



City of San Leandro

Meeting Date: March 4, 2019

Staff Report

File Number: 19-105

Agenda Section: ACTION ITEMS

Agenda Number: 10.B.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Jeff Kay
City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for (1) a City of San Leandro City Council Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of San Leandro to Include Provisions Pursuant to Government Code section 20516 "Cost Sharing" for the Executive Management Group in Accordance with the Approved City Manager Employment Agreement and the Local Police Members in Accordance with the San Leandro Police Officers' Association (SLPOA) Memorandum of Understanding; (2) First Reading of an Ordinance Authorizing an Amendment to the Contract Between the City of San Leandro and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to Provide Section 20516 (1% Employee Cost Sharing) for Executive Management Group in Accordance with the Approved City Manager Employment Agreement and for Local Police Members in Accordance with the San Leandro Police Officers Association (SLPOA) Memorandum of Understanding

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council adopt a Resolution of Intention and first reading of an Ordinance to approve an amendment to the City's contract with the California Public Employees' Retirement System (CalPERS) to increase the employee cost sharing of the employer contribution rate for the Executive Management Group and the San Leandro Police Officers Association (SLPOA).

BACKGROUND

Per the San Leandro Police Officers' Association (SLPOA) Memorandum of Understanding (MOU) for the period of January 1, 2016 through December 31, 2019, SLPOA Classic employees agreed to the following cost-sharing schedule:

- Effective July 1, 2017, employees will pay an additional one percent (1%) towards the

employer's pension contribution rate for a total employee contribution of 10%.

- Effective July 1, 2018, employees will pay an additional one percent (1%) towards the employer's pension contribution rate for a total employee contribution of 11%.
- Effective July 1, 2019, employees will pay an additional one percent (1%) towards the employer's pension contribution rate for a total employee contribution of 12%.

As we move into the third year of SLPOA's contract implementation, the City must again amend its contract with CalPERS to include an additional one percent (1%) towards the employer's pension contribution rate.

On September 4, 2018, the City Council approved an employment agreement between the City of San Leandro and Jeff Kay to serve as City Manager. A provision of the employment agreement was a 2% employee contribution towards the City's CalPERS retirement costs for a total employee contribution of 10% in the first year, which was implemented on January 1, 2019. Effective July 1, 2019, the City Manager will pay an additional 1% of employee contribution towards the City's CalPERS retirement costs for a total employee contribution of 11%.

DISCUSSION

The City must amend its contract with CalPERS each time a new cost sharing provision is effective. The process to amend the CalPERS contract requires the City Council to adopt a Resolution of Intention to approve an amendment to the contract and to introduce an Ordinance authorizing an amendment to the contract. The second reading of the Ordinance will be presented to the City Council for adoption on April 1, 2019.

Fiscal Impacts

There is no fiscal impact with the approval of this resolution. The fiscal impact of the cost sharing was presented when the City Manager's employment agreement and the SLPOA MOU was approved.

Previous Action

- Resolution 2018-017 Approving an Employment Agreement with Jeff Kay to Serve as the City Manager.
- Resolution 2016-648 Approving the Memorandum of Understanding between the City of San Leandro and the San Leandro Police Officers' Association (SLPOA) for the period January 1, 2016 through December 31, 2019.

Attachments:

- Amendment to CalPERS contract

PREPARED BY: Emily Hung, Human Resources Manager, City Manager's Office



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 San Leandro**

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, May 6, 2010, July 1, 2017, July 1, 2018 and January 1, 2019 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 19 are hereby stricken from said contract as executed effective January 1, 2019, 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.

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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

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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 with this agency 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).

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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 with this agency in the miscellaneous classification after May 6, 2010.
 - i. Section 20516 (Employees Sharing Additional Cost):

From July 1, 2017 and until July 1, 2018, 1% for classic local police members in the San Leandro Police Officers' Association.

From July 1, 2018 and until the effective date of this amendment to contract, 2% for classic local police members in the San Leandro Police Officers' Association.

From January 1, 2019 and until the effective date of this amendment to contract, 2% for classic local miscellaneous members in the Executive Management group.

From and after the effective date of this amendment to contract, 3% for classic local police members in the San Leandro Police Officers' Association.

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From and after the effective date of this amendment to contract, 3% for classic local miscellaneous members in the Executive 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.

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

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City of San Leandro

Meeting Date: March 4, 2019

Resolution - Council

File Number: 19-109

Agenda Section: ACTION ITEMS

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: Liz Warmerdam
Assistant City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION of Intention of the City of San Leandro City Council to Approve an Amendment to a Contract Between the Board Of Administration of the California Public Employees' Retirement System and the City Council of the City of San Leandro

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) an additional 1% for classic local miscellaneous members in the Executive Management group and an additional 1% for classic local police members in the San Leandro Police Officers' Association.

NOW, THEREFORE, BE IT RESOLVED that the City of San Leandro City Council 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.



City of San Leandro

Meeting Date: March 4, 2019

Ordinance

File Number: 19-110

Agenda Section: ACTION ITEMS

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: Liz Warmerdam
Assistant City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: ORDINANCE of the City Council for the City of San Leandro Authorizing an Amendment to the Contract Between the City of San Leandro and the Board of Administration of the California Public Employees' Retirement System (CalPERS)

WHEREAS, the City Council for 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"); and

WHEREAS, the City approved an agreement with the San Leandro Executive Management Group for an additional 1% employee contribution towards the City's CalPERS retirement costs to start on July 1, 2019; and

WHEREAS, the City participated in labor negotiations with the San Leandro Police Officers' Association, part of which included an agreement on the adoption of an additional 1% employee contribution to CalPERS to start on July 1, 2019; and

WHEREAS, the City Municipal Code authorizes an amendment to the contract between the City Council and CalPERS.

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

SECTION 1. RECITALS. The above recitals are true and correct and made a part of this ordinance.

SECTION 2. AMENDMENT OF CONTRACT. An amendment to the contract between the City Council of the City of San Leandro and the Board of Administration of the 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 3. CITY MANAGER AUTHORITY. 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 4. 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 5. EFFECTIVE DATE AND PUBLICATION. This ordinance shall be effective thirty (30) days after adoption pursuant to San Leandro Municipal Code Section 1-1-340. 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.