

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE
AUTHORIZING AN AMENDMENT TO THE CONTRACT
BETWEEN THE CITY OF SAN JOSE AND THE BOARD
OF ADMINISTRATION OF THE CALIFORNIA PUBLIC
EMPLOYEES' RETIREMENT SYSTEM**

WHEREAS, on May 5, 2020, the City Council adopted a Resolution of Intention to Approve an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System and the City of San Jose; and

WHEREAS, the following is a statement of the proposed change to allow for certain classifications in the Office of Retirement Services to enroll in the California Public Employees' Retirement System's retirement benefits: To add an exception to the exclusions to include employees hired on or after November 4, 2014, into the following positions:

- Director, Retirement Services & Chief Executive Officer (Unclassified)
- Assistant Director & Chief Investment Officer (Unclassified)
- Retirement Investment Analyst I
- Retirement Investment Analyst II
- Retirement Investment Officer
- Retirement Investment Officer, Senior (Unclassified)

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 1.

That an amendment to the contract between the City of San José and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit A, and by such reference made a part hereof as though herein set out in full.

Section 2.

The City Clerk of the City of San José is hereby authorized and directed to execute said amendment for and on behalf of the City of San José.

Section 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of six (6) days from the passage and first reading by the City Council thereof shall be published at least for one (1) day in the Post Record, a newspaper of general circulation, published and circulated in Santa Clara County, California and thenceforth and thereafter the same shall be in full force and effect.

PASSED FOR PUBLICATION of title this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

RD:SH:KML
5/18/2020

EXHIBIT A

**AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF SAN JOSE AND THE
BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM**



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 San Jose**

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 November 29, 1998, and witnessed November 6, 1998, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 10 are hereby stricken from said contract as executed effective November 29, 1998, and hereby replaced by the following paragraphs numbered 1 through 12 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 November 29, 1998 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. **CITY EMPLOYEES WHO ARE ELIGIBLE FOR COVERAGE IN EITHER THE POLICE & FIRE RETIREMENT PLAN, THE FEDERATED RETIREMENT PLAN, OR THE CITY'S PTC 457 PLAN, EXCEPT PERSONS ELECTED TO THE CITY COUNCIL AND WHO ARE IN OFFICE ON OR AFTER NOVEMBER 29, 1998; AND**

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b. EXCEPT PERSONS HIRED ON OR AFTER NOVEMBER 4, 2014, EMPLOYED IN THE FOLLOWING POSITIONS:

- **DIRECTOR, RETIREMENT SERVICES & CHIEF EXECUTIVE OFFICER (UNCLASSIFIED)**
- **ASSISTANT DIRECTOR & CHIEF INVESTMENT OFFICER (UNCLASSIFIED)**
- **RETIREMENT INVESTMENT ANALYST I**
- **RETIREMENT INVESTMENT ANALYST II**
- **RETIREMENT INVESTMENT OFFICER**
- **RETIREMENT INVESTMENT OFFICER, SENIOR (UNCLASSIFIED)**

AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.

6. The percentage of final compensation to be provided for classic local miscellaneous members for each year of credited prior service is 0% and the percentage of final compensation to be provided for each year of credited current service is 100% and 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 new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
8. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20938 (Limit Prior Service to Members Employed on Contract Date).
 - b. Section 21031 (Public Service Credit for Limited Prior Service).
9. 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.
10. 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.

- 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.
11. 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.
12. 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 SAN JOSE

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

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"