

ORDINANCE NO. 2011-370

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

WHEREAS, the City of Los Altos entered into contract with the Public Employees' Retirement System (PERS) on July 1, 1960; and

WHEREAS, City Council approved a Memorandum of Understanding with the Los Altos Peace Officers' Association on May 24, 2011 and with Teamsters Local 350 on June 22, 2010 for a two-tier PERS retirement system; and

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.

NOW THEREFORE, The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: That an amendment to the contract between the City Council of the City of Los Altos and the Board of Administration, California Public Employees' Retirement System 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. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. AUTHORITY. The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION 4. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the Los Altos City Council held on the 26th day of July 2011, and was thereafter, at a regular meeting of the Los Altos City Council held on the 23rd day of August, 2011 passed and adopted by the following vote:

AYES: CARPENTER, CASAS, FISHPAW, SATTERLEE, PACKARD
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



Ronald D. Packard, MAYOR

Attest: 

Lee Price, MMC, CITY CLERK



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 Los Altos**



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 July 1, 1960, and witnessed May 19, 1960, and as amended effective August 1, 1964, April 1, 1966, July 1, 1970, October 24, 1974, October 1, 1977, January 1, 1978, July 1, 1981, December 1, 1981, June 1, 1984, January 1, 1986, November 14, 1986, November 1, 1987, June 14, 1995, June 13, 1997, August 14, 1999, July 22, 2001 and July 6, 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 July 6, 2003, and hereby replaced by the following paragraphs numbered 1 through 19 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 entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract, 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.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1960 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.

PLEASE DO NOT SIGN "EXHIBIT C"

- (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. **SLEEPER FIRE FIGHTERS AND SCHOOL CROSSING GUARDS HIRED ON OR AFTER OCTOBER 24, 1974.**
 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. Public Agency and the Los Altos County Fire Protection District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Los Altos County Fire Protection District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of July 1, 1960. 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 as a local miscellaneous member in employment before and not on or after July 6, 2003 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

PLEASE DO NOT SIGN "EXHIBIT 1"

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 6, 2003 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member 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).
13. 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).
14. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21571 (Basic Level of 1959 Survivor Benefits) for local fire members only.
 - b. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members and those local safety members entering membership on or prior to November 14, 1986.
 - c. Section 20965 (Credit for Unused Sick Leave).
 - d. Section 20475 (Different Level of Benefits). Section 20037 (Three-Year Final Compensation) without Section 21024 (Military Service Credit as Public Service) are applicable to local fire members entering membership for the first time in the fire classification after November 14, 1986.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

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.

- e. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members and local police members only.
 - f. Section 20042 (One-Year Final Compensation) for those local fire members entering membership on or prior to November 14, 1986 and those local miscellaneous members and local police members entering membership on or prior to the effective date of this amendment to contract.
- 15. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 1, 1977. 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.
 - 16. 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.
 - 17. 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 and local police members.
 - b. 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.

- c. 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.
18. 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.
 19. 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 LOS ALTOS

BY _____
 DARRYL WATSON, CHIEF
 CUSTOMER ACCOUNT SERVICES DIVISION
 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
 PRESIDING OFFICER

Witness Date _____

Attest: _____

 Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"