members.

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

October 30, 2018

Date adopted and approved

(Amendment)  
CON-302 (Rev. 3/9/2016 rc)

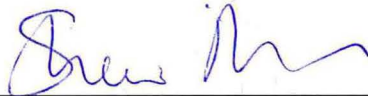


CITY OF EMERYVILLE

**ADOPTED** by the City Council of the City of Emeryville at a regular meeting held on Tuesday, October 30, 2018 by the following vote:


AYES:	<u>5</u>	Mayor Bauters, Vice-Mayor Media and Council Members Donahue, Martinez, and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

ATTEST:

  
CITY CLERK

  
MAYOR

APPROVED AS TO FORM:

  
CITY ATTORNEY

**ATTACHMENTS:**

- Exhibit A: Proposed Amendment to Contract



## **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 Emeryville

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 August 16, 1975, and witnessed August 4, 1975, and as amended effective March 1, 1977, January 1, 1978, March 1, 1978, June 16, 1979, September 1, 1979, July 22, 1993, September 16, 2001, May 16, 2002, July 1, 2005, January 1, 2007, June 16, 2012 and July 1, 2017 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective July 1, 2017, and hereby replaced by the following paragraphs numbered 1 through 20 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 50 for classic local fire members, age 57 for new local fire members, age 55 for classic local police members and age 57 for new local police members.



## PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 16, 1975 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.
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).
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:



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- a. **ALL EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO AUGUST 16, 1975 IN WHICH SERVICE THEY WERE PARTICIPANTS UNDER PUBLIC AGENCY'S PENSION PLAN FOR CIVIL SERVICE MISCELLANEOUS EMPLOYEES ESTABLISHED BY ORDINANCE NO. 527, CITY COUNCIL, CITY OF EMERYVILLE EFFECTIVE OCTOBER 1, 1966. SUCH EXCLUSION SHALL APPLY TO SUCH EMPLOYEES WHETHER OR NOT THEY ARE EMPLOYEES ON AUGUST 16, 1975; AND**
  - b. **MISCELLANEOUS EMPLOYEES.**
6. The accumulated contributions, assets and liability for prior and current service with respect to local miscellaneous members were merged pursuant to Section 20508 into the Management of Emeryville Services Authority. Such merger occurred on September 1, 1999.
  7. Benefits payable to former employees of public agency who retired or who left their contributions on deposit with the Board under the terminated contract between the Town of Emeryville and the Board shall not be changed by this agreement.
  8. Service performed by former employees who left their contributions on deposit with the Public Employees' Retirement System which service was not credited under the terminated contract between the Town of Emeryville and the Board shall be treated as prior service (as defined) under this agreement, provided contributions for current service under such terminated contract which were left on deposit are not withdrawn.
  9. Benefits payable to safety members who were retired under the local system, with respect to whom assets are transferred pursuant to paragraph 9 herein, shall not be changed by this agreement.
  10. Assets heretofore accumulated with respect to active safety members who were members in the local retirement system established under Ordinance No. 526, City Council, City of Emeryville, effective October 1, 1966 have been transferred to the Public Employees' Retirement System on March 1, 1977 and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
  11. Assets heretofore accumulated with respect to retired safety members in the local system have been transferred to the Public Employees' Retirement System on December 31, 1977, and applied against the liability for prior service incurred hereunder.

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12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
13. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local police member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
14. 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).
15. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20042 (One-Year Final Compensation) for classic local fire members and for those classic local police members entering membership on or prior to June 16, 2012.
  - b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
  - c. Section 21572 (Increased Level of 1959 Survivor Benefits) for local police members only.
  - d. Section 20965 (Credit for Unused Sick Leave).
  - e. Section 20903 (Two Years Additional Service Credit) for local fire members only.
  - f. Section 21024 (Military Service Credit as Public Service).
  - g. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
  - h. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21362.2 (3% @ 50 Full formula) for classic local fire members.

From and after January 1, 2007 the classic local fire employees of Public Agency shall be assessed an additional 3% of their compensation for a total contribution rate of 12% pursuant to Government Code Section 20516.

Section 20516 (Employees Sharing Cost of Additional Benefits):

From and after June 16, 2012 and until the effective date of this amendment to contract, Section 21363.1 (3% @ 55 Full formula) for classic local police members.



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The employee cost sharing contributions are not to exceed 3%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond September 16, 2021. Thereafter, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 1.309% of payroll.

- i. Section 20475 (Different Level of Benefits): Section 20037 (Three-Year Final Compensation) is applicable to local police members entering membership for the first time with this agency in the police classification after June 16, 2012.

- j. Section 20516 (Employees Sharing Additional Cost):

From July 1, 2017 and until the effective date of this amendment to contract, 4% for classic local police members.

From and after the effective date of this amendment to contract, 5% for classic local police members.

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.

- 16. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
- 17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local safety members of said Retirement System.
- 18. 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 21574.5 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 local fire 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.
19. 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.
20. 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 EMERYVILLE

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

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

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

Attest:

\_\_\_\_\_  
Clerk