

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 43-2018

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

- WHEREAS, The Redevelopment Agency of the City and County of San Francisco ("Redevelopment Agency") approved, by Agency Resolution No. 2713 (Dec. 13, 1960), a contract with the California State Employees' Retirement System, which subsequently became the California Public Employees' Retirement System ("CalPERS"), to provide retirement benefits for its employees. The Redevelopment Agency and CalPERS have amended, on numerous occasions, the contract, which has continuously remained in effect for the benefit of Redevelopment Agency employees (the "CalPERS Contract"); and,
- WHEREAS, On February 1, 2012, state law dissolved the Redevelopment Agency, Cal. Health & Safety Code §§ 34170 et seq., and transferred certain assets and obligations to the Successor Agency to the Redevelopment Agency ("Successor Agency"). Among the transferred obligations to the Successor Agency were the CalPERS Contract, which survived dissolution as an enforceable obligation under Sections 34171 (d) (1) and 34190 of the California Health and Safety Code; and,
- WHEREAS, The Board of Supervisors of the City and County of San Francisco established, by Ordinance No. 215-12 (Oct. 4, 2012), the Successor Agency Commission as the governing body of the Successor Agency; and,
- WHEREAS, Following dissolution, as part of the labor negotiations with the International Federation of Professional Technical Engineers Local 21 and Service Employees International Union Local 1021, the Successor Agency sought an additional employee contribution consistent with the contributions made by City employees toward the SF retirement system ("Employees Sharing Additional Cost"). Successor Agency employees ratified this additional contribution in the 2015-2017 Memorandums of Agreement (MOAs). The Commission approved these MOAs in Resolutions No 5-2015 and 6-2015 on February 3, 2015. The Commission also approved, by Resolution No. 39-2015, the application of the additional employee contribution to unrepresented employees; and,
- WHEREAS, The additional employee contributions for both union-represented and unrepresented employees are as follows: effective the first day of the first full pay period following MOA ratification (Feb. 14, 2015): an additional 1.00%; effective the first full pay period in October 2015: additional 1.25%; and effective the first full pay period in July 2016: additional 1.25%; and,

WHEREAS, In late 2015, CalPERS requested that the Successor Agency, enter into a new contract identifying the Successor Agency as the contracting party and requiring us to follow the elaborate process under law for new entities to join CalPERS. The new retirement contract required an election by Successor Agency employees and approval of several resolutions by the Commission. Successor Agency held the required election in November 2015 and Successor Agency staff unanimously voted in favor of the new contract; and,

WHEREAS, On December 15, 2015 (Resolution No. 81-2015) and again on October 18, 2016 (Resolution No. 50-2016), the Commission approved the new CalPERS retirement contract. This new contract incorporated the first two Employees Sharing Additional Cost provisions that went into effect February 2015 and October 2015, but not the third employee contribution that went into effect July 2016. To date, however, the Successor Agency has treated all of the employee contributions on a pre-tax basis, as per the MOAs; and,

WHEREAS, On June 5, 2018, the Commission approved Resolution 26-2018, which initiated the process for amending the CalPERS contract and 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; and,

WHEREAS, The Successor Agency held the required election from September 12, 2018 through September 19, 2018 and certified that 100 percent of current employees received a ballot. Thirty-three (33) employees voted to approve the proposed retirement contract, and no employees voted against the proposed retirement contract amendment; and,

WHEREAS, CalPERS requires that the Successor Agency adopt the attached Resolution Authorizing a Contract (Attachment A) in the form prescribed by CalPERS ("Form Resolution"); and,

WHEREAS, The Commission's approval of the Form Resolution approving a contract between CALPERS and the Successor Agency is an administrative activity of government that will not result in any direct or indirect physical changes in the environment, and is, therefore, not a project as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(5) and is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3); now therefore be it

RESOLVED, That the Successor Agency Commission adopts the Form Resolution that approves a contract between CalPERS and the Successor Agency and that is attached to this Resolution.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of November 6, 2018.

Commission Secretary

Exhibit A: Resolution Authorizing CalPERS Contract
Exhibit 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



California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Successor 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

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

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

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk