

**CITY OF SEBASTOPOL
CITY COUNCIL
STAFF REPORT**

Agenda Report Review by:
City Manager 

Meeting Date: September 20, 2016
To: Honorable Mayor and City Councilmembers
From: Ana Kwong – Finance Director
Subject: Adoption of Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees’ Retirement System (CalPERS) and the City of Sebastopol to Include Provisions Pursuant to Government Code 20516 “Cost Sharing” for Local Sebastopol Police Officers Association (SPOA) Members in Accordance with the Previously Approved Comprehensive Memorandum of Understanding

Recommendation: That the City Council Adopt the Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees’ Retirement System (CalPERS) and the City of Sebastopol to Include Provisions Pursuant to Government Code 20516 “Cost Sharing” for Local Sebastopol Police Officers Association (SPOA) Members in Accordance with the Previously Approved Comprehensive Memorandum of Understanding

Funding: Currently Budgeted: ___(YES) ___(NO) _xxx_(N/A)
Net General Fund Cost: \$
If Cost to Other Fund(s):

INTRODUCTION:
This item is to request the City Council Adopt the Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees’ Retirement System (CalPERS) and the City of Sebastopol to Include Provisions Pursuant to Government Code 20516 “Cost Sharing” for Local Sebastopol Police Officers Association (SPOA) Members in Accordance with the Previously Approved Comprehensive Memorandum of Understanding

BACKGROUND:
At the City Council Meeting on August 2, 2016, the City Council adopted Resolution No. 6103 approving the revised Comprehensive Memorandum of Understanding between the Sebastopol Police Officers Association (SPOA) and the City of Sebastopol, for the period of July 1, 2016 through June 30, 2019.

Employees in this bargaining unit has agreed to pay, in addition to the 9% employee contribution the following:

1. Employee cost for Classic Safety retirement: Effective July 1, 2016, or as soon as administratively possible by CalPERS, the Employee shall pay an additional 1% cost shared in addition to their current 9% member contribution for a total of 10%. Until such time for the contract between CalPERS and the City is amended and approved, the additional 1% cost shared by the employee shall remain in effect and shall contribute toward Employer's contributions. Effective July 1, 2017, the Employee shall pay an additional 1% cost shared to the current 1% plus 9% member contribution for the total of 11%. Effective July 1, 2018, the Employee shall pay an additional 1% cost shared to the current 1% plus 1% plus 9% member contribution for a total of 12%.
2. Employee cost for Classic Miscellaneous retirement: Effective July 1, 2016, or as soon as administratively possible by CalPERS, the Employee shall pay an additional 0.5% cost shared in addition to their current 7% member contribution for a total of 7.5%. Until such time for the contract between CalPERS and the City is amended and approved, the additional 0.5% cost shared shall remain in effect and shall contribute toward Employer's contributions. Effective July 1, 2017, the Employee shall pay an additional 0.5% cost shared to the current 0.5% plus 7% member contribution for a total of 8%.

DISCUSSION:

CalPERS requires that clearly defined procedures be followed for contract amendments. The following steps are being taken in order to complete the contract amendment process:

- The City Council must adopted a Resolution of Intention.
- Government Code Section 20474 requires employee election affected whenever the contract is amended to change the employees' rate of contribution. This election must be held for the contract group following the adoption of the Resolution of Intention, and prior to the adoption of the Ordinance to amend the CalPERS contract. The election is scheduled to be conducted the week of
- The Ordinance, which will be a Final Ordinance, and a City Council vote on adoption, must occur no sooner than 20 days after the adoption of the Resolution of Intention. This Final Ordinance will be presented to the City Council for adoption on September 20, 2016.
- The effective date of the contract amendment must be the first day of a payroll period and may not be earlier than the day following the effective date of the Ordinance. The contract amendment effective date is anticipated to be October 16, 2016.

RECOMMENDATION:

That the City Council Approve the Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees'

Retirement System (CalPERS) and the City of Sebastopol to Include Provisions Pursuant to Government Code 20516 "Cost Sharing" for Local Sebastopol Police Officers Association (SPOA) Members in Accordance with the Previously Approved Comprehensive Memorandum of Understanding.

Attachment:

Exhibit - Amendment to Contract
Resolution of Intention



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

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



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 December 21, 1964, and as amended effective October 1, 1968, September 15, 1977, July 1, 1979, January 1, 1988, February 1, 1989, January 1, 1990, March 22, 1991, March 1, 1997, December 1, 2000, November 1, 2001 and August 1, 2009 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 August 1, 2009, and hereby replaced by the following paragraphs numbered 1 through 15 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, age 62 for new local miscellaneous members, age 50 for classic local safety members and age 57 for new local safety members.

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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).

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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. **ELECTED OFFICIALS; AND**
 - b. **EMPLOYEES COMPENSATED ON AN HOURLY BASIS.**
6. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to March 31, 1979, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. 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).
8. 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).
9. 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).
10. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21001 (Credit for War Relocation Leave). Legislation repealed said Section effective January 1, 2002.
 - b. Section 21002 (Refund of Contributions Made for War Relocation Leave Credit). Legislation repealed said Section effective January 1, 2002.
 - c. Section 21573 (Third Level of 1959 Survivor Benefits).
 - d. Section 20965 (Credit for Unused Sick Leave).
 - e. Section 21024 (Military Service Credit as Public Service).

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- f. Section 20042 (One-Year Final Compensation) for classic members only.
 - g. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 1% for classic local police members and .5% for classic local miscellaneous members in the Sebastopol Police Officers Association.
- 11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 15, 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.
 - 12. 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.
 - 13. 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.
 - 14. 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.

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- 15. 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 SEBASTOPOL

BY _____
CHERYL EASON
CHIEF FINANCIAL OFFICER
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"
PLEASE DO NOT SIGN "EXHIBIT ONLY"

**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 SEBASTOPOL**

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 1% for classic local police members and .5% for classic miscellaneous members in the Sebastopol Police Officers Association.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby 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.

By: _____
Presiding Officer

Title

Date adopted and approved