

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Michael Rock, Town Manager 
Judy Anderson, Town Clerk

Date: February 3, 2010

Subject: Introduction and First Reading of Ordinance No. 750, an Ordinance of the Town Council of the Town of Fairfax Amending the Contract between the Board of Administration of the California Public Employees' Retirement System and the Town of Fairfax to reflect the change to 2% at 55 retirement for Newly Hired Miscellaneous Members

RECOMMENDATION

Staff recommends that the Town Council waive further reading and introduce Ordinance No. 750 as part of the process necessary to amend the contract for Miscellaneous Employees.

DISCUSSION

As you can see from the attached "Schedule of Agency Actions," the adoption of Ordinance No. 750 is part of the process to amend the contract. The contract amendment is a result of labor negotiations with the Miscellaneous employees to achieve a reduction in retirement costs for the Town going forward.

FISCAL IMPACT

There will be savings to the Town in future pension costs as new miscellaneous employees are hired at a lower retirement contribution rate.

ATTACHMENT

1. Ordinance No. 750
2. Proposed amended contract

ORDINANCE NO. 750

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE TOWN OF FAIRFAX AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The Town Council of the Town of Fairfax does ordain as follows.

Section 1.

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

Section 2.

The Mayor of the Town Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the Town of Fairfax.

Section 3

The foregoing ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

Copies of the foregoing ordinance shall within fifteen (15) days after its final passage and adoption be posted in three public places in the Town of Fairfax, to wit: Bulletin Board, Fairfax Town Offices, Town Hall; Bulletin Board, Fairfax Post Office; and Bulletin Board, Fairfax Women's Club Building, which said places are hereby designated for that purpose, and shall be in full force and effect thirty (30) days from and after its final passage and adoption.

The foregoing ordinance was duly and regularly introduced at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 3rd day of February, 2009 and thereafter adopted on the ____ day of _____, 2009 by the following vote, to wit:

AYES:

NOES:

ABSENT:

LEW TREMAINE, MAYOR

Attest:

Town Clerk



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
Town Council
Town of Fairfax**

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, 1961, and witnessed January 12, 1961, and as amended effective March 1, 1966, May 1, 1969, August 1, 1973, September 1, 1974, October 1, 1975, February 1, 1981, April 1, 1981, December 1, 1982, August 1, 1985, August 24, 1995, January 11, 1996, October 1, 2002, January 1, 2004 and July 1, 2009 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, 2009, and hereby replaced by the following paragraphs numbered 1 through 16 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, age 50 for local safety members entering membership in the safety classification on or prior to July 1, 2009 and age 55 for local safety members entering membership for the first time in the safety classification after July 1, 2009.

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2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1961 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.

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- (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 Police Officers (herein referred to as local safety members);
 - b. 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. **PERSONS WHO ARE COMPENSATED ON AN HOURLY BASIS WHO ARE EMPLOYED ON MARCH 1, 1966 OR THEREAFTER.**
- 6. Public Agency and the Town of Fairfax have agreed to a merger of the fire functions of Public Agency and the Town of San Anselmo to form the Ross Valley Fire Protection Authority pursuant to Section 20567.5 of the Government Code. Such merger is effective as of July 1, 1982. The merger transferred those fire members employed by the Town of Fairfax, those fire members retired, as well as their beneficiaries, and those inactive fire members of the Town of Fairfax on the effective date of the contract merger. The contract merger also acted to transfer applicable assets and liabilities to the Ross Valley Fire Protection Authority. Legislation repealed said Section effective January 1, 1988.
- 7. 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 January 1, 2004 and current service for those local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1975, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

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8. 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 January 1, 2004 and entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1975, termination of Social Security, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to July 1, 2009 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after July 1, 2009 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
 - b. Section 21573 (Third Level of 1959 Survivor Benefits).
 - c. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - d. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
 - e. Section 20965 (Credit for Unused Sick Leave).
 - f. Section 20903 (Two Years Additional Service Credit) for local safety members only.
 - g. Section 21024 (Military Service Credit as Public Service) for local safety members only.

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- h. Section 20475 (Different Level of Benefits). Section 21362.2 (3% at age 50 Full formula) is applicable to only those local safety members entering membership in the safety classification on or prior to July 1, 2009. Section 21363.1 (3% at age 55 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after July 1, 2009.

Section 21354.4 (2.5% at age 55 Full and Modified formula) is applicable to only those local miscellaneous members entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract. Section 21354 (2% at age 55 Full and Modified formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on February 1, 1981. 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.
13. 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.
14. 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 21573 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.

15. 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.

16. 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

TOWN COUNCIL
TOWN OF FAIRFAX

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

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk