



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
October 17, 2012**

TO: Mayor and City Council
FROM: Alan H. Shear, Assistant City Manager
SUBJECT: Adopting Ordinance 1366 C.S. amending Contract with CalPERS
DATE: October 10, 2012

RECOMMENDATION:

Conduct a public hearing to consider adoption of Ordinance No. 1366 C.S. authorizing an amendment to 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.

BACKGROUND:

At the September 19 meeting of the City Council, the Council approved a resolution of intention to amend the contract with PERS to implement the cost sharing agreement between the City and the Martinez Police Officers Association (MPOA). PERS requires approval of the resolution of intention at one Council meeting, followed by adoption of the Ordinance at a second Council meeting in order to effectuate a contract amendment.

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. Ordinance 1366 C.S. will implement 1% cost sharing between the safety members of PERS and the City effective January 1, 2013. Staff will return to Council 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 Ordinance 1366 C.S 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.

Attachments:
Ord No. 1366 and Exhibit

APPROVED BY:



City Manager

ORDINANCE NO. 1366 C.S.

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 19th day of September, 2012, and adopted and approved this
17th day of October, 2012.

Presiding Officer

Attest:

Deputy 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 Martinez

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 1st day of Januray, 2013.

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