

ORDINANCE _____

AN 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.

NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN COUNCIL DO HEREBY ORDAIN AS FOLLOWS:

SECTION I

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 II

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

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 6th day of August 2019, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 3rd day of September 2019. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



EXHIBIT A

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
Town Council
Town of Los Gatos**

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, June 24, 2001, June 29, 2008 and September 15, 2012 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 17 are hereby stricken from said contract as executed effective September 15, 2012, and hereby replaced by the following paragraphs numbered 1 through 19 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 September 15, 2012, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after September 15, 2012, age 62 for new local miscellaneous members, age 50 for classic local safety members and 57 for new local safety members.

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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.
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 Police Officers (herein referred to as local safety members);
 - b. 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:

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- a. ALL PERSONS EMPLOYED ON OR PRIOR TO SEPTEMBER 15, 2012 WHO WERE MEMBERS OF THE LOCAL SYSTEM EXCEPT THOSE IN EMPLOYMENT ON SEPTEMBER 15, 2012 WHO WAIVED THEIR RIGHTS UNDER THE LOCAL SYSTEM AND THOSE PERSONS WHO WAIVED THEIR RIGHTS BETWEEN MARCH 18 AND MARCH 26, 1976.**
6. 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.
7. 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.
8. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after June 29, 2008 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).
9. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after June 29, 2008 and not entering membership for the first time in the miscellaneous classification after September 15, 2012, 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).
10. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after September 15, 2012 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

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11. 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).
12. 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 21362.2 of said Retirement Law (3% at age 50 Full).
13. 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).
14. 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) for those classic local miscellaneous members entering membership on or prior to September 15, 2012 and for local safety members.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 20475 (Different Level of Benefits): Section 21353 (2% at age 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after September 15, 2012.
 - g. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 3% for classic local police members in the Los Gatos Police Officer's Association.

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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.

15. 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.
16. 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.
17. 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.
18. 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.

19. 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 _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk