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**ORDINANCE #2011-02**

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

WHEREAS, the Albany City Council of the City of Albany does ordain as follows:

1. An amendment to the contract between the Albany City Council of the City of Albany 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.
2. The Mayor of the Albany City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.
3. This ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 7 days from the passage thereof shall be published at least once in the West County Times, a newspaper of general circulation, published and circulated in the Counties of Contra Costa and Alameda and thenceforth and thereafter the same shall be in full force and effect.

  
\_\_\_\_\_  
Mayor Farid Javandel



California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

**Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Albany**

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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 May 1, 1966, and witnessed April 4, 1966, and as amended effective December 15, 1969, July 1, 1971, July 1, 1973, October 1, 1974, December 1, 1977, July 1, 1981, December 28, 1987, June 3, 1988, May 1, 1989, September 5, 1991, May 8, 1992, March 25, 1996, May 1, 2000, December 25, 2000, July 4, 2001, July 7, 2003, January 19, 2004, March 27, 2006 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 13 are hereby stricken from said contract as executed effective December 4, 2006, and hereby replaced by the following paragraphs numbered 1 through 14 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 and age 55 for local safety members.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after May 1, 1966 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.
  - (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. **PERSONS COMPENSATED ON AN HOURLY BASIS.**
6. 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 supplemental to Federal Social Security).
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 on or after December 4, 1966 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 supplemental to Federal Social Security).
8. The percentage of final compensation to be provided for local safety members for each year of credited prior service is 0% the percentage of final compensation to be provided for each year of credited current service is 100% and determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:
- a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
  - c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
  - d. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
  - e. Section 20965 (Credit for Unused Sick Leave) for local safety members only.

- f. Section 20042 (One-Year Final Compensation) for local safety members only.
  - g. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
  - h. Section 20516 (Employee Sharing Cost of Additional Benefits) applicable to Section 20042 (One-Year Final Compensation) effective July 4, 2001, and Section 21363.1 (3% @ 55 Full formula) effective January 19, 2004 for local police members. The employee cost sharing contribution is not to exceed 13.489%. 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 10.998%; and after June 30, 2023, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 3.470%.
10. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
11. 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.
12. 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 safety 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.
13. 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.
  14. 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 11<sup>th</sup> day of June, 2011.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF ALBANY

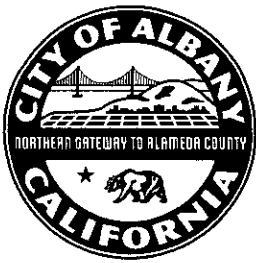
BY \_\_\_\_\_  
DARRYL WATSON, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY [Signature]  
PRESIDING OFFICER

June 6, 2011  
\_\_\_\_\_  
Witness Date

Attest:

Eileen Harrington  
Clerk Deputy City Clerk  
City of Albany



# City of Albany

1000 San Pablo Avenue • Albany, California 94706  
(510) 528-5710 • www.albanyca.org

STATE OF CALIFORNIA     )  
COUNTY OF ALAMEDA    ) ss  
CITY OF ALBANY         )

I, **EILEEN HARRINGTON**, Deputy City Clerk of the City of Albany, California do hereby certify that the whole number of members of the City Council of said City of Albany is five and that the foregoing is a true and correct copy of the Ordinance No. **2011-02** which was passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the Deputy City Clerk of said City, all at a regular meeting of the said Council on the **6<sup>th</sup> day of June, 2011 A.D.**, and that the same was so passed and adopted by the following votes and duly published or posted according to State law.

AYES: Atkinson, Lieber, Thomsen, Wile and Mayor Javandel

NOES: None

ABSENT: None

In witness whereof, I have hereunto set my hand and affixed the official seal of the City of Albany this 7<sup>th</sup> day of June, 2011.

EILEEN HARRINGTON  
DEPUTY CITY CLERK

*The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of a diverse community, and providing a safe, healthy and sustainable environment.*



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