



DATE: January 17, 2017
TO: Mayor and City Council
FROM: Director of Human Resources

SUBJECT

Adoption of an Ordinance to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) for PEPRA Safety Employees

RECOMMENDATION

That the City Council adopts an Ordinance to execute the amendment of the City of Hayward's contract with PERS to amend the cost sharing provision for PEPRA Safety (Police and Fire) Employees.

BACKGROUND

On December 13, 2016, the City Council approved a Resolution of Intent to amend the City of Hayward's CalPERS contract and introduced an Ordinance to amend the contract (PH 16-227). CalPERS regulations require the City Council to adopt an Ordinance by way of a public hearing at least twenty days after the approval of the Resolution of Intention. The twenty-day threshold was met on January 2, 2017. In accordance with Administrative Rule 1.21, the proposed Ordinance was published in the Daily Review on December 2, 2016, at least three days prior to the public hearing.

DISCUSSION

The existing CalPERS contract for safety members (sworn police and fire) requires payment of the required published employee rate plus an additional contribution to equal a total of fifteen percent (15%) of their salaries for the employees' share of retirement costs. Effective July 1, 2016, the employee rate for PEPRA Fire members decreased from 11.25% to 9.75%, which per the terms of the agreement would mean that the cost share portion would increase from 3.75% to 5.25%. The employee rate for PEPRA Police members also decreased from 12.75% to 12.00%, which per the terms of the agreement would mean that the cost share portion would increase from 2.25% to 3.00%.

Government Code Section 20516, which allows for cost sharing, provides that the language in the MOU "shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall

be contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part.”

CalPERS believes this language requires a specific numerical number in the agreement that shows the exact percentage of the cost share deduction. Although CalPERS approved the City’s current agreements at the time the contract was amended, it has since determined that any changes to the breakdown of the CalPERS contributions must be specific so that the percentage amounts are broken down into numerical values. To implement any changes to the retirement program, it is necessary to amend the City’s existing contracts with CalPERS each time there is a change to the rates. In order to provide employees with credit for their full 15% contribution, a side letter clarifying the PEPRA cost sharing language was required and the clarifying language for both Local 1909 and HPOA was adopted by Council on November 15, 2016. The City does not agree with this interpretation of the law and Human Resources is working with the City Attorney’s office to dispute this and possibly avoid the need for a formal contract amendment each time the PEPRA contribution changes.

FISCAL IMPACT

There is no fiscal impact associated with this report. Both PEPRA Fire and PEPRA Police members will continue to contribute 15% to fund their CalPERS pensions, as previously agreed to (Resolution 13-097, Resolution 14-122). However, the disagreement with CalPERS over the need to amend the City’s contract each time the percentages change results in substantial staff work from Human Resources and three separate action items before the City Council at three different meetings.

NEXT STEPS

Human Resources staff will work with CalPERS to complete the contract amendment process. If approved, the Ordinance will take effect on February 16, 2017 and the contract amendment will be effective February 20, 2017.

Prepared by: Ali Adams, Human Resources Analyst II

Recommended by: Nina S. Collins, Director of Human Resources

Approved by:



Kelly McAdoo, City Manager