

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JUNE 17, 2011



ADOPT RESOLUTION TO AMEND CALPERS CONTRACT FOR TIER II RETIREMENT

ITEM

Adopt Resolution to amend CalPERS Contract for Tier II Retirement

BACKGROUND

On March 23, 2011, the Board of Directors approved, in concept, the creation of a new second tier CalPERS retirement plan for newly hired District employees. The Board of Directors agreed to the following:

CalPERS BENEFIT	CURRENT EMPLOYEES (TIER I)	NEWLY HIRED (TIER II)
Retirement Formula	3% @ 60, 1 Year Final Compensation	3% @ 60, 3 Year Final Average Compensation
Employer Paid Member Contribution (EMPC)	District pays 100% of EMPC (8%)	Employee pays 100% of EMPC (8%)

The District will incur a savings of 8.673% of reportable earnings on Tier II employees as a result of this amendment.

After the amendment, the District contribution rate will be 13.194% of reportable earnings for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract (Tier II). The District contribution for its current employees is 18.015% of reportable earnings (Tier I).

One May 11, 2011, the Board of Directors adopted Resolution 2011-1220, Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the Board of Directors Nipomo Community Services District.

CalPERS requires a 20 day period between the adoption of the Resolution of Intention and the adoption of the attached Resolution to Amend the Contract.

RECOMMENDATION

It is recommended that the Board adopt the Resolution to Amend Contract and direct Staff to forward the Resolution to CalPERS.

ATTACHMENTS

- Resolution

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION
AUTHORIZING AN AMENDMENT TO THE CONTRACT

No. _____

WHEREAS, the Board of Administration of the California Public Employees' Retirement System and the Board of Directors of the Nipomo Community Services District entered into a contract effective on October 1, 1975 providing for the participation of said public agency in the California Public Employees' Retirement System; and

WHEREAS, it is now desirable to take advantage of certain benefits provided under said Retirement System and not included in said contract;

NOW, THEREFORE, BE IT RESOLVED, that said governing body authorized, and it does hereby authorize, an amendment to said contract, a copy of said amendment attached hereto and by such reference made a part hereof as though herein set out in full; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said amendment for and on behalf of said public agency.

Adopted this _____ day of _____, _____.

Presiding Officer

Attest:

Clerk/Secretary



California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
Nipomo Community Services District

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 October 1, 1975, and witnessed August 13, 1975, and as amended effective April 22, 1999, May 1, 2000, April 5, 2001 and June 29, 2002 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 12 are hereby stricken from said contract as executed effective June 29, 2002, and hereby replaced by the following paragraphs numbered 1 through 13 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 60 for local miscellaneous members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1975 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. 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. **SAFETY EMPLOYEES.**
6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after June 29, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after June 29, 2002 shall be determined in accordance with Section 21354.3 of said Retirement Law (3% at age 60 Full).
8. Public Agency elected and elects to be subject to the following optional provisions:
- a. Section 20965 (Credit for Unused Sick Leave).
 - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
 - c. Section 21574 (Fourth Level of 1959 Survivor Benefits).
 - d. Section 20042 (One Year Final Compensation) for local miscellaneous members entering membership on or prior to the effective date of this amendment to contract.

- e. Section 20475 (Different Level of Benefits). Section 20037 (Three-Year Final Compensation) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.
-
- 9. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.
 - 10. 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 of said Retirement System.
 - 11. 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.
 - 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.
 - 12. 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.

13. 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

BOARD OF DIRECTORS
NIPOMO COMMUNITY SERVICES
DISTRICT

BY _____
DARRYL WATSON, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk