



# City of San Leandro

Meeting Date: June 5, 2017

## Ordinance

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**File Number:** 17-266

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.B.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Jeff Kay  
Assistant City Manager

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Ordinance Authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System and the City of San Leandro to Include Provisions Pursuant to Government Code Section 20516 "Cost Sharing" for Classic Local Police Members in Accordance with the San Leandro Police Officers Association (SLPOA) Memorandum of Understanding

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WHEREAS, the City Council of the City of San Leandro ("City") desires to amend the contract between the City of San Leandro and the Board of Administration of the California Public Employees' Retirement System ("CalPERS") to include provisions pursuant to Government Code Section 20516 "Cost Sharing" for classic local Police Members in the San Leandro Police Officers' Association; and

WHEREAS, the City has participated in labor negotiations which included an agreement on the adoption of an additional 1% employee contribution to the California Public Employee Retirement System (CalPERS) to start on July 1, 2017; and

WHEREAS, the current City Municipal Code authorizes an amendment to the contract between the City Council and the Board of Administration of the California Public Employees Retirement System.

NOW THEREFORE, the City Council of the City of San Leandro does **ORDAIN** as follows:

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

**SECTION 2.** The City Manager of the City of San Leandro is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said City.

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after adoption, and said amendment shall take effect on July 1, 2017 as set forth in particular provisions of the law prescribing the manner of its passage and adoption. This ordinance implements the provisions of labor contracts negotiated in good faith and entered into between the City and its employees' bargaining units. Said labor contracts require that the agreement between CalPERS and the City be effective July 1, 2017. Failure to provide for an effective date of July 1, 2017 would constitute a breach of the labor agreements and subject the City to uncertain liabilities.

**SECTION 5. PUBLICATION.** The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.



**EXHIBIT**

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 San Leandro

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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 July 1, 1944, and witnessed September 22, 1944, and as amended effective October 1, 1951, November 1, 1952, March 1, 1954, April 1, 1958, October 1, 1958, April 1, 1961, March 19, 1962, May 1, 1964, September 1, 1968, March 1, 1973, May 1, 1973, May 22, 1974, April 1, 1976, August 1, 1976, October 16, 1976, July 14, 1983, October 9, 1987, July 4, 1993, December 30, 1995, April 16, 1996, March 7, 1997, April 15, 1998, January 1, 1999, May 16, 2000, June 6, 2000, May 3, 2001, July 1, 2002 and May 6, 2010 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 6, 2010, and hereby replaced by the following paragraphs numbered 1 through 19 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 classic local miscellaneous members, age 62 for new local miscellaneous, age 50 for classic local safety members and age 57 for new local safety members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1944 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);
  - 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:

**NO ADDITIONAL EXCLUSIONS**

6. Effective May 22, 1974 and 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. 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 July 1, 2002 and current service for those classic local miscellaneous members entering membership for the first time in the miscellaneous classification after May 6, 2010 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 supplemental to Federal Social Security).
8. 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 July 1, 2002 and entering membership in the miscellaneous classification on or prior to May 6, 2010 to contract shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 supplemental to Federal Social Security).
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 Supplemental to Federal Social Security).
10. 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).
11. The percentage of final compensation to be provided for each year of credited prior and current service for classic local police members except those who were reclassified to local police status pursuant to Government Code Section 20425 on or before August 4, 1972 shall be determined in accordance with Section 21362.2 of said Retirement (3% @ 50 Full).

12. The percentage of final compensation to be provided for each year of credited prior and current service for classic local police members who were reclassified to local police status pursuant to Government Code Section 20425 on or before August 4, 1972 shall be determined in accordance with Section 21362.2 of said Retirement (3% @ 50), supplemental to Federal Social Security.
13. The percentage of final compensation to be provided for each year of credited prior and current service as a new local police member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
14. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
  - b. Section 20042 (One-Year Final Compensation) for those classic local miscellaneous members entering membership on or prior to May 6, 2010 and classic local safety members.
  - c. Section 20425 ("Local Police Officer" shall include employees of a police department who were employed to perform identification or communication duties on August 4, 1972 and who elected to be local safety members).
  - d. Section 20903 (Two Years Additional Service Credit).
  - e. Section 21574 (Fourth Level of 1959 Survivor Benefits) for classic local police members, except those who were reclassified to local police status pursuant to Government Code Section 20425 on or before August 4, 1972.
  - f. Section 21024 (Military Service Credit as Public Service).
  - g. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members and local police members only.
  - h. Section 20475 (Different Level of Benefits): Section 21354.4 (2.5% @ 55 Full formula) and Section 20042 (One-Year Final Compensation) is applicable to those classic local miscellaneous members entering membership on or prior to May 6, 2010. Section 21354 (2% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) is applicable to those classic local miscellaneous members entering membership for the first time in the miscellaneous classification after May 6, 2010.

i. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 1% for classic local police members in the San Leandro Police Officers' Association.

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.

15. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on April 1, 1976. 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.
16. 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.
17. 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 1959 single account, based on term insurance rates, for survivors of all local police members except those who were reclassified to local police status pursuant to Government Code Section 20425 on or before August 4, 1972.
  - 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.
- 18. 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.
- 19. 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 SAN LEANDRO

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

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

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

Attest:

\_\_\_\_\_  
Clerk