



Office of the City Manager

CONSENT CALENDAR  
October 30, 2012

To: Honorable Mayor and Members of the City Council  
From:  Christine Daniel, City Manager  
Submitted by: David W. Hodgkins, Director of Human Resources  
Subject: Contract Amendment: CalPERS 3% at Age 55 Retirement Formula for Police Safety Employees and 3 Year Highest Average Compensation Earnable

RECOMMENDATION

1. Adopt a Resolution of Intention to amend the City’s contract with the California Public Employees’ Retirement System (hereinafter “CalPERS”) to provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with “final compensation” calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local police employees only; and
2. Adopt first reading of an Ordinance amending the City’s contract with CalPERS to provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with “final compensation” calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local sworn police employees only to be effective December 28, 2012.

FISCAL IMPACTS OF RECOMMENDATION

CalPERS require that an actuarial valuation be produced by a CalPERS actuary on any contract amendment involving a benefit change. This actuarial valuation must be performed prior to the initiation of the contract amendment process. The change to a second tier benefit formula and a change to final compensation being calculated on the highest average annual compensation earnable during three consecutive years of employment results in a cost reduction. Decreases in the employer rate will occur as employees are hired into the second tier.

There will be no immediate employer contribution rate impact from this amendment. Ultimately, the employer normal cost will decrease. The normal cost is defined as the annual cost of service accrual for the fiscal year for active employees and is 20.267% of the aggregate 42.017% employer contribution rate in Fiscal Year 2013. If the mix of

active member entry ages were the same for both the current continuing first tier employees and the new second tier employees, the decrease in the employer rate would be 3.2%. This will result in a savings of approximately 1.8% of covered payroll and approximately \$1 million over ten years.

CalPERS have conducted the actuarial valuation which is attached as Exhibit B for informational purposes.

### CURRENT SITUATION AND ITS EFFECTS

Since January 26, 1973, the City has contracted with CalPERS for pension benefits for Police Safety members. On April 16, 2002, the City Council adopted the first reading of Ordinance No. 6,682-N.S. authorizing an amendment to the City's contract with CalPERS to provide the 3% at age 50 benefit formula for Police Safety members. The Ordinance amending the City's contract with CalPERS went into effect on June 30, 2002.

CalPERS' retirement benefits are based on the retirement formula in effect, years of CalPERS service credit at time of retirement and age at time of retirement. The present benefit retirement formula is 3% at age 50 and remains at this percentage regardless of age at the time of retirement. The maximum retirement benefit obtainable under this benefit formula is 90% of the single highest year of pensionable compensation and in order to attain this level of benefit the retiree must be at least age 50 and have 30 years of service credit.

### BACKGROUND

On September 11, 2012, the City Council adopted Resolution No. 65,884-N.S. that authorized the City Manager to execute and implement a new Memorandum of Understanding (MOU) with the Berkeley Police Association for the period of June 26, 2011 through July 5, 2014. Section 57.3 of the MOU provides that the City shall amend its' contract with CalPERS to provide the optional benefit of 3% at age 55 benefit formula as provided in Section 21363.1 with "final compensation" calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037. This benefit will be applicable to new employees hired after the approval of the contract amendment which will be December 28, 2012 based on the schedule of actions necessary to complete the process.

In order for the City to implement the second tier benefit to the Police Safety Plan it is necessary for the City to amend its' contract with CalPERS. The City Council must adopt a Resolution of Intention to amend the contract and adopt the first reading of the Ordinance which includes the Amendment to the CalPERS contract as an Exhibit. The change is shown under Section A(13)(m) of the amended contract. California Government Code Section 7507 requires that future annual costs or benefit changes of the proposed contract amendment be made public at a public meeting at least two

weeks prior to the adoption of the final Ordinance. If the City Council approves the first reading of the Ordinance then the second reading will occur on November 27, 2012.

RATIONALE FOR RECOMMENDATION

This action is necessary to comply with the terms of Section 57.3 of the MOU with the Berkeley Police Association and to reduce pension costs for new Police Safety employees hired after the effective date of the contract amendment.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David W. Hodgkins, Director of Human Resources, 981-6805

Attachments:

1. Resolution of Intention to Approve an Amendment to Contract Between the Board Of Administration of California Public Employees' Retirement System and the City Council of the City Of Berkeley  
Exhibit A: Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Berkeley
2. Ordinance of the City Council of the City of Berkeley authorizing an amendment to the contract between the City Council of the City of Berkeley and the Board of Administration of the California Public Employees' Retirement System.  
Exhibit A: Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Berkeley  
Exhibit B: CalPERS Actuarial Valuation of new 3% at age 55 Second Tier with Three Year Final Compensation

RESOLUTION NO. ##,###-N.S.

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 BERKELEY

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 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley 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 A" and by this reference made a part hereof.



## EXHIBIT A

California  
Public Employees' Retirement System



# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Berkeley



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 March 1, 1942, and witnessed January 30, 1942, and as amended effective September 1, 1947, April 1, 1949, January 1, 1952, May 1, 1954, March 1, 1956, August 1, 1959, November 1, 1961, June 29, 1962, December 1, 1962, April 1, 1963, August 1, 1963, October 1, 1964, October 16, 1965, November 16, 1968, March 1, 1973, December 16, 1973, December 1, 1974, July 22, 1976, May 25, 1978, July 9, 1978, January 2, 1983, October 28, 1983, July 18, 1986, June 26, 1988, June 30, 1992, November 28, 1996, October 15, 1998, November 6, 1998, April 9, 1999, April 14, 2000, July 14, 2000, December 22, 2000, July 7, 2002, January 5, 2003 and June 13, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective June 13, 2003, and hereby replaced by the following paragraphs numbered 1 through 18 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 fire members and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract and age 55 for local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after March 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 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.
  - (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 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. **PERSONS EMPLOYED JUNE 1, 1962, OR THEREAFTER IN THE FOLLOWING CLASSES IN THE RECREATION AND PARKS LIBRARY, AND FINANCE DEPARTMENTS:**

**ASSISTANT CAMP UTILITY MAN  
CAMP CLERK  
CAMP COUNSELOR  
CAMP NURSE  
CAMP SUPERVISOR  
CAMP UTILITY MAN  
CAMP RECREATION LEADER**

**COOK'S AIDE  
CHIEF COOK  
FIRST ASSISTANT COOK  
KITCHEN HELPER  
SECOND ASSISTANT COOK**

**DINING ROOM HELPER  
DINING ROOM SUPERVISOR**

**FIELD APPRAISER**

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**LIFEGUARD**

**ASSISTANT PLAYGROUND LEADER  
PLAYGROUND LEADER  
PLAYGROUND LEADER TRAINEE  
SENIOR PLAYGROUND LEADER**

**SPECIAL ACTIVITY LEADER;**

- b. PERSONS EMPLOYED APRIL 1, 1963, OR THEREAFTER AS POLICE TRAINEES;**
  - c. PHYSICIANS EMPLOYED AFTER AUGUST 1, 1963, CLASSIFIED AS "PHYSICIANS" IN THE CITY'S POSITION ORDINANCE AS THAT ORDINANCE EXISTED ON AUGUST 1, 1963;**
  - d. PERSONS COMPENSATED ON AN HOURLY BASIS WHO ENTER EMPLOYMENT WITH PUBLIC AGENCY ON OCTOBER 16, 1965, OR THEREAFTER; AND**
  - e. EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO JANUARY 26, 1973, IN AN EMPLOYMENT IN WHICH THEY WERE ELIGIBLE FOR MEMBERSHIP IN ANY ONE OF THE PUBLIC AGENCY'S RETIREMENT SYSTEMS FOR SAFETY MEMBERS, AND WHO HAVE NOT EXECUTED AND FILED WITH THE PUBLIC AGENCY A WAIVER OF RIGHTS UNDER THE LOCAL SYSTEM DURING THE PERIOD PRESCRIBED, SUCH EXCLUSION SHALL APPLY WHETHER OR NOT THE EMPLOYEE REENTERS SERVICE OF THE PUBLIC AGENCY THEREAFTER.**
6. Those safety members in the local retirement system employed by Public Agency and who did not waive their rights under said local system were provided another opportunity to execute and file a waiver on or before October 28, 1983.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System 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.
8. Public Agency and the Berkeley Redevelopment Agency have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Berkeley Redevelopment Agency, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of August 1, 1977. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Berkeley Redevelopment Agency. Legislation repealed said Section effective January 1, 1988.
9. 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 5, 2003 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social

Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

10. 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 5, 2003 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
12. The percentage of final compensation to be provided for each year of credited current service as a local police member entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - e. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - f. Section 20042 (One-Year Final Compensation) for local miscellaneous members, local fire members and for those local police members entering membership on or prior to the effective date of this amendment to contract.
  - g. Section 20965 (Credit for Unused Sick Leave).

- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
  - i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
  - j. Section 21024 (Military Service Credit as Public Service).
  - k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
  - l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
  - m. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 16, 1978. 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. 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.
  - b. 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 single account, based on term insurance rates, for survivors of all local police members.
  - c. 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.

- d. 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.
  - e. 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 BERKELEY

BY \_\_\_\_\_  
KAREN DE FRANK, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest:

\_\_\_\_\_  
Clerk

ORDINANCE NO. \_\_\_\_\_

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

The City Council of the City of Berkeley does ordain as follows:

Section 1.

That an amendment to the contract between the City Council of the City of Berkeley 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 City of Berkeley City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



## EXHIBIT A

California  
Public Employees' Retirement System



# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Berkeley



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 March 1, 1942, and witnessed January 30, 1942, and as amended effective September 1, 1947, April 1, 1949, January 1, 1952, May 1, 1954, March 1, 1956, August 1, 1959, November 1, 1961, June 29, 1962, December 1, 1962, April 1, 1963, August 1, 1963, October 1, 1964, October 16, 1965, November 16, 1968, March 1, 1973, December 16, 1973, December 1, 1974, July 22, 1976, May 25, 1978, July 9, 1978, January 2, 1983, October 28, 1983, July 18, 1986, June 26, 1988, June 30, 1992, November 28, 1996, October 15, 1998, November 6, 1998, April 9, 1999, April 14, 2000, July 14, 2000, December 22, 2000, July 7, 2002, January 5, 2003 and June 13, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective June 13, 2003, and hereby replaced by the following paragraphs numbered 1 through 18 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 fire members and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract and age 55 for local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after March 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 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.
  - (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 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. **PERSONS EMPLOYED JUNE 1, 1962, OR THEREAFTER IN THE FOLLOWING CLASSES IN THE RECREATION AND PARKS LIBRARY, AND FINANCE DEPARTMENTS:**

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CAMP COUNSELOR  
CAMP NURSE  
CAMP SUPERVISOR  
CAMP UTILITY MAN  
CAMP RECREATION LEADER**

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- b. PERSONS EMPLOYED APRIL 1, 1963, OR THEREAFTER AS POLICE TRAINEES;**
  - c. PHYSICIANS EMPLOYED AFTER AUGUST 1, 1963, CLASSIFIED AS "PHYSICIANS" IN THE CITY'S POSITION ORDINANCE AS THAT ORDINANCE EXISTED ON AUGUST 1, 1963;**
  - d. PERSONS COMPENSATED ON AN HOURLY BASIS WHO ENTER EMPLOYMENT WITH PUBLIC AGENCY ON OCTOBER 16, 1965, OR THEREAFTER; AND**
  - e. EMPLOYEES WHO FIRST ENTERED PUBLIC AGENCY SERVICE PRIOR TO JANUARY 26, 1973, IN AN EMPLOYMENT IN WHICH THEY WERE ELIGIBLE FOR MEMBERSHIP IN ANY ONE OF THE PUBLIC AGENCY'S RETIREMENT SYSTEMS FOR SAFETY MEMBERS, AND WHO HAVE NOT EXECUTED AND FILED WITH THE PUBLIC AGENCY A WAIVER OF RIGHTS UNDER THE LOCAL SYSTEM DURING THE PERIOD PRESCRIBED, SUCH EXCLUSION SHALL APPLY WHETHER OR NOT THE EMPLOYEE REENTERS SERVICE OF THE PUBLIC AGENCY THEREAFTER.**
6. Those safety members in the local retirement system employed by Public Agency and who did not waive their rights under said local system were provided another opportunity to execute and file a waiver on or before October 28, 1983.
7. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System 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.
8. Public Agency and the Berkeley Redevelopment Agency have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Berkeley Redevelopment Agency, pursuant to Section 20567.6 of the Government Code. Such merger is effective as of August 1, 1977. Public Agency, by this contract, assumes the assets and liabilities accumulated under the former contract of the Berkeley Redevelopment Agency. Legislation repealed said Section effective January 1, 1988.
9. 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 5, 2003 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social

Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

10. 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 5, 2003 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1957, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member and for those local police members entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
12. The percentage of final compensation to be provided for each year of credited current service as a local police member entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - e. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
  - f. Section 20042 (One-Year Final Compensation) for local miscellaneous members, local fire members and for those local police members entering membership on or prior to the effective date of this amendment to contract.
  - g. Section 20965 (Credit for Unused Sick Leave).

- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
  - i. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local police members only.
  - j. Section 21024 (Military Service Credit as Public Service).
  - k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
  - l. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local fire members only.
  - m. Section 20475 (Different Level of Benefits). Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.
14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 16, 1978. 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. 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.
  - b. 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 single account, based on term insurance rates, for survivors of all local police members.
  - c. 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.

- d. 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.
  - e. 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 BERKELEY

BY \_\_\_\_\_  
KAREN DE FRANK, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest:

\_\_\_\_\_  
Clerk



**California Public Employees' Retirement System**  
**Actuarial Office**  
P.O. Box 942709  
Sacramento, CA 95812-1494  
TTY: (877) 249-7442  
(888) 225-7377 phone (916) 795-2744 fax  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

## Exhibit B

June 04, 2012  
CALPERS ID: 4652939061  
Employer Name: CITY OF BERKELEY  
Rate Plan: SAFETY POLICE PLAN

Re: New 3% @ 55 with Three-Year Final Compensation Second Tier within a Non-pooled Plan (Section 20475: Different Level of Benefits Provided for New Employees; Section 21363.1: 3% @ 55 Formula; and Section 20037: Three-Year Final Compensation)

Dear Requestor:

As requested, employer contribution rate information on your proposed second tier follows.

**If you are aware of others interested in this information (i.e. payroll staff, county court employees, port districts, etc.), please inform them.**

The information is based on the June 30, 2010 annual valuation and is good until June 30, 2013. Note, however, that your rate after June 30, 2013 could change substantially. If your agency has not taken action to amend its contract by June 30, 2013, **you must contact the Retirement Contract Services Unit for an updated cost analysis.**

**If the employee contribution rate changes, that change would take place immediately.** There will be no immediate employer contribution rate impact from this amendment. Ultimately, though, your employer normal cost will decrease. If the mix of active member entry ages were the same for both the current continuing first tier employees and the new second tier employees, the decrease in the employer rate would be 3.2%.

The employer rate reduction will occur gradually, beginning on July 1, 2014, if there are second tier employees hired on or before June 30, 2012. For fiscal years 2014/2015 and beyond, the projected annual amount of rate reduction you can expect from introducing a second tier is approximately equal to the ratio of your second tier annual payroll to your total plan annual payroll two and a half years earlier. For example if 1/10 of your Safety Police members were in second tier on June 30, 2012 and the ultimate expected normal cost decrease was 3.2%, the cumulative rate reduction you can expect by the 2014/2015 fiscal year would be  $1/10 \times 3.2\% = 0.32\%$ .

To initiate an amendment to the contract, please follow the Contract Amendment Request process on MyCalPERS with our Retirement Contract Services Unit, indicating your wish to contract for Section 20475 (Different Level of Benefits) and identifying the group(s) to which the benefit reduction applies.

In sections 20463 (b) and (c), the California Public Employees' Retirement Law requires the governing body of a public agency within five days of receipt of the contract amendment cost analysis, to provide each employee organization with a copy of the analysis. If this cost analysis was requested by an employee organization, the employee organization is also required within five days of receipt of the analysis, to provide a copy of the analysis to the public agency.

If you have questions, please call (888) CalPERS (225-7377).

FRITZIE ARCHULETA, ASA, MAAA  
Senior Pension Actuary, CalPERS