

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD
OF SUPERVISORS OF THE COUNTY OF MONTEREY AND THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
SYSTEM (PERS) RELATING TO RETIREMENT BENEFITS FOR SAFETY
RETIREMENT GROUP EMPLOYEES HIRED AFTER NOVEMBER 4, 2011.**

County Counsel Summary

This Ordinance authorizes and approves amendment of the contract between the County of Monterey and the California Public Employees' Retirement System (PERS) to provide that a Different Level of Benefits (Government Code Section 20475) consisting of 3% @ 55 Full Formula (Government Code Section 21363.1) with Three-Year Final Compensation (Government Code Section 20037) is applicable to Monterey County Safety Retirement Group employees hired after November 4, 2011.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The amendment to the contract between the Board of Supervisors of the County of Monterey and the Board of Administration, California Public Employees' Retirement System ("Amendment to Contract") is hereby authorized and approved, a copy of which Amendment to Contract is attached hereto as Exhibit 1 and by this reference made a part of this ordinance as though herein fully set out in full.

SECTION 2. The Chair of the Board of Supervisors is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the County of Monterey.

SECTION 3. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of _____, 2011, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

Chair, Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI
Clerk of the Board

By _____
Deputy

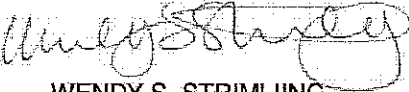
APPROVED AS TO FORM:

WENDY S. STRIMLING
Deputy County Counsel



EXHIBIT p. 1

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Supervisors
County of Monterey

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 June 1, 1948, and witnessed December 29, 1947, and as amended effective November 26, 1951, January 1, 1952, October 1, 1953, January 1, 1954, July 1, 1960, January 1, 1962, January 25, 1969, September 4, 1971, January 1, 1973, June 23, 1973, August 18, 1973, June 21, 1975, August 16, 1975, May 22, 1976, December 1, 1977, April 19, 1980, January 9, 1982, December 5, 1986, November 11, 1989, April 14, 1990, May 16, 1991, December 25, 1998, July 1, 2000, December 16, 2000, February 10, 2001, August 11, 2001, September 22, 2001, February 9, 2002, May 24, 2002, November 30, 2002 and September 1, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

Pursuant to Government Code sections 20460.1, 20469.1, subdivision (b), and 71624, this contract is hereby amended to add the Trial Court of Monterey County, hereinafter referred to as Trial Court, as a contracting party. Trial Court shall participate in the Public Employees' Retirement System from and after the implementation date of the Trial Court Employment Protection and Governance Act pursuant to the terms and conditions of this contract, making its employees 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 in this contract 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."

A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective September 1, 2007, and hereby replaced by the following paragraphs numbered 1 through 16 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 50 for local fire members and those local county peace officers entering membership in the county peace officer classification on or prior to the effective date of this amendment to contract and age 55 for local county peace officers entering membership for the first time in the county peace officer classification after the effective date of this amendment to contract.
2. Public Agency shall participate in the Public Employees' Retirement System from and after June 1, 1948 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.

PLEASE DO NOT SIGN "DUBBIT ONLY"

- (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. County Peace Officers (included 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:
- a. **RESIDENT PHYSICIAN I, II, AND III.**

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 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 as a local fire member shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a county peace officer entering membership in the county peace officer 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).
10. The percentage of final compensation to be provided for each year of credited current service as a county peace officer entering membership for the first time in the county peace officer 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).
11. 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. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local fire members; those county peace officers entering membership on or prior to January 9, 1982 and those specified county peace officers, pursuant to Section 20480, Statutes of 1999, who entered membership after January 9, 1982.

- l. Section 21326 (One-Time 1% to 7% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to July 1, 1974). Legislation repealed said Section effective January 1, 2002.
- m. Section 20475 (Different Level of Benefits). Section 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) are not applicable to county peace officers entering membership for the first time in the county peace officers classification after January 9, 1982 except those specified county peace officers, pursuant to Section 20480, Statutes of 1999.

Section 21363.1 (3% @ 55 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local county peace officers entering membership for the first time in the county peace officer classification after the effective date of this amendment to contract.
- n. Section 21024 (Military Service Credit as Public Service).
- o. Section 20438 ("County Peace Officer" shall include probation officers, deputy and assistant probation officers, juvenile hall employees, and persons employed as peace officers pursuant to Section 830.5 of the Penal Code as described in Government Code Section 20438).
- p. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
- q. Section 21548 (Pre-Retirement Option 2W Death Benefit) for local miscellaneous members only.
- r. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
- s. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service) for local miscellaneous members and county peace officers only.
- t. Section 20441 ("County Peace Officer" shall include persons employed by a county parks and recreation department as described in Government Code Section 20441).

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on June 21, 1975. 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.
13. 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.
14. 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.
15. 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.

- c. Section 20839 (provides for prior service credit to employees who were under direction and supervision of the public agency, but whose compensation was received from some other sources). Legislation repealed said Section effective January 1, 1973.
- d. Section 20840 (provides the retirement allowance of any person granted additional prior service credit pursuant to Section 20839, and who retired prior to June 21, 1954 shall be recalculated and paid for time beginning with said effective date in the recalculated amounts). Legislation repealed and added said Section effective January 1, 1973.
- e. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
- f. Section 20439 ("County Peace Officer" shall include county jail, detention or correctional facility employees as described in Government Code Section 20439).
- g. Section 20042 (One-Year Final Compensation) for local miscellaneous members and those county peace officers entering membership on or prior to the effective date of this amendment to contract.
- h. Section 20440 ("County Peace Officer" shall include bailiffs as described in Government Code Section 20440).
- i. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
- j. 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.
- k. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.

16. 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

BOARD OF SUPERVISORS
COUNTY OF MONTEREY

BY _____
DARRYL WATSON, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk