

CONSENT CALENDAR

October 26, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Donald E. Ellison, Interim Director of Human Resources

Subject: Resolution Authorizing an Amendment to the Miscellaneous CalPERS Contract Pursuant to California Government Code 20516

RECOMMENDATION

Adopt one Resolution to initiate process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRA members in the following Units: Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program) (collectively referred to as "Unrepresented Group").

As part of the most recent negotiations regarding the memorandum of understanding between the City and SEIU Local 1021 Maintenance and Clerical (MC), the parties agreed to reduce the MC PEPRA members' employer cost share (Ramp Down) of eight percent (8%) over the term of the current MOUs. Although the Unrepresented Group is not represented by a labor group, they customarily receive the same negotiated benefits afforded to the MC chapters.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new MOU PEPRA ramp down is as follows:

SEIU MC and the Unrepresented Group:

- FY2021-22: 1% (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY2026-27: 1% effective July 1, 2026

The total cost to approve the ramp down for the Unrepresented PEPRA members is approximately \$98,896. There are approximately 51 PEPRA employees affected by this resolution. Funding for the Ramp Down comes from the General Fund and other special revenue funds. This cost of will be included in the fiscal years 2022 through 2024 budgets.

### CURRENT SITUATION AND ITS EFFECTS

Although Council previously approved the terms of the Ramp Down for MC and the City's other employee organizations who negotiated similar Ramp Downs, the City must amend its contract with CalPERS to effectuate the Ramp Down terms for the Unrepresented Group. (See Cal. Gov. Code § 20516.) Council's approval of the Resolution will initiate the contract amendment process, which includes the following steps:

- The City shall provide CalPERS with the Resolution and a cover letter indicating the exact percentage of change, total cost-share percentage and who it is applicable to;
- CalPERS will contact the City to establish the Anticipated Schedule of Agency Actions and send the required documents;
- Over a time period specified by CalPERS, the City will:
  - Conduct an employee election whereby a simple majority of the affected PEPRA members in the Unrepresented Group must vote in favor of proposed cost-share terms;
  - The City shall adopt a Resolution of Intention;
  - The City shall approve the final reading of an ordinance or final resolution and complete certification forms.
- Once the documents are received and approved, the contract amendment becomes effective and is updated with the effective date in myCalPERS.
- CalPERS sends a fully executed contract to the City.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

There are no identifiable environmental effects or opportunities associated with the subject of this report.

### RATIONALE FOR RECOMMENDATION

Although Council previously approved the terms of the Ramp Down for MC and the City's other employee organizations who negotiated similar Ramp Downs, the City must amend its contract with CalPERS to effectuate the Ramp Down terms for the Unrepresented Group. (See Cal. Gov. Code § 20516.) Council's approval of the Resolution will initiate the contract amendment process

### ALTERNATIVE ACTIONS CONSIDERED

None. The City is obligated under the existing labor agreements to complete the Ramp Downs in accordance with the MOUs.

### CONTACT PERSON

Donald E. Ellison, Interim Director of Human Resources, (510) 981-6807

### Attachments:

- 1: Resolution: Approving an Amendment to CalPERS Contract
- 2: CalPERS Employee Cost-Sharing Informational Page

RESOLUTION NO. –N.S.

RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE BOARD OF ADMINISTRATION, CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM AND THE CITY COUNCIL FOR CITY OF BERKELEY  
PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 20516

WHEREAS, the Public Employees' Retirement Law establishes the Public Employees' Retirement System (CalPERS) for the purpose of providing pension benefits to specified public employees and is funded by investment returns and employer and employee contributions; and

WHEREAS, this law, including California Government Code Section 20516, authorizes a contracting agency and its employees to agree in writing to share the costs of the employer contributions with or without a change in benefits, as specified, and authorizes the cost sharing provided herein to also apply to unrepresented employees as approved by a resolution passed by the contracting agency; and

WHEREAS, the City of Berkeley (City) is authorized by Government Code Section 20516 to initiate an amendment to the contract between the City and California Public Employees' Retirement System (CalPERS) in order to reduce the employee contribution amount for its unrepresented employees by identifying the impacted employees, the exact percentage of cost-sharing change, the desired effective date (provided it is the first day of a pay period), and providing that a simple majority of the unrepresented impacted employees must sign in agreement to the change; and

WHEREAS, on July 20, 2021, the Council adopted Resolution No. 69,968-N.S., adopting the City of Berkeley Unrepresented Employee Manual, dated July 17, 2021, establishes new terms governing benefits and compensation for employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, the City of Berkeley Unrepresented Employee Manual amended the employee contribution made by Miscellaneous New Members (as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA)) toward the City's CalPERS employer share of pension as follows: 1% contribution in FY 2021-22, effective as soon as administratively possible; 1% contribution in FY 2022-23, effective July 1, 2022; 1% contribution in FY 2023-24, effective July 1, 2023; 2% contribution in FY 2024-25, effective July 1, 2024; 2% contribution in FY 2025-26, effective July 1, 2025; and 1% contribution in FY 2026-27, effective July 1, 2026.

NOW THEREFORE, BE IT RESOLVED that the Council approves the following amendment to the City's contract with CalPERS to require the following employee contributions toward the City's CalPERS employer share of pension from unrepresented Miscellaneous New Member (PEPRA) employees in Units Z-1, Z-2, Z-3, Z-9, and X-1: 1% contribution in FY 2021-22, effective as soon as administratively possible; 1% contribution in FY 2022-23, effective July 1, 2022; 1% contribution in FY 2023-24, effective July 1, 2023; 2% contribution in FY 2024-25, effective July 1, 2024; 2% contribution in FY 2025-26, effective July 1, 2025; and 1% contribution in FY 2026-27, effective July 1, 2026;

BE IT FURTHER RESOLVED that the desired effective date of this contract amendment take place as of March 6, 2021, which is anticipated to be the first day of the relevant pay period during that period or in advance thereof, subject to CalPERS's approval of a date sooner;

BE IT FURTHER RESOLVED that, in advance of Council's approval of an amended contract with CalPERS, the City shall obtain approval by a simple majority of the unrepresented impacted employees (i.e., unrepresented Miscellaneous New Member (PEPRA) employees in Units Z-1, Z-2, Z-3, Z-9, and X-1) who must sign in agreement of the change.

# Employee Cost-Sharing

Cost-sharing may provide your agency an opportunity to save money and help offset pension costs.

As a contracting agency, cost-sharing allows employees to share a portion of the employer costs through a written agreement with an employee group. Your employer contribution rate will be reduced by the agreed upon percentage of cost-sharing.

A contract amendment isn't required to change a cost-sharing agreement for public agency employers and employee groups who have previously added cost-sharing for their represented groups to their contract.

## Requirements

The updated cost-sharing amount is reportable on payroll to CalPERS on the approved effective date.

Cost-sharing must be the same percentage for all, grouped by:

- All Miscellaneous or all Safety
- All Classic Members and/or all PEPRA members
- Benefit Level Tier, such as:
  - First Tier Classic
  - PEPRA Miscellaneous Formula
  - PEPRA Safety Formula

## Get Started

### Establish Cost-Sharing

To get started, contact your Pension Contracts Analyst or through email at [pensioncontracts@calpers.ca.gov](mailto:pensioncontracts@calpers.ca.gov). An initial contract amendment is required to establish cost-sharing.

### Change an Existing Cost-Sharing Amount

Represented Groups	
Provide CalPERS a side letter for each bargaining unit with changes 90 days prior to the effective date and a cover letter to request the change.	
Side letter must contain:	<ul style="list-style-type: none"> <li>• The exact percentage of cost-sharing change must be specified.</li> <li>• Who it's specifically applicable to: tiers/classic/represented group name, etc.</li> <li>• The desired effective date. Note: must be the first day of a pay period.</li> </ul>

Unrepresented Groups	
Step One: The Employer’s Board adopts a resolution to cost-share.	
Resolution must contain:	<ul style="list-style-type: none"> <li>• Who it’s applicable to: tiers/classic/unrepresented group name, etc.</li> <li>• The exact percentage of cost-sharing change must be specified.</li> <li>• The desired effective date. Note: must be the first day of a pay period.</li> <li>• A simple majority of the unrepresented impacted employees need to sign in agreement.</li> </ul>
Step Two: The employer provides CalPERS the resolution and a cover letter indicating the exact percentage of change, total cost-share percentage and who it is applicable to.	
To initiate the contract amendment:	<ul style="list-style-type: none"> <li>• A CalPERS Pension Contract Analyst contacts the employer to establish the Anticipated Schedule of Agency Actions and sends the required documents.</li> </ul>
	<ul style="list-style-type: none"> <li>• Over a specified time period, the employer then:                             <ul style="list-style-type: none"> <li>- Adopts the Resolution of Intention</li> <li>- Conducts an employee election</li> <li>- Approves the final reading of the ordinance or final resolution and completes certification forms.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>• Once the documents are received and approved, the amendment is updated with the effective date in my CalPERS.</li> </ul>
	<ul style="list-style-type: none"> <li>• A fully executed contract is sent to the employer.</li> </ul>

A CalPERS Pension Contracts Analyst will provide the necessary documents for adoption by your agency's governing body. All requirements and procedures will be outlined in a cover letter sent with the documents.

## We’re Here to Help

This document is intended to provide an overview of cost-sharing per Government Code section 20516. To learn more about cost-sharing requirements, contact your CalPERS Pension Contracts Analyst at **888 CalPERS** (or **888-225-7377**) or email [pensioncontracts@calpers.ca.gov](mailto:pensioncontracts@calpers.ca.gov).