

ORDINANCE NO. 3647 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

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

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, the City wishes to amend its retirement contract with CalPERS to remove current language that describes the class of employees excluded from the CalPERS retirement benefits as "Persons Compensated on an Hourly Basis on or After September 1, 1966" and replace it with language that lists the following classes of employees who are excluded from the CalPERS retirement benefits, as follows:

**ACCOUNTING TECHNICIAN, ADMINISTRATIVE CLERK,
AQUATICS SPECIALIST, SENIOR AQUATICS SPECIALIST,
ARTIFACTS SPECIALIST, CAMP COOK, CAMP DIRECTOR,
ASSISTANT CAMP DIRECTOR, COMMUNITY SERVICE OFFICER
INTERN, FACILITY WORKER, HUMAN RESOURCES TECHNICIAN,
HARBOR ATTENDANT, INTERN, LIBRARY CLERK, LIBRARY PAGE,
PARKING FACILITY ATTENDANT, PARKING ENFORCEMENT
REPRESENTATIVE, PERSONAL TRAINER, PRESCHOOL
INSTRUCTOR, SENIOR HUMAN RESOURCES TECHNICIAN,
SPORTS OFFICIAL, SUPPORT ANALYST, SUPPORT PRESCHOOL
INSTRUCTOR, REFERENCE/CHILDREN'S LIBRARIAN, JANITORIAL
WORKER, LIFEGUARD, SENIOR FACILITY SPECIALIST, MUSEUM
ATTENDANT, PARK ASSISTANT, MAINTENANCE WORKER, LITTER
CONTROL WORKER, GUEST SERVICES ATTENDANT, DESK
ATTENDANT, FIRE INSPECTOR, SPECIALTY CLASS INSTRUCTOR,
SENIOR SPORTS SPECIALIST, RECREATION ASSISTANT,
RECREATION LEADER/SENIOR RECREATION LEADER, AND
MILITARY AFFAIRS COORDINATOR PROSPECTIVELY FROM THE
EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.**

WHEREAS, this action does not change existing policy, rather, it updates contract language to reflect how the City and CalPERS interpret the contract. Specifically, part-time hourly employees (Part Time Seasonal or "PTS" employees) do not receive CalPERS retirement benefits. PTS employees work no more than 1,000 hours in a fiscal year. (City Code section 25-2.41.) This contract amendment will provide clarity to CalPERS regarding the City's status quo application of the "hourly exclusion" language in the CalPERS contract and additional transparency regarding classifications included and excluded from the City's CalPERS benefit.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the draft ordinance does not involve the approval of a "project" because the ordinance and its implementation do not result in a direct or indirect physical change in the environment or in a reasonably foreseeable indirect physical change in the environment. (See Pub. Resources Code Section 21065: CEQA Guidelines Section 15357, 15377, 15378)

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: An amendment to the contract between the City Council of the City of Monterey and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto and marked "Exhibit," and by such reference made a part hereof as though herein set out in full.

SECTION 3: The Mayor of the City of Monterey is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said agency.

SECTION 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.


SECTION 5: This ordinance and the CalPERS contract amendment shall be in full force and effect one (1) day from and after its final passage and adoption, and prior to the expiration of three days from the passage thereof shall be published at least once in the Monterey County Herald, a newspaper of general circulation, daily published and circulated in the County of Monterey and thenceforth and the City of Monterey, thereafter the same shall be in full force and effect.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 15th day of February, 2022, by the following vote:


AYES:	5	COUNCILMEMBERS:	Albert, Haffa, Smith, Williamson, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

 FA1981217DDEE4FB...

 Mayor of said City

DocuSigned by:

 ED8453A4F62C4AA...

 City Clerk thereof




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 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 August 1, 1952, and witnessed July 17, 1952, and as amended effective September 1, 1955, September 1, 1966, November 1, 1967, February 16, 1968, April 1, 1969, June 1, 1970, November 1, 1973, September 16, 1975, May 19, 1977, January 1, 1978, November 16, 1978, January 1, 1979, July 1, 1980, December 1, 1983, July 1, 1987, September 1, 1994, January 1, 1998, July 16, 1999, October 6, 2000, July 1, 2002, July 19, 2002, October 16, 2002, February 16, 2008, September 16, 2011 and September 1, 2018 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective September 1, 2018, and hereby replaced by the following paragraphs numbered 1 through 17 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, age 62 for new local miscellaneous members, age 50 for classic local safety members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1952 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. 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:
 - a. **ACCOUNTING TECHNICIAN, ADMINISTRATIVE CLERK, AQUATICS SPECIALIST, SENIOR AQUATICS SPECIALIST, ARTIFACTS SPECIALIST, CAMP COOK, CAMP DIRECTOR/ASSISTANT CAMP DIRECTOR, COMMUNITY SERVICE OFFICER INTERN, FACILITY WORKER, HUMAN RESOURCES TECHNICIAN, HARBOR ATTENDANT, INTERN, LIBRARY CLERK, LIBRARY PAGE, PARKING FACILITY ATTENDANT, PARKING ENFORCEMENT REPRESENTATIVE, PERSONAL TRAINER, PRESCHOOL INSTRUCTOR, SENIOR HUMAN RESOURCES TECHNICIAN, SPORTS OFFICIAL, SUPPORT ANALYST, SUPPORT PRESCHOOL INSTRUCTOR, REFERENCE/CHILDREN'S LIBRARIAN, JANITORIAL WORKER, LIFEGUARD, SENIOR FACILITY SPECIALIST, MUSEUM ATTENDANT, PARK ASSISTANT, MAINTENANCE WORKER, LITTER CONTROL WORKER, GUEST SERVICES ATTENDANT, DESK ATTENDANT, FIRE INSPECTOR, SPECIALTY CLASS INSTRUCTOR, SENIOR SPORTS SPECIALIST, RECREATION ASSISTANT, RECREATION LEADER/SENIOR RECREATION LEADER AND MILITARY AFFAIRS COORDINATOR PROSPECTIVELY FROM THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.**
6. Removal of the exclusion of "Persons Compensated on an Hourly Basis on or After September 1, 1966", pursuant to Section 20503, is declarative of agency's previous interpretation and does not mandate any new classes of employees into membership.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after February 16, 2008 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after February 16, 2008 shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).
9. 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).

10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member 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 prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - b. Section 20042 (One-Year Final Compensation) for classic members only.
 - c. Section 21389 (Second Opportunity to Elect 1959 Survivor Benefits) for local miscellaneous members only. Legislation repealed said Section effective September 27, 1979.
 - d. Section 20965 (Credit for Unused Sick Leave).
 - e. Section 20903 (Two Years Additional Service Credit).
 - f. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - g. Section 21024 (Military Service Credit as Public Service).
 - h. Section 21027 (Military Service Credit for Retired Persons).
 - i. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local safety members only.
 - j. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21354.5 (2.7% @ 55 Full formula) for local miscellaneous members. From and after September 16, 2011 and until September 1, 2018, the miscellaneous employees of Public Agency shall be assessed an additional 3% of their compensation for a total contribution rate of 11% pursuant to Government Code Section 20516.

Section 21362.2 (3% @ 50 Full formula) for local fire members.

From and after September 16, 2011 and until September 1, 2018, the fire employees of Public Agency shall be assessed an additional 3% of their compensation for a total contribution rate of 12% pursuant to Government Code Section 20516.

Section 21362.2 (3% @ 50 Full formula) for local police members.

From and after September 16, 2011 and until September 1, 2018, the police employees of Public Agency shall be assessed an additional 4% of their compensation for a total contribution rate of 13% pursuant to Government Code Section 20516.

k. Section 21118 (Partial Service Retirement).

l. Section 20516 (Employees Sharing Additional Cost):

From and after September 1, 2018, 3% for classic local miscellaneous members in the General Employees of Monterey, Management Employees Association and Monterey Executive Management Employees Association.

From and after September 1, 2018, 3% for classic local safety members in the Monterey Executive Management Employees Association.

From and after September 1, 2018, 3% for classic local police members in the Monterey Police Association and the Police Lieutenants Management Association.

From and after September 1, 2018, 5% for classic local fire members in the Monterey Firefighters Association and the Monterey Fire Chief Officers Association.

The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

- m. Section 20503 (To Remove the Exclusion of Persons Compensated on an Hourly Basis on or After September 1, 1966, Prospectively from the effective date of this amendment to contract).
- 13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 16, 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.
- 14. 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.
- 15. 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.
 - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 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.
 - c. 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.
 - d. 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.
- 16. 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.

17. 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 MONTEREY

BY _____
ANDY NGUYEN, ASSISTANT DIVISION CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"