



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 4, 2020

**From:** Abby Partin, Human Resources Administrator

**Subject:** Approval of Resolution No. 2020-44, Adopting a Resolution of Intent and Introducing Ordinance No. 654 Amending the Contract between the Board of Administration of the California Public Employee's Retirement System (CalPERS) and the City of Brisbane, to Implement the Cost Share of Employee Contribution in Accordance with Section 20516 of the California Government Code for Classic Member Employees Represented by the International Association of Firefighters- Local 2400, AFL-CIO

### **Community Goal/Result**

Fiscally Prudent

### **Purpose**

To ensure qualified, stable and dedicated workforce for the community.

### **Recommendation**

- Adopt a Resolution of Intention to amend the City's contract with the California Public Employees Retirement System (CalPERS) to include a monthly employee contribution of 2.0% of salary as provided under Government Code Section 20516, applicable to all classic members represented by the International Association of Firefighters (IAFF)-Local 2400, AFL-CIO.
- Introduce an Ordinance amending the City's contract with the California Public Employees Retirement System (CalPERS) to include a monthly employee contribution of 2.0% of salary as provided under Government Code Section 20516, applicable to all classic members represented by the International Association of Firefighters-Local 2400, AFL-CIO. This ordinance will return to the City Council on second reading in accordance with state law.

### **Background**

On April 16, 2020, the City Council adopted Resolution 2020-09 approving a Memorandum of Understanding with IAFF-Local 2400, AFL-CIO for the period of July 1, 2019 - June 30, 2022. The approved contract included a cost sharing provision in which "Classic" CalPERS represented employees contribute additional percentages of their salaries in varying amounts towards their CalPERS retirement benefits. The proposed cost sharing provision for IAFF-Local 2400, AFL-CIO is as follows:

- 2% effective upon approval of the amendment of the contract between CalPERS and the City
- 1% effective July 2021

In order for the City to implement this cost-share provision, it is necessary for the City to amend its contract with CalPERS. On May 24, 2020, staff initiated the CalPERS contract amendment process to include Section 20516 (Cost Share) of 2.0% for classic local fire members represented by the IAFF-Local 2400, AFL-CIO on the basis described in the Resolution of Intention.

### **Discussion**

CalPERS requires that specific procedures established by the State statute to be followed to initiate retirement contract amendments. Approval of the Resolution of Intention (Attachment 1) initiates the process for the contract amendment. CalPERS requires that the City adopt this Resolution of Intention at least twenty (20) days prior to adopting an Ordinance that approves the contract amendment. Attachment 2 is the proposed Ordinance authorizing an amendment to the contract between the Board of Administration of CalPERS and the City Council of the City of Brisbane. This is the first reading of the Ordinance, a second and final reading will follow for adoption. Introduction of the attached Ordinance allows for a timely notice prior to City Council action adopting the final Ordinance.

CalPERS requires the following additional steps to amend the existing IAFF-Local 2400, AFL-CIO contract:

1. Conduct an employee election for all IAFF-Local 240, AFL-CIO members on the official CalPERS ballot after the Resolution of Intention is adopted by the City Council
2. Certify election results to CalPERS
3. Consider Second and Final Reading of the Ordinance for adoption
4. After 31 days following adoption of the Ordinance, at the beginning of the next pay period, new cost share rate will be reported to CalPERS

Staff recommends that the City Council adopt the Resolution of Intent and hold a first reading of the Ordinance by separate actions, thereby implementing staff's recommendation as referenced above.

### **Fiscal Impact**

The additional employee contribution to CalPERS is anticipated to save the City CalPERS payments and the savings are factored into the budget.

### **Measure of Success**

The City is able to retain a qualified, stable and dedicated workforce.

**Attachments**

1. Resolution of Intention
2. Ordinance amending IAFF, Local 2400, AFL-CIO CalPERS contract
3. Exhibit of Amendment to CalPERS Contract

*Abby Partin*

Abby Partin, HR Administrator

*Clay L. Holstine*

Clay Holstine, City Manager

**RESOLUTION NO 2020-44**

**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 BRISBANE**

**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 (Employees Sharing Additional Cost) of 2% for classic local fire members in the International Association of Firefighters Local 2400, AFL-CIO.

**NOW, THEREFORE,** the City Council of the City of Brisbane resolves as follows:

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.

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Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-44 was duly and regularly adopted at a regular meeting of the Brisbane City Council on June 4, 2020, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Ingrid Padilla, City Clerk

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

THE CITY COUNCIL OF THE CITY OF BRISBANE DOES ORDAIN AS FOLLOWS:

Section 1.

That an amendment to the contract between the City Council of the City of Brisbane and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit 1, and by such reference made a part hereof as though herein set out in full.

Section 2.

The Mayor of the City Council of the City of Brisbane is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3.

This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

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The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED:

\_\_\_\_\_  
Mayor of the City of Brisbane

ATTEST:

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


**EXHIBIT 1**

California  
Public Employees' Retirement System



# AMENDMENT TO CONTRACT

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



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 February 1, 1965, and witnessed January 6, 1965, and as amended effective July 1, 1967, October 1, 1973, October 12, 1977, November 16, 1984, August 3, 1987, October 13, 1994, June 23, 1997, June 10, 1999, June 30, 2002, August 19, 2002, June 23, 2008 and August 27, 2009 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective August 27, 2009, and hereby replaced by the following paragraphs numbered 1 through 18 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 classic local miscellaneous members entering membership in the miscellaneous classification on or prior to June 23, 2008, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after June 23, 2008, age 62 for new local miscellaneous members, age 55 for classic local safety members and age 57 for new local safety members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after February 1, 1965 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 attorney 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) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' 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.
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:

**NO ADDITIONAL EXCLUSIONS**

6. This contract shall be a continuation of the benefits of the contract of the Brisbane Fire District, hereinafter referred to as "Former Agency", pursuant to Section 20508 of the Government Code, Former Agency having ceased to exist and succeeded by Public Agency on March 11, 1964. Public Agency, by this contract, assumes the accumulated contributions and assets derived therefrom and liability for prior and current service under Former Agency's contract with respect to the Former Agency's employees. Legislation repealed Section 20508, Statutes of 1949, effective January 1, 1988.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after June 23, 2008 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on and not after June 23, 2008 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited current service for those classic local miscellaneous members entering membership for the first time in the miscellaneous classification after June 23, 3008 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).



12. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20042 (One-Year Final Compensation) for classic members only.
  - b. Section 21573 (Third Level of 1959 Survivor Benefits).
  - c. Section 21427 (Improved Nonindustrial Disability Allowance) for those members who retired on non-industrial disability after June 14, 1975.
  - d. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - e. Section 20965 (Credit for Unused Sick Leave).
  - f. Section 21024 (Military Service Credit as Public Service).
  - g. Section 21027 (Military Service Credit for Retired Persons).
  - h. Section 20475 (Different Level of Benefits). Section 21354.5 (2.7% @ 55 Full and Modified Formula) is applicable to only those classic local miscellaneous members in the miscellaneous classification on June 23, 2008. Section 21353 (2% @ 60 Full Formula) is applicable to local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after June 23, 2008.
  - i. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
  - j. Section 21118 (Partial Service Retirement).
  - k. Section 21623.5 (\$5,000 Retired Death Benefit).
  - l. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 2% for classic local fire members in the International Association of Firefighters Local 2400, AFL-CIO.

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The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 12, 1977. 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.
15. 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.
16. 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 21573 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.
17. 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.

18. 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 BRISBANE

BY \_\_\_\_\_  
ARNITA PAIGE, CHIEF  
PENSION CONTRACTS AND PREFUNDING  
PROGRAMS DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest:

\_\_\_\_\_  
Clerk