RESOLUTION NO. JPA2011-2

A RESOLUTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF DIRECTORS OF THE ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, the Board of Administration of the California Public Employees' Retirement System and the Board of Directors of the Albany Municipal Services Joint Powers Authority entered into a contract effective on July 12, 1999 providing for the participation of said public agency in the California Public Employees' Retirement System; and

WHEREAS, it is now desirable to take advantage of certain benefits provided under said Retirement System and not included in said contract;

NOW, THEREFORE, BE IT RESOLVED, that said governing body authorized, and it does hereby authorize, an amendment to said contract, a copy of said amendment attached hereto and by such reference made a part hereof as though herein set out in full; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said amendment for and on behalf of said public agency.

Adopted this 7th day of February, 2011

Presiding Officer – Farid Javandel, Chair

Attest:

Clerk/Secretary

City of Albany

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CITY ATTORNEY
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COMMUNITY DEVELOPMENT & ENVIRONMENTAL RESOURCES
- Building
- Engineering
- Environmental Resources
- Maintenance
- Planning

PH. (510) 528-5760
FAX (510) 524-9359

FINANCE & ADMINISTRATIVE SERVICES
CITY TREASURER
PH. (510) 528-5730
FAX (510) 528-2743

FIRE & EMERGENCY MEDICAL SERVICES
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POLICE
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RECREATION & COMMUNITY SERVICES
1249 Marin Avenue
PH. (510) 524-9283
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- Friendship Club/ Childcare Program PH. (510) 524-0135
- Senior Center PH. (510) 524-9122 FAX (510) 524-8940
- Teen Center PH. (510) 525-0576

RESOLUTION NO. JPA2011-2

PASSED AND APPROVED BY THE ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY, this 7th day of February, 2011 by the following votes:

AYES: Authority Members Atkinson, Lieber, Thomsen, Wile & Chair Javandel

NOES: None

ABSENT: None

WITNESS MY HAND AND THE SEAL OF THE ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY, this 8th day of February 2011.

JACQUELINE L. BUCHOLZ, CMC
SECRETARY

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
Albany Municipal Services Joint Powers Authority

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 12, 1999, and witnessed July 6, 1999, and as amended effective December 25, 2000, and December 4, 2006 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 12 are hereby stricken from said contract as executed effective December 4, 2006, and hereby replaced by the following paragraphs numbered 1 through 13 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.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 12, 1999 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.

PLEASE DO NOT SIGN "DRAFT"

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.

   (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. Employees other than local safety members (herein referred to as local miscellaneous members).

5. Any exclusion(s) shall remain in effect until such time as the Public Employees' Retirement System determines that continuing said exclusion(s) would risk a finding of non-compliance with any federal tax laws or regulations. If such a determination is contemplated, the Public Employees' Retirement System will meet with the Public Agency to discuss the matter and coordinate any required changes or amendments to the contract.

   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. SAFETY EMPLOYEES.

6. This contract shall be a continuation of a portion of the miscellaneous category of the contract of the City of Albany, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred July 12, 1999.

7. 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 December 4, 2006 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

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 on or after December 4, 2006 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).

DO NOT SIGN "EXPIRED"

9. Public Agency elected and elects to be subject to the following optional provisions:

   a. Section 20938 (Limit Prior Service to Members Employed on Contract Date).

   b. Section 21574 (Fourth Level of 1959 Survivor Benefits).

   c. Section 20903 (Two Years Additional Service Credit).

10. 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 of said Retirement System.

11. 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.

   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.

12. 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.

13. 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

BY_____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
ALBANY MUNICIPAL SERVICES JOINT POWERS AUTHORITY

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk