



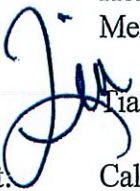
Berkeley Housing Authority

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Office of the Executive Director

Item 6C
NEW BUSINESS
May 10, 2012

To: Honorable Chairperson and
Members of the Berkeley Housing Authority Board

From:  Tia M. Ingram, Executive Director

Subject: CalPERS Retirement Plan Contract for BHA Employees

RECOMMENDATION

Approve a resolution, authorizing execution of a retirement plan contract, and any related documents, with California Public Employees' Retirement System for Berkeley Housing Authority employees, effective June 24, 2012

BACKGROUND

The Berkeley Housing Authority (BHA) ceased to operate as a unit of local government (City of Berkeley (COB)), and began autonomous operations in July 2007. All existing and new hires of BHA were covered under the City of Berkeley's CalPERS retirement contract, pending establishment of a new contract.

The BHA CalPERS contract is one of the administrative tasks BHA and COB agreed would be facilitated by the COB after the separation, during the transition period. Dave Hodgkins, COB, Human Resources Department Director, has been instrumental in talks with CalPERS, and generating a retirement plan (contract) for BHA employees that reflects many of the premiums enjoyed by the much larger COB including:

- a. 2.7% @ 55 full formula
- b. Section 20938 (Limited Prior Year Service to Members Employed on Contract Date)
- c. Section 20042 (One-Year Final Compensation)
- d. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) with 100% Prior service for local miscellaneous members.

The Process

What follows is a summary of the steps/actions that lead to a new CalPERS contract:

- a. New Agency application (Mar 2011). The process officially started in March 2011, when we submitted a survey, and initiated the application process. The next step was delayed by lack of action by CalPERS.

- b. Actuarial Study (May -Nov 2011). As requested, in May 2011 BHA submitted payment, and requested that CalPERS perform the required actuarial study to determine the contributions necessary for participation of the BHA in CalPERS. Based on the findings in the November 2011 study, the employer rate is estimated as 16.839% (down from the current rate of 19.9%)
- c. Schedule of Actions (Dec 2011). There is a list of required activities, and specific timelines that must be adhered to. In December, 2011, BHA responded, as required advising the anticipated schedule for all required activities. Of significance, we anticipated final adoption by the Board in March 2012.
- d. Survivor Benefits (Dec 2011). BHA was required to select from two benefit levels -- the level of survivor benefits. The issue here is the benefit amount payable to the survivor(s) of one of our employees. We opted for "Fourth Level" which provides a larger benefit at the start of the contract (\$950 versus \$621 for a single survivor), smaller annual increases, and an employer contribution of \$5.40 (versus \$3.90) and an employee contribution of \$2.00 (versus \$3.20). By our calculation, it would take approximately ten years for the benefit rate to an employees' survivor under the "Indexed Level" to reach \$950 (for a single survivor). The option currently enjoyed by the City (preferable to both current options).
- e. Resolution of Intent (Feb 2012). This action affirms the Board's intention of moving forward with a CalPERS contract, if approved by a majority of current BHA staff.
- f. Election by Employees (February 2012). Employees were asked to signify their approval (vote) on two critical issues:
 - a. Acceptance of the CalPERS contract; all of the eligible 11 employees voted yes; and
 - b. Optional acceptance of the Survivors Benefits plan; 1 of the eligible employees voted to participate. Note: future hires will be required to accept, and pay into the plan.
- g. Final Resolution (May 2011). The action you are asked to consider this evening is the final step in the process, and grants the Executive Director authorization to execute the contract.
- h. BHA CalPERS Contract (June 24, 2012). The earliest effective date of the new CalPERS contract is the pay period following adoption of the Final Resolution. We propose an effective date of June 24, 2012, the beginning of the first pay period in the new fiscal year (pay day being July 13, 2012).

Other

This action formalizes adoption of a new, independent retirement plan for BHA employees. We are in talks with another division of CalPERS, Health Partnership, regarding procuring a health benefit program for BHA employees.

FISCAL IMPACTS OF RECOMMENDATIONS

Based on the estimated employer contribution rate, we anticipate a reduction in annual employer contribution of \$32,000.

CONTACT PERSON

Tia M. Ingram, Executive Director, (510) 981-5471

Jesy Yturalde, Finance Manager, (510) 981-5488

Attachments:

1. Resolution
2. Contract

BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 12-_____

RESOLUTION AUTHORIZING A CONTRACT

WHEREAS, the Public Employees' Retirement Law provides for the participation of a Public Agency in the California Public Employees' Retirement System, making its employees members of said System; and

WHEREAS, the Board of Commissioners of the Berkeley Housing Authority on February 9, 2012, adopted a Resolution giving notice of intention to approve a contract providing for such participation, by majority vote:

WHEREAS, the employees of said public agency, whose memberships in said Retirement System are contemplated, have approved said participation, by majority vote;

NOW, THEREFORE, BE IT RESOLVED, that a contract between the Board of, Commissioners of the Berkeley Housing Authority and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said contract being attached hereto and by such reference made a part hereof as though herein set out in full; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the presiding officer of said governing body is hereby authorized, empowered and directed to execute said contract for and on behalf of said public agency.

The Foregoing Resolution was adopted by the Board of Berkeley Housing Authority on April 12, 2012 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Attest:

Tia M. Ingram, Secretary

BY: _____
Presiding Officer

Title

Date adopted and approved



California
Public Employees' Retirement System



CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Commissioners
Berkeley Housing Authority**



In consideration of the covenants and agreement hereafter contained and on the part of both parties to be kept and performed, the governing body of above public agency, hereafter referred to as "Public Agency", and the Board of Administration, Public Employees' Retirement System, hereafter referred to as "Board", hereby agree as follows:

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.
2. Public Agency shall participate in the Public Employees' Retirement System from and after _____ 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. Employees other than local safety members (herein referred to as local miscellaneous members).

5. Any exclusion(s) shall remain in effect until such time as the Public Employees' Retirement System determines that continuing said exclusion(s) would risk a finding of non-compliance with any federal tax laws or regulations. If such a determination is contemplated, the Public Employees' Retirement System will meet with the Public Agency to discuss the matter and coordinate any required changes or amendments to the contract.

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. SAFETY EMPLOYEES.

6. This contract shall be a continuation of the contract of the Housing Authority Function of the City of Berkeley, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred October 27, 2008.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).
8. Public Agency elects to be subject to the following optional provisions:
 - a. Section 20938 (Limit Prior Service to Members Employed on Contract Date).
 - b. Section 20042 (One-Year Final Compensation).
 - c. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
9. 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 of said Retirement System.
10. 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. 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.
11. 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.
 12. 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.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF COMMISSIONERS
BERKELEY HOUSING AUTHORITY

BY _____
KAREN DE FRANK, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk