



MEETING DATE: 04/07/08

ITEM NO. 12

COUNCIL AGENDA REPORT

DATE: April 2, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
A. ADOPT RESOLUTION OF INTENTION TO AMEND CONTRACT  
B. INTRODUCE ORDINANCE APPROVING AMENDMENT

RECOMMENDATION:

1. Adopt resolution of intention to amend contract
2. Instruct Clerk to read title of Ordinance
3. Move to waive reading of full text of Ordinance
4. Move to introduce Ordinance

BACKGROUND:

The current Memoranda of Understanding (MOU) with the Town Employees' Association (T.E.A.) and the American Federation of State, County and Municipal Employees (AFSCME) provides that the Town will amend its contract with the Public Employees Retirement System (PERS) to change the retirement formula from 2% at 55 to 2.5% at 55 at no cost to the Town. To implement the contract amendment in accordance with PERS law, this report recommends the adoption of a Resolution of Intention and the First Reading of Ordinance.

DISCUSSION:

The following values have been identified in the actuarial valuation for the adoption of the contract amendment:

Change in Present Value of Benefits	\$2,591,638
Change in the Accrued Liability	\$1,317,547
Change in the Employer Rate	2.541%

PREPARED BY: RUMI PORTILLO   
Human Resources Director

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Reviewed by: PSJ Assistant Town Manager OK Town Attorney      Clerk Administer  
     Finance      Community Development Revised: 04/02/2008 2:02 PM

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MAYOR AND TOWN COUNCIL

SUBJECT: APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE TOWN COUNCIL OF THE TOWN OF LOS GATOS

APRIL 2, 2008

To offset the change in the employer rate, the nonsworn employee groups have waived a 3% cost of living adjustment for FY 2008/09, resulting in a net savings of .459% to the Town. In addition to the change in the employer rate, a change in the employee contribution rate from 7% to 8% will be fully paid by employees on an ongoing basis.

Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to provide a benefit which changes the employees' rate of contribution. The election is scheduled for April 23rd, which will be after the adoption of the resolution of intention and the first reading of the ordinance. The contract shall not be amended if a majority of the affected members vote to disapprove the proposed plan.

In accordance with PERS statutes, the contract amendment will apply to all local miscellaneous (nonsworn) members and is available only to employees who are employed on or after the contract amendment effective date.

CONCLUSION:

The Town has provided PERS Public Agency Contract Services with the required Schedule of Agency Actions. This report recommends the adoption of a Resolution of Intention to amend the PERS contract and the First Reading of Ordinance. The adoption of this contract amendment will implement a provision agreed to in the MOUs for TEA and AFSCME and will apply to all miscellaneous employees in accordance with PERS law.

ENVIRONMENTAL ASSESSMENT:

Is not a project defined under CEQA, and no further action is required.

FISCAL IMPACT:

This contract amendment results in a net savings of .451% of total miscellaneous payroll for FY 2008/09.

Attachments:

1. Resolution of Intention to Approve an Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Town Council of the Town of Los Gatos
2. Ordinance to Amend Section 2.310.710 Contract with Public Employees' Retirement System, includes Exhibit A, Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Town Council of the Town of Los Gatos

**RESOLUTION NO. 2008-**

**ADOPT RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM AND THE TOWN COUNCIL OF THE TOWN OF LOS GATOS**

**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 21354.4 (2.5% @ 55 Full and Modified formula) for local miscellaneous members.

**RESOLVED**, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town Council 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.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7<sup>th</sup> day of April, 2008 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED: /s/ Barbara Spector

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Jackie Rose  
CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

## ORDINANCE

### ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The Town Council of the Town of Los Gatos does ordain as follows:

#### Section 1

That an amendment to the contract between the Town Council of the Town of Los Gatos 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 Town of Los Gatos is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

#### Section 3

Section 2.10.710 of Article III, Division 5 of Chapter 2 of the Los Gatos Town Code is hereby amended to add the following:

- (d) *Amendment.* An amendment to the contract between the Town Council and the Board of Administration, State Public Employees' Retirement System is hereby authorized, a copy of such amendment being attached to the original of Ordinance No. \_\_\_\_\_, marked "Exhibit A," and by such reference made part hereof as though herein set out in full. The Mayor of the Town Council is hereby authorized, empowered, and directed to execute such amendment for and on behalf of such agency.

#### Section 4

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the Los Gatos Weekly-Times, a newspaper of general circulation, published and circulated in the Town of Los Gatos and thenceforth and thereafter the same shall be in full force and effect.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7<sup>th</sup> day of April, 2008 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED: /s/ Barbara Spector

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

/s/ Jackie Rose

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA



**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  
Town Council  
Town of Los Gatos

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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 April 1, 1972, and witnessed March 1, 1972, and as amended effective August 2, 1972, June 1, 1976, July 1, 1976, October 1, 1976, January 4, 1990, December 16, 1992, August 6, 1997 and June 24, 2001 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective June 24, 2001, 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 and age 50 for local safety members.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after April 1, 1972 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.

EXHIBIT A

PLEASE DO NOT SIGN "EMERGENCY"

3. 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 Police Officers (herein referred to as local safety members);
  - b. Employees other than local safety members (herein referred to as local miscellaneous members).
4. 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. **ALL PERSONS EMPLOYED ON OR PRIOR TO CONTRACT DATE WHO WERE MEMBERS OF THE LOCAL SYSTEM EXCEPT THOSE IN EMPLOYMENT ON CONTRACT DATE WHO WAIVED THEIR RIGHTS UNDER THE LOCAL SYSTEM AND THOSE PERSONS WHO WAIVED THEIR RIGHTS BETWEEN MARCH 18 AND MARCH 26, 1976.**
5. 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.
6. Assets heretofore accumulated with respect to members under the local retirement system who waived their rights under that system have been transferred to the Public Employees' Retirement System on April 1, 1972 or between March 18, and March 26, 1976 and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1976, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1976, termination of Social Security, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
  - c. Section 21574 (Fourth Level of 1959 Survivor Benefits).
  - d. Section 20042 (One-Year Final Compensation).
  - e. Section 21024 (Military Service Credit as Public Service).
11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1976. 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.
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 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 miscellaneous members and 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.
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

TOWN COUNCIL  
TOWN OF LOS GATOS

BY \_\_\_\_\_  
LORD MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk

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