OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

128-0222018-002

Agenda Item **No. 5 (d)**
Meeting of November 6, 2018

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Approving the California Public Employees' Retirement System (CalPERS) Resolution authorizing an amendment to the contract between the Successor Agency and CalPERS to incorporate a previously-approved employee contribution to retirement benefits

EXECUTIVE SUMMARY

Employee retirement benefits are funded through a combination of employer and employee contributions. Following dissolution, pursuant to Government Code Section 20516, as part of the labor negotiations with International Federation of Professional and Technical Engineers Local 21 (Local 21) and Service Employees International Union Local 1021 (Local 1021), OCII proposed salary increases and sought an employee contribution that was consistent with the contributions made by City and County employees toward the San Francisco retirement system. The employee contribution offsets the amount that OCII would otherwise have to pay for employee retirement benefits.

The Commission previously approved both salary increases and employee contributions for both unions and unrepresented employees in labor agreements and salary resolutions, respectively. The employee contributions were 1.00% in February 2015; an additional 1.25% in October 2015; and another 1.25% in July 2016. The existing CalPERS contract incorporates the first two employee contributions, but not the third contribution of 1.25 percent. OCII now seeks to amend the CalPERS retirement contract to include the third employee contribution. On June 5, 2018, the Commission initiated the process to amend the CalPERS contract by approving a resolution of intention. Subsequently, a majority of OCII employees voted unanimously to approve the CalPERS contract amendment.

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Amending the retirement contract to include the third employee contribution of 1.25 percent employee contribution ensures that OCII has the authority to treat the third contribution on a pre-tax basis. Moreover, the amendment also makes the third employee contribution of 1.25 percent amount available to those employees who request a refund of retirement contributions instead of receiving a retirement benefit.

Staff recommends the Commission approve the Final Resolution to Approve an Amendment to the CalPERS Contract.

DISCUSSION

The Office of Community Investment and Infrastructure (OCII) provides retirement benefits to its employees through a contract with the California Public Employees' Retirement System (CalPERS). CalPERS requires that both employers and employees contribute funds for the cost of retirement benefits. The employer's share of contributions may be offset by employees if applicable collective bargaining agreements and policies require employees to contribute a portion of their salary to the retirement program. CalPERS refers to the employees' contribution of a portion of the employer's retirement payment as employees sharing cost of additional benefits or "Employee Cost-Sharing".

In FY 2014-2015, OCII management and Local 21 (International Federation of Professional and Technical Engineers) and Local 1021 (Service Employees International Union Local 1021 or SEIU) negotiated increases in employee salaries and in Employee Cost-Sharing that matched the salaries and cost-sharing provisions of comparable City labor agreements. Subsequently, the Successor Agency Commission ("Commission") approved these increases in memoranda of agreement (MOAs) with Local 21, Resolution No. 5-2015 (Feb. 3, 2015), and with Local 1021, Resolution No. 6-2015 (Feb. 3, 2015), and in the Classifications of Positions and Compensation Schedules ("Salary Resolution"), Resolution No. 39-2015 (June 16, 2015). The MOAs required that the employee "contribution shall be on a pre-tax basis upon the effective date of a new CalPERS contract authorizing such treatment" and established the implementation dates below.

1. Effective the first day of the first full pay period after February 14, 2015: 1.00%;
2. Effective the first full pay period in October 2015: additional 1.25%;
3. Effective the first full pay period in July 2016: additional 1.25%.

See Local 21 MOA, Article II, Section 3 E; Local 1021 MOA, Section 16. The Commission approved extensions of the MOAs through 2017-2019 in Resolution Nos. 25-2017 and 26-2017 , and approved a revised Salary Resolution in Resolution No. 27-2017 (June 20, 2017). To date, OCII has treated all of the employee contributions on a pre-tax basis.

In late 2015 and then again in 2016, OCII approved, at CalPERS insistence, a new retirement contract because the then-existing CalPERS contract had originally been approved by the dissolved Redevelopment Agency of the City and County of San Francisco ("Former Agency"). The existing CalPERS contract incorporates the first two Employee Cost-Sharing provisions, but not the third employee contribution of 1.25 percent that went into effect in July 2016.

OCII now seeks to amend the retirement contract with CalPERS to incorporate the third employee contribution of 1.25 percent. Amending the CalPERS contract ensures the continuing pre-tax treatment of the Employee Cost-Sharing. It also allows those employees who request a refund of their retirement contribution (instead of future retirement benefits) to receive the funds associated with the third employee contribution of 1.25 percent.

To amend the CalPERS contract, CalPERS required the Commission to adopt a Resolution of Intention. The Commission approved on June 5, 2018 Resolution 26-2018 which authorized the Successor Agency to hold an employee election, as required by CalPERS, to permit employees to express their approval or disapproval of a retirement contract amendment to incorporate the third employee contribution of 1.25 percent.

The Successor Agency held the required election September 12, 2018 through September 19, 2018 and has certified that 100 percent of current employees received a ballot, that 33 employees voted to approve the proposed retirement contract amendment, and that no employees voted against the proposed retirement contract amendment.

Staff recommends that the Commission approve the Final Resolution to Approve an Amendment to the CalPERS Contract to amend the retirement contract with CalPERS to include the additional employee contribution implemented the first full pay period in July 2016.

(Originated by Monica Davis Stean, Human Resources and Administrative Services Manager)

Nadia

Nadia Sesay
Executive Director

Attachment A: Resolution Authorizing CalPERS Contract
Attachment B: CalPERS Contract Amendment

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION
AUTHORIZING AN AMENDMENT TO THE CONTRACT

No. ___________

WHEREAS, the Board of Administration of the California Public Employees' Retirement System and the Successor Agency Commission of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco entered into a contract effective on December 1, 2016 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

CalPERS

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Succesor Agency Commission
Successor Agency to the Redevelopment Agency of the City and County of San Francisco

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 December 1, 2016, and witnessed October 18, 2016, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective December 1, 2016, 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 55 for classic local miscellaneous members and age 62 for new local miscellaneous members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after December 1, 2016 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. Employees other than local safety members (herein referred to as local miscellaneous members).

5. Any exclusion(s) shall remain in effect until such time as the Public Employees' Retirement System determines that continuing said exclusion(s) would risk a finding of non-compliance with any federal tax laws or regulations. If such a determination is contemplated, the Public Employees' Retirement System will meet with the Public Agency to discuss the matter and coordinate any required changes or amendments to the contract.

   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;**

   b. **PERSONS COMPENSATED ON PER DIEM BASIS; AND**

   c. **PERSON COMPENSATED ON AN HOURLY BASIS.**

6. This contract shall be a continuation of the contract of the Redevelopment Agency of the City and County of San Francisco, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred February 1, 2012.

   a. All benefits provided under this contract shall apply to all past service for former employees of the Redevelopment Agency of the City and County of San Francisco.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).

8. 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 Supplemental to Federal Social Security).

9. Public Agency elected and elects to be subject to the following optional provisions:

   a. Section 21335 (4% Cost-of-Living Allowance).

   b. Section 20042 (One-Year Final Compensation) for classic members only.

   c. Section 21427 (Improved Nonindustrial Disability Allowance).

   d. Section 20903 (Two Years Additional Service Credit).

   e. Section 20516 (Employees Sharing Additional Cost):

      From and after December 1, 2016 and until the effective date of this amendment to contract, 2.25% for local miscellaneous members.

      From and after the effective date of this amendment to contract, 3.5% for local miscellaneous members.

      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.

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. 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.

b. 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

BY______________________________
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND PREFUNDING PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SUCCESSOR AGENCY COMMISSION
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

BY______________________________
PRESIDING OFFICER

____
Witness Date

Attest:

____
Clerk