

City of Brisbane

Staff Report

To: Honorable Mayor and City Council

From: Senior Human Resources Analyst

Subject: Approval of Resolution 2009-26 and Introduction of Ordinance 539

Date: Meeting of June 15, 2009

Purpose: To implement additional optional CalPERS retirement benefits to encourage early or partial retirements, and to improve the current death benefit amount under the plan.

Recommendation:

- Adopt Resolution No. 2009-26 Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Brisbane
- Introduce Ordinance No. 539, with adoption scheduled for next regular meeting of the City Council on July 6, 2009.

Background: In light of the current financial situation the City is facing, staff is actively researching options to reduce personnel costs. Staff has reviewed the following additional options offered by the California Public Employees' Retirement System (CalPERS): partial service retirement and two years additional service credit benefit, commonly referred to as the "Golden Handshake."

The partial service retirement allows employees to reduce the time they work by 20-60%, or in other words, work 40-80%, and receive partial retirement benefits. This option is beneficial to the City by allowing us to provide services while trying to reduce personnel costs, as well as assist employees that are not ready to transition into retirement full time.

The golden handshake option allows the City to designate a period of 90-180 days where employees subject to mandatory layoffs and demotions can instead choose to retire and receive two years additional service credit. The City will identify to CalPERS specific units or classifications that will go permanently unfilled. Anyone employed in the designated unit or classification is eligible for the two years service credit if all other retirement requirements are met. This will help the City in permanently reducing personnel costs.

An additional benefit reviewed by staff is an enhanced death benefit. Currently the City has in the CalPERS contract a lump sum death benefit of \$500 to beneficiaries of retired members. CalPERS actuarial staff has informed us that because the City participates in a pooled plan, enhancing the lump sum death benefit to \$5,000 will have little to no fiscal impact to our current contribution.

Discussion: Future projections in our budget include several employees retiring within the next year or two. However because of various financial issues related to the current economy,

employees that were planning on retiring have put off their retirements indefinitely. By providing these new benefit, the City can use these provisions selectively to encourage full or partial retirements. This will meet the employees' needs of maintaining their source of income or increasing their retirement annuity and reduce the City's need for mandatory layoffs and demotions. Because there is no significant fiscal impact to add the enhanced lump sum death benefit, staff is recommending we pursue adding this to our agreement as well, as the original amount of \$500 would cover very little for families that are in need of this benefit upon a retired member's death.

CalPERS requires the attached Resolution of Intention to be adopted as the initial step in amending the City's contract to implement agreed upon changes to the retirement benefits stated above. Due to CalPERS requirements, the attached resolution is in their standard format. Per their instructions, they have asked that we not amend it so that they can ensure it meets all of their requirements to process the contract amendment with no issue.

After adoption of the Resolution of Intention, CalPERS requires introduction of the ordinance to amend the City's contract to implement agreed upon changes to the retirement benefits stated above. Per Government Code Section 20471, there must be a 20-day period between the adoption of the Resolution of Intention and the adoption of the final ordinance. In the interest of time, the ordinance is included to be introduced at today's meeting. Staff will bring this ordinance back at the next public meeting, along with a list of eligible positions for the additional service credit, to request the Council adopt the ordinance authorizing the amendment of the City's contract and implementation of partial service retirement, "Golden Handshake," and enhanced death benefit.

Fiscal Impact:

The added cost to the retirement fund for those who retire under this provision will be included in the City's contribution rate for the fiscal year that begins two years after the end of the designated period.

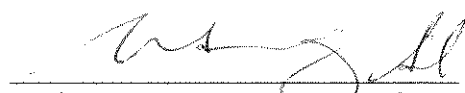
The cost for an employee who is between 55 and 59 is 72% of their annual salary. For an employee who is between 60 and 64, the cost is 66% of their annual salary. This additional cost would then be paid over a thirty year period. If the position is held open for a minimum of one year the cost of providing this incentive pays for itself. Since we are anticipating holding the positions open indefinitely this would be a cost beneficial program.

Measure of Success:

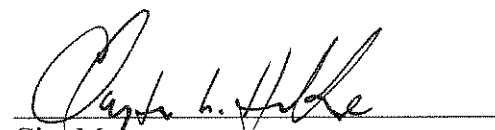
Number of people who use the program and the amount of annual savings derived from the program.

Attachments:

Resolution of Intention to Approve an Amendment to Contract
Ordinance 539 with sample copy of CalPERS Amendment to Contract



Senior Human Resources Analyst



City Manager

**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 BRISBANE**

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 20903 (Two Years Additional Service Credit) for local miscellaneous members only; Section 21118 (Partial Service Retirement) and Section 21623.5 (\$5,000 Retired Death Benefit) for local miscellaneous members and local safety 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

Title

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
City Council
City of Brisbane

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 January 6, 1965, and as amended effective July 1, 1967, October 1, 1973, October 12, 1977, November 16, 1984, August 3, 1987, October 13, 1994, June 23, 1997, June 10, 1999, June 30, 2002, August 19, 2002 and June 23, 2008 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective June 23, 2008, 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 entering membership in the miscellaneous classification on or prior to June 23, 2008, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after June 23, 2008 and age 55 for local safety members.

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 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:

NO ADDITIONAL EXCLUSIONS

- 6. This contract shall be a continuation of the benefits of the contract of the Brisbane Fire District, hereinafter referred to as "Former Agency", pursuant to Section 20508 of the Government Code, Former Agency having ceased to exist and succeeded by Public Agency on March 11, 1964. Public Agency, by this contract, assumes the accumulated contributions and assets derived therefrom and liability for prior and current service under Former Agency's contract with respect to the Former Agency's employees. Legislation repealed Section 20508, Statutes of 1949, effective January 1, 1988.
- 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after June 23, 2008 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on and not after June 23, 2008 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service prior to September 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited current service for those local miscellaneous members entering membership for the first time in the miscellaneous classification after June 23, 2008 shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. 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).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 21573 (Third Level of 1959 Survivor Benefits).
 - c. Section 21427 (Improved Nonindustrial Disability Allowance) for those members who retired on non-industrial disability after June 14, 1975.
 - d. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - e. Section 20965 (Credit for Unused Sick Leave).
 - f. Section 21024 (Military Service Credit as Public Service).
 - g. Section 21027 (Military Service Credit for Retired Persons).
 - h. Section 20475 (Different Level of Benefits). Section 21354.5 (2.7% @ 55 Full and Modified Formula) is applicable to only those local miscellaneous members in the miscellaneous classification on June 23, 2008. Section 21353 (2% @ 60 Full Formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after June 23, 2008.

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- i. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
 - j. Section 21118 (Partial Service Retirement).
 - k. Section 21623.5 (\$5,000 Retired Death Benefit).
12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 12, 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.
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 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.
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.

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

CITY COUNCIL
CITY OF BRISBANE

BY _____
LORI MCCARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date _____

Attest: _____

Clerk _____

ORDINANCE NO. 539

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

The City Council of the City of Brisbane does ordain as follows:

Section 1.

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

Section 2.

The Mayor of the City of Brisbane is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least twice in the San Mateo Count Times, a newspaper of general circulation, published and circulated in the County of San Mateo and thenceforth and thereafter the same shall be in full force and effect.

The foregoing was introduced at a regular meeting of the Brisbane City Council held the 15th day of June, 2009 and adopted and approved by the Brisbane City Council at a regular meeting thereof held on the 6th of July, 2009 by the following role call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

A. Sepi Richardson, Mayor

Attest:

APPROVED AS TO FORM:

Sheri Marie Spediacci, City Clerk

Harold S. Toppel, City Attorney



EXHIBIT

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

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF BRISBANE

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

BY _____
PRESIDING OFFICER

Witness Date

Attest: _____

Clerk