

**North County Fire Protection District  
Resolution 2009-02**

**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
BOARD OF DIRECTORS  
NORTH COUNTY FIRE PROTECTION DISTRICT OF SAN DIEGO COUNTY**

**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 21354.5 (2.7% @ 55 Full and Modified formula) for local miscellaneous members.**

**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 – Kenneth Munson

President

\_\_\_\_\_  
Title

March 24, 2009

Date adopted and approved



**EXHIBIT**

California  
Public Employees' Retirement System



## AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Board of Directors  
North County Fire Protection District of San Diego County



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 January 7, 1968, and witnessed November 9, 1967, and as amended effective July 4, 1971, May 27, 1979, September 2, 1979, June 16, 1982, June 29, 1986, July 23, 1989, March 20, 1990, January 28, 1998, December 13, 2000, June 10, 2001, July 7, 2002, February 23, 2005 and July 29, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 12 are hereby stricken from said contract as executed effective July 29, 2007, and hereby replaced by the following paragraphs numbered 1 through 14 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 and age 55 for local safety members.

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2. Public Agency shall participate in the Public Employees' Retirement System from and after January 7, 1968 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.

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- (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. 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:
- a. **ELECTIVE OFFICIALS;**
  - b. **PERSONS COMPENSATED ON AN HOURLY BASIS; AND**
  - c. **POLICE OFFICERS.**
6. 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 the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1975, 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 for local miscellaneous members in employment on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1975, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).

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8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21574 (Fourth Level of 1959 Survivor Benefits).
  - b. Section 20903 (Two Years Additional Service Credit).
  - c. Section 20965 (Credit for Unused Sick Leave).
  - d. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance).
  - e. Section 20042 (One-Year Final Compensation).
  - f. Section 21024 (Military Service Credit as Public Service).
10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 2, 1979. 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.
11. 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.
12. 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 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.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS  
NORTH COUNTY FIRE PROTECTION  
DISTRICT OF SAN DIEGO COUNTY

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest

\_\_\_\_\_  
Clerk

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