



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
September 19, 2012**

**TO:** Mayor and City Council  
**FROM:** Alan H. Shear, Assistant City Manager  
**SUBJECT:** Resolution of Intention to Amend Contract with CalPERS  
**DATE:** September 13, 2012

**RECOMMENDATION:**

Consider adoption of the following:

- A) Resolution of intention to amend the contract between the City of Martinez and the California Public Employees' Retirement System (PERS) to enter into a 1% cost sharing agreement (PERS Section 20516) applicable to the 3% @50 formula (PERS Section 21362.2) and the 3% @55 formula (PERS Section 21363.1) for safety members.
- B) Introduce PERS Ordinance amending contract between PERS Board of Administration and the City of Martinez.

**BACKGROUND:**

Representatives of the City and the Martinez Police Officers Association (MPOA) met and conferred on the issue of labor negotiations in accordance with provisions set forth in Government Code Section 3500, Meyers-Milias-Brown Act and reached agreement on an MOU with a contract term of four (4) years from July 1, 2011 through June 30, 2015. One of the agreed upon provisions of the current MOU is a cost sharing agreement that states effective July 1, 2012, employees shall pay toward the CalPERS Employer contribution rate as follows:

July 1, 2012 –	0.5%;
January 1, 2013 –	additional 0.5%
July 1, 2013 –	additional 0.5%
January 1, 2014 –	additional 0.5%
July 1, 2014 –	additional 1.0%
January 1, 2015 –	additional 1.0% for a total of 4%

Per the terms of the MOU, the City will implement the 4% cost sharing agreement incrementally. The attached resolution of intention will implement 1% cost sharing between the safety members of PERS and the City effective January 1, 2013. Staff will return towards the end of 2013 to implement an additional 1% cost sharing and then again in 2014 to implement a further 2% in order to arrive at the 4% amount. PERS only allows one contract amendment per year.

Therefore, the City entered into a side letter agreement with the MPOA to capture the 0.5% contributions of July 1, 2012 and July 1, 2013, as well as the 1% contribution effective July 1, 2014. This PERS contract amendment, as well as the subsequent ones in January 2014 and January 2015, will incorporate the contributions effective on July 1, and maintain the agreed upon phased-in implementation schedule.

**ACTION:**

Motion to adopt the following:

- A) Resolution of intention to amend the contract between the City of Martinez and the California Public Employees' Retirement System (PERS) to enter into a 1% cost sharing agreement (PERS Section 20516) applicable to the 3% @50 formula (PERS Section 21362.2) and the 3% @55 formula (PERS Section 21363.1) for safety members.
- B) Introduce PERS Ordinance amending contract between PERS Board of Administration and the City of Martinez.

Attachments:  
Resolution of Intention  
PERS Ordinance

**APPROVED BY:**



City Manager

**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
CITY OF MARTINEZ**

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; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (1% Employees Sharing Cost of Additional Benefits) applicable to Section 21362.2 (3% @ 50 Full formula) and Section 21363.1 (3% @ 55 Full formula) for local police members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: \_\_\_\_\_  
Presiding Officer

Mayor  
\_\_\_\_\_  
Title

September 19, 2012

**Date adopted and approved**



**EXHIBIT**

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 Martinez

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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 July 1, 1950, and witnessed May 31, 1950, and as amended effective July 1, 1954, January 1, 1960, January 1, 1974, July 2, 1983, February 1, 1986, April 1, 1987, November 30, 1991, October 1, 1992, June 16, 1994, October 8, 1994, July 4, 1998, July 1, 2001, January 1, 2008 and July 1, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective July 1, 2012, and hereby replaced by the following paragraphs numbered 1 through 15 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 July 1, 2012, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after July 1, 2012, age 50 for local police members entering membership in the police classification on or prior to July 1, 2012, age 55 for local police members entering membership for the first time in the police classification after July 1, 2012 and age 55 for local fire members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 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 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. **EMPLOYEES OF THE MARTINEZ MUNICIPAL FERRY SYSTEM.**
  6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members entering membership in the miscellaneous classification on or prior to July 1, 2012 shall be determined in accordance with Section 21354 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, 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 current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after July 1, 2012 shall be determined in accordance with Section 21353 of said Retirement Law, subject to the reduction provided therein for Federal Social Security (2% at age 60 Modified).
  8. 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 21366 of said Retirement Law (One-half pay at age 55 Full).

9. 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 July 1, 2012 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 current service as a local police member entering membership for the first time in the police classification after July 1, 2012 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20965 (Credit for Unused Sick Leave) for local safety members only.
  - b. Section 21572 (Increased Level of 1959 Survivor Benefits) for local fire members only.
  - c. Section 20042 (One-Year Final Compensation) for those local miscellaneous members and local police members entering membership on or prior to July 1, 2012.
  - d. Section 20903 (Two Years Additional Service Credit).
  - e. Section 21024 (Military Service Credit as Public Service) for local miscellaneous members only.
  - f. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
  - g. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Modified 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 July 1, 2012.

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 July 1, 2012.

**h. Section 20516 (Employees Sharing Cost of Additional Benefits):**

**Section 21362.2 (3% @ 50 Full formula) and Section 21363.1 (3% @ 55 Full formula) for local police members. From and after the effective date of this amendment to contract the police employees of Public Agency shall be assessed an additional 1% of their compensation for a total contribution rate of 10% pursuant to Government Code Section 20516.**

- 12. 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.**
- 13. 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 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.**
- 14. 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.**

15. 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 MARTINEZ

BY \_\_\_\_\_  
KAREN DE FRANK, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

ORDINANCE NO. \_\_\_\_\_

An Ordinance of the \_\_\_\_\_ City Council \_\_\_\_\_ of the  
(Name of Governing Body)  
City of Martinez \_\_\_\_\_ authorizing an amendment  
(Name of Public Agency)  
to the contract between the \_\_\_\_\_ City Council \_\_\_\_\_ of the  
(Name of Governing Body)  
City of Martinez \_\_\_\_\_ and the  
(Name of Public Agency)  
Board of Administration of the California Public Employees' Retirement System.

The \_\_\_\_\_ City Council \_\_\_\_\_ of the  
(Name of Governing Body)  
City of Martinez \_\_\_\_\_ does ordain as follows:  
(Name of Public Agency)

Section 1.

That an amendment to the contract between the \_\_\_\_\_ City Council \_\_\_\_\_  
(Name of Governing Body)  
of the \_\_\_\_\_ City of Martinez \_\_\_\_\_  
(Name of Public Agency)  
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.

The \_\_\_\_\_ Mayor \_\_\_\_\_ of the \_\_\_\_\_ City Council \_\_\_\_\_  
(Title of Presiding Officer) (Name of Governing Body)  
is hereby authorized, empowered, and directed to execute said amendment for and on behalf of  
said Agency.

Section 3.

This Ordinance shall take effect \_\_\_\_\_ 30 \_\_\_\_\_ days after the date of its adoption, and prior to the  
expiration of \_\_\_\_\_ 30 \_\_\_\_\_ days from the passage thereof shall be published at least \_\_\_\_\_ once \_\_\_\_\_  
in the \_\_\_\_\_ Martinez News-Gazette \_\_\_\_\_, a newspaper of general  
circulation, published and circulated in the \_\_\_\_\_ City of Martinez \_\_\_\_\_ and  
thenceforth and thereafter the same shall be in full force and effect.

Properly introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2012, and adopted and approved this  
\_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
Deputy City Clerk



**EXHIBIT**

California  
Public Employees' Retirement System

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B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF MARTINEZ

BY \_\_\_\_\_  
KAREN DE FRANK, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk