

ORDINANCE NO. 1045 N.S.

AN URGENCY ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE
CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
AND THE BOARD OF ADMINISTRATION OF THE
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WHEREAS, California's Public Employee's Retirement Law permits public agencies and their employees to participate in the California Public Employees' Retirement System (CalPERS); and

WHEREAS, the City has a contract with CalPERS that covers three classifications of employees, which are (1) Police Public Safety Employees, (2) Fire Public Safety Employees, and (3) Miscellaneous employees (all employees other than public safety employees); and

WHEREAS, the current CalPERS contract for Police Public Safety and Miscellaneous employees has 3 tiers with different retirement benefit formulas depending upon factors such as years of service or vested enrollment; and

WHEREAS, the recently-approved Memorandum of Understanding between the City of Paso Robles and the Police Officers Association ("POA") (the "POA MOU") provides that Police Public Safety employees contribute an additional three percent (3%) towards contract retirement costs, as authorized by Government Code section 20516; and

WHEREAS, the recently-approved Memorandum of Understanding between the City of Paso Robles and the Service Employees International Union ("SEIU") (the "SEIU MOU") and the Comprehensive Agreement between the City and the Management employee group (the "Management Agreement") calls for the employees in these groups to contribute an additional three percent (3%) towards their retirement costs; and for second tier classic and third tier new "Miscellaneous" members, this additional contribution is authorized by Government Code section 20516; and

WHEREAS, the POA MOU, SEIU MOU, and Management Agreement for the calendar year 2017 call for an amendment to the CalPERS Retirement Contract as soon as is practicable; and

WHEREAS, it is critical that the City implement all necessary actions prior to year-end 2017 to fulfill its contract obligations for calendar year 2017, and to enable the City to initiate a second contract change for additional agreed-upon retirement cost sharing before a July 1, 2018 deadline; and

WHEREAS, on November 7, 2017 the City Council adopted Resolution 17-143, a resolution of intention (the "Resolution of Intention") to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System and the City Council of Paso Robles; and

WHEREAS, CalPERS rules require that an ordinance implementing a CalPERS Contract change cannot be approved until at least 20 days after approval of the Resolution of Intention; and

WHEREAS, due to the need to immediately begin implementation of the CalPERS contract change and the fulfill the City's obligations under the POA MOU, SEIU MOU and Management Agreement, which is in the interest of the public health and safety of the City, it is necessary to adopt this Ordinance as an urgency measure;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. An amendment to the contract between the City Council of the City of El Paso de Robles and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment is attached hereto as Exhibit A and incorporated herein in full by reference.

SECTION 2. The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. This ordinance is an urgency ordinance and shall take effect immediately upon adoption. The City Council hereby declares that the need for the adoption of this ordinance as an urgency measure is to preserve the public health, safety and welfare and is based upon the following facts:

- a. This ordinance will authorize the execution of an amendment to the contract between the California Public Employee Retirement System and the City regarding the retirement benefits to be paid to the members of CalPERS. As required, more than twenty (20) days have passed since the City Council adopted a resolution of intention to approve the amendment to the contract, which resolution was adopted by the City Council on November 7, 2017.
- b. First and final reading of this ordinance has taken place on December 5, 2017 as set forth in Section 5(a) above. The effective date of the CalPERS contract amendment must be December 17, 2017 to correspond with the first day of the payroll period following adoption of this Ordinance and within the 2017 calendar year, in accordance with the Police MOU, SEIU MOU, and Management Agreement.

SECTION 6. The City Clerk is hereby directed to cause publication of this ordinance within 15 days from its passage in the Tribune News, a newspaper of general circulation, published and circulated in the City of El Paso de Robles in accordance with Section 36933 of the Government Code, and thenceforth and thereafter the same shall be in full force and effect.

Introduced and adopted at a regular meeting of the City Council held on December 5, 2017 as an urgency measure by the following minimum four-fifths majority vote:

AYES: Gregory, Hamon, Strong, Reed, Martin
NOES:
ABSTAIN:
ABSENT:



Steven W. Martin, Mayor

ATTEST:



Kristen L. Buxkemper, Deputy City Clerk



California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

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

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, 1974, and witnessed January 28, 1974, and as amended effective July 1, 1983, November 6, 1984, October 30, 1988, February 2, 1991, January 1, 1998, February 17, 2001, June 6, 2001, October 14, 2001, March 27, 2005, January 21, 2007 and May 27, 2012 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 May 27, 2012, and hereby replaced by the following paragraphs numbered 1 through 21 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 entering membership in the miscellaneous classification on or prior to May 27, 2012, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after May 27, 2012, age 62 for new local miscellaneous members, age 50 for classic local police members entering membership in the police classification on or prior to May 27, 2012, age 55 for those classic local police members entering membership for the first time in the police classification after May 27, 2012 and for classic local fire members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after March 1, 1974 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:

- a. **ELECTED OFFICIALS.**

6. 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. 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. 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 March 27, 2005 shall be determined in accordance with Section 21354 of said Retirement Law (2% 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 classic local miscellaneous member in employment on or after March 27, 2005 and not entering membership for the first time in the miscellaneous classification after May 27, 2012 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% @ 55 Supplemental to Federal Social Security).
 10. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after May 27, 2102 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Supplemental to Federal Social Security).
 11. 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).

12. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local police member entering membership in the police classification on or prior to May 27, 2012 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50), Supplemental to Federal Social Security
13. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership for the first time in the police classification after May 27, 2012 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55), Supplemental to Federal Social Security.
14. 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 21363.1 of said Retirement Law (3% at age 55), Supplemental to Federal Social Security.
15. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Supplemental to Federal Social Security).
16. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
 - b. Section 20965 (Credit for Unused Sick Leave).
 - c. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members and local police members only.
 - d. Section 20042 (One-Year Final Compensation) for those classic local miscellaneous members and classic local safety members entering membership on or prior to May 27, 2012.
 - e. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
 - f. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Supplemental formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after May 27, 2012.

Section 20037 (Three-Year Final Compensation) is applicable to classic local fire members entering membership for the first time with this agency in the fire classification after May 27, 2012.

Section 21363.1 (3% @ 55 Supplemental formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local police members entering membership for the first time with this agency in the police classification after May 27, 2012.

g. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 3% for second tier classic local miscellaneous members and new local miscellaneous members and 3% for local police members.

From and after the effective date of this amendment to contract, 3% for local police members.

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.

17. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1983. 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.
18. 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.
19. Public Agency shall also contribute to said Retirement System as follows:
 - a. 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.
 - b. 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.

20. 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.
21. 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 17th day of December, 2017.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF PASO ROBLES

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

BY *Wendell Martin*
PRESIDING OFFICER

December 8, 2017
Witness Date

Attest:

Kristen R. Burkemper
Clerk