

MEETING DATE: 03/12/12

AGENDA ITEM: Adoption of an Ordinance Authorizing a Contract Amendment between the Public Employees' Retirement System (PERS) and the City of Culver City to Implement Section 20475, Different Level of Benefits, for Newly Hired Safety Plan Members in the Police Officers' Association (POA), Police Management Group (PMG), Firefighters' Association (FFA) and Fire Management (FMG)

ATTACHMENT

	<u>Pages</u>
1. Proposed Ordinance including Exhibit Amendment to Contract	1-8

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AN ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE
CONTRACT BETWEEN THE CITY OF CULVER CITY AND THE
BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC
EMPLOYEES' RETIREMENT SYSTEM (Local Police and Fire
Safety Plan Members)

NOW, THEREFORE, the City Council of the City of Culver City, California,
DOES HEREBY ORDAIN as follows:

SECTION 1. That an amendment to the contract between the City Council of the City of Culver City and the Board of Administration of the California Public Employees' Retirement System (PERS) is hereby authorized, effective April 10, 2012, a copy of said amendment being attached hereto as Exhibit "A" and incorporated herein by this reference as though set forth in full.

SECTION 2. The City Council of the City of Culver City is hereby authorized, empowered, and directed to execute said amendment on behalf of the City of Culver City.

SECTION 3. Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the

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1 Culver City News and shall post this Ordinance or a summary thereof in at least three
2 places within the City.

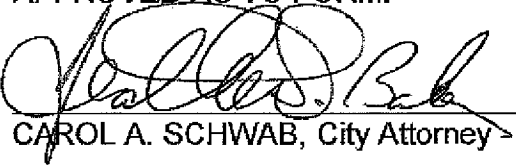
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4 APPROVED and ADOPTED this ____ day of _____, 2012.

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6 _____
7 MICHEÁL O'LEARY, Mayor
8 City of Culver City, California

9 ATTEST:

APPROVED AS TO FORM:

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11 _____
12 MARTIN R. COLE, City Clerk

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15 CAROL A. SCHWAB, City Attorney

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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 Culver City

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 August 1, 1945, and witnessed August 9, 1945, and as amended effective October 1, 1947, November 1, 1951, June 1, 1954, January 1, 1960, July 1, 1960, June 1, 1963, December 4, 1967, January 1, 1972, January 1, 1973, August 1, 1973, September 28, 1973, July 4, 1977, October 20, 1980, June 29, 1981, October 14, 1992, July 14, 1994, August 12, 1997, July 6, 1998, November 5, 1999, November 20, 2000, June 17, 2002, July 1, 2002, June 28, 2004, January 22, 2007 and December 19, 2011 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 December 19, 2011, and hereby replaced by the following paragraphs numbered 1 through 18 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 local miscellaneous members entering membership in the miscellaneous classification on or prior to December 19, 2011, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after December 19, 2011, age 50 for local police members entering membership in the police classification on or prior to the effective date of this amendment to contract, age 55 for local fire members and for those local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1945 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. 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).
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:

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. **AUDITORIUM HELPERS; CROSSING GUARDS; RECREATION LEADERS; LIFEGUARDS; LOCKER ROOM ATTENDANTS; AND CASHIERS HIRED ON OR AFTER AUGUST 2, 1973.**
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. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after July 1, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after July 1, 2002 and not entering membership for the first time in the miscellaneous classification after December 19, 2011 shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).

9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after December 19, 2011 shall be determined in accordance with Section 21353 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 60 Modified).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member entering membership in the police classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local police member entering membership for the first time in the police classification after the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
13. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21571 (Basic Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - b. Section 20425 ("Local Police Officer" shall include employees of a police department who were employed to perform identification or communication duties on August 4, 1972 and who elected to be local safety members).
 - c. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
 - d. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.
 - e. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
 - f. Section 20903 (Two Years Additional Service Credit).
 - g. Section 21548 (Pre-Retirement Option 2W Death Benefit).

- h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
- i. Section 20042 (One-Year Final Compensation) for those local miscellaneous members entering membership on or prior to December 19, 2011 and those local safety members entering membership on or prior to the effective date of this amendment to contract.
- j. Section 21024 (Military Service Credit as Public Service).
- k. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Modified formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after December 19, 2011.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local police members entering membership for the first time in the police classification after the effective date of this amendment to contract.

Section 20037 (Three-Year Final Compensation) is applicable to local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

- 14. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 20, 1980. 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.
- 15. 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.
- 16. 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 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.

17. 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.

18. 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	CITY COUNCIL
PUBLIC EMPLOYEES' RETIREMENT SYSTEM	CITY OF CULVER CITY

BY _____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk