

**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 Hayward**



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 October 1, 1950, and witnessed August 7, 1960, and as amended effective January 16, 1952, January 1, 1956, April 1, 1959, January 1, 1960, November 1, 1962, April 1, 1965, December 1, 1969, July 1, 1973, July 16, 1973, June 1, 1978, April 23, 1979, January 12, 1981, March 9, 1981, July 11, 1986, October 10, 1988, June 21, 1991, June 19, 1992, March 8, 1996, January 1, 2001, April 1, 2001, July 1, 2001, August 26, 2002, May 23, 2008, July 4, 2011, February 24, 2014, July 27, 2015, June 27, 2016, February 20, 2017, June 26, 2017, December 11, 2017, April 1, 2019, and May 25, 2020, 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 May 25, 2020, and hereby replaced by the following paragraphs numbered 1 through 16 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 members, age 50 for classic local safety members, and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1950, 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. **PERSONS EMPLOYED AFTER JANUARY 16, 1952, AS CROSSING GUARDS; AND**
 - b. **PERSONS EMPLOYED AFTER JANUARY 30, 1959, AS PART-TIME LIFEGUARDS AND PART-TIME LIBRARY AIDES.**

6. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after August 26, 2002, shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after August 26, 2002, shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).
8. 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 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. 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 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.
 - b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
 - c. Section 20042 (One-Year Final Compensation) for classic members only.
 - d. Section 21635 (Post-Retirement Survivor Allowance to Continue After Remarriage) for local safety members only.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 21027 (Military Service Credit for Retired Persons).
 - g. Section 21551 (Continuation of Pre-Retirement Death Benefits After Remarriage of Survivor).

- h. Section 21022 (Public Service Credit for Periods of Lay-Off) for local miscellaneous members only.
- i. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local miscellaneous members only.
- j. Section 20903 (Two Years Additional Service Credit).
- k. Section 20965 (Credit for Unused Sick Leave) for local fire members only.
- l. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
- m. Section 20516 (Employees Sharing Cost of Additional Benefits):

From and after July 4, 2011, and until the effective date of this amendment to contract, Section 21362.2 (3% @ 50) effective January 1, 2001, and Section 20042 (One-Year Final Compensation) effective January 12, 1981, for classic local fire members. The employee cost sharing contribution is not to exceed 15.607%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2020, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.986%.

From and after July 4, 2011, and until the effective date of this amendment to contract, Section 21362.2 (3% @ 50) effective July 1, 2001, and Section 20042 (One-Year Final Compensation) effective April 23, 1979, for classic local police members. The employee cost sharing contribution is not to exceed 13.882%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2021, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.505%.

- n. Section 20516 (Employees Sharing Additional Cost):

From and after February 24, 2014, 3.75% for new local fire members.

From and after July 27, 2015, 2.25% for new local police members.

From and after February 20, 2017, 5.25% for new local fire members in the International Association of Firefighters Local 1909.

From and after February 20, 2017, 3% for new local police members in the Hayward Police Officers' Association.

From and after June 26, 2017, 3% for local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers Local 21, Unrepresented Group, Management, Human Resources, and City Attorneys and City Managers Group.

From June 26, 2017, and until December 12, 2017, 3% for local miscellaneous members in the Unrepresented Executive Group and Council Appointed Employees Group.

From and after December 12, 2017, 5% for local miscellaneous members in the Unrepresented Executive Group and Council Appointed Employees Group.

From and after April 1, 2019, 4.5% for local miscellaneous members in the Service Employees International Union Local 1021, Clerical and Related Unit and the Service Employees International Union Local 1021, Maintenance and Operations Unit.

From and after the effective date of this amendment to contract, 6% for the classic local police members in the Hayward Police Officers' Association.

From and after the effective date of this amendment to contract, 6% for the classic local police members in the Hayward Police Management Unit.

From and after the effective date of this amendment to contract, 6% for the classic local fire members in the International Association of Fire Fighters Local 1909.

From and after the effective date of this amendment to contract, 6% for the classic local fire members in the Hayward Fire Officers Association.

From and after the effective date of this amendment to contract, 6% for the classic local fire members in the Hayward Fire Chief's Association.

From and after the effective date of this amendment to contract, 6% for the classic local fire members in the Unrepresented Safety Executive group.

From and after the effective date of this amendment to contract, 6% for the classic local police members in the Unrepresented Safety Executive 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.

- 16. 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 HAYWARD

BY _____
MELODY BENAVIDES, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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Witness Date

Attest:

Clerk