

ORDINANCE NO. -N.S.

AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE COUNCIL OF THE CITY OF BERKELEY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM TO PROVIDE 2.7% AT AGE 55 FORMULA FOR LOCAL MISCELLANEOUS MEMBERS ONLY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1.

That an amendment to the contract between the Council of the City of Berkeley and the Board of Administration, California Public Employees Retirement System to provide 2.7% at Age 55 Formula for Local Miscellaneous Members only 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 Mayor of the Council of the City of Berkeley is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3

This Ordinance shall take effect January 5, 2003.

Section 4

Copies of this Bill shall be posted for two (2) days prior to adoption in the glass case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen (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

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, April 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 and July 7, 2002 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 July 7, 2002, and hereby replaced by the following paragraphs numbered 1 through 15 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 and age 50 for local safety members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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. 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).
4. 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

**LIBRARY PAGE I
LIBRARY PAGE II**

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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.**
5. 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.
6. 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.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

7. 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.
8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members 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).

[Note that a future legislative proposal is being considered which could amend Government Code Section 21354.5 to make the 2.7% at 55 benefit formula applicable to both active members and inactive members who have not yet retired. If enacted, this amendment could have an effect on your agency's actuarial valuation and employer contribution rates in future years.]

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. 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 and local fire 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 (Special 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.
 - e. Section 21222.2 (Special 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980 for local miscellaneous members only.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- f. Section 20042 (One-Year Final Compensation).
 - 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 Optional Settlement 2 Death Benefit) for local police members only.
 - j. Section 21024 (Military Service Credit as Public Service), Statutes of 1976.
 - k. Section 21023.5 (Public Service Credit for Peace Corps or AmeriCorps: VISTA Service).
11. 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.
12. 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.
13. 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 single account, based on term insurance rates, for survivors of all local miscellaneous members and local fire members.
 - b. 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 police members.
 - c. 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.

- d. 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.
14. 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.
 15. 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 _____
KENNETH W. MARZION, CHIEF
ACTUARIAL & EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk