



## **Agenda Item No. 12a. & b.**

### **Staff Report**

**Date:** June 14, 2016

**To:** Mayor Hoertkorn and Council Members

**From:** Joe Chinn, Town Manager

**Subject:** Amendment of contract between CalPERS and the Town Council implementing CalPERS Section 20516 cost sharing of one percent (1%) by classic local police members in the Unrepresented Police Management Group.

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### **Recommendation**

- 1) Town Council adoption of the Resolution of Intention No. 1954 approving an amendment to contract between CalPERS and the Town Council to provide for Section 20516 cost sharing of one percent (1%) by classic local police members in the Unrepresented Police Management Group (UPMG).
- 2) Waive first reading and introduce an Ordinance No. 671 authorizing an amendment to contract to provide for Section 20516 cost sharing of one percent (1%) for classic local police members in the UPMG.
- 3) Town Council authorize the Town Clerk to sign:
  - Certification of Compliance with Government Code Section 7507 certifying the future annual costs of the change in retirement benefits resulting from the amendment at a public meeting two weeks prior the final adoption of the Ordinance (CON-12A).
  - Certification of Compliance with Government Code Section 20516 certifying that affected employees have agreed in writing to the 1% cost sharing for classic local police members in the UPMG (CON-500).
  - Certification of Governing Body's Action (CON-12)
- 4) Town Council authorize the Town Clerk to administer a secret ballot election on June 15, 2016, the day after the passage of the Resolution of Intention to amend the contract, to determine the approval or disapproval of the affected employees of the UPMG to amend the contract.
- 5) Town Council authorize the Town Clerk to certify the above mentioned election (CON-15)

### **Background and discussion**

At March 10, 2016 Council meeting, the Council adopted Resolution No. 1942 approving the Police Chief employment agreement between the Town of Ross and Erik Masterson. This agreement called for cost

sharing of retirement contributions of 1% over and above the normal employee share of 9% of PERSable compensation.

At the April 14, 2016 Council meeting, the Council adopted Resolution No. 1944 confirming the agreement between the Town of Ross and the classic police members UPMG to additional cost sharing.

In order to implement the 1% cost sharing confirmed by the Resolution No. 1944, the contract between CalPERS and the Town needs to be amended. The amendment process involves the previously mentioned five steps followed by:

- 1) At the Town Council meeting of July 14, 2016, the second/final reading of the Ordinance will be considered for adoption.
- 2) On August 13, 2016, the Amendment becomes effective, which is thirty days after the second/final reading of the Ordinance.
- 3) Beginning with the subsequent pay period, starting August 14, 2016, payroll will start reporting the cost sharing to CalPERS.

#### **Fiscal, resource and timeline impacts**

Cost savings to the Town are 1% of the Police Chief's PERSable compensation (currently the only member in the UPMG) effective August 14, 2016. These savings are offset by raises as specified in the recently adopted employment agreement between the Town and Police Chief.

#### **Alternative actions**

Do not approve the proposed Resolution and Ordinance and subsequent steps and provide direction to staff.

#### **Environmental review (if applicable)**

N/A

#### **Attachments**

- Resolution of Intention No. 1954 to Approve an Amendment to Contract Between the Board of Administration California Public Employees Retirement System and the Town Council Town of Ross
- Ordinance No. 671 Authorizing an Amendment to the Contract Between the Town Council of the Town of Ross and the Board of Administration of the California Public Employees' Retirement System (CalPERS) to provide Section 20516 (1% employee cost sharing) Applicable to Classic Local Police Members in the Unrepresented Police Management Group
- Exhibit Amendment to Contract
- Certification of Compliance with Government Code Section 7507 (CON-12A)
- Certification of Compliance with Government code Section 20516 (CON-500)
- Certification of Governing Body's Action (CON-12)
- Government Code Section 20516 Cost Sharing Ballot (C10022)
- Certification of Employee Election (CON-15)

**RESOLUTION OF INTENTION** No. 1954  
**TO APPROVE AN AMENDMENT TO CONTRACT**  
**BETWEEN THE**  
**BOARD OF ADMINISTRATION**  
**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
**AND THE**  
**TOWN COUNCIL**  
**TOWN OF ROSS**

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 20516 (Employees Sharing Additional Cost) of 1% for classic local police members in the Unrepresented Police Management Group.

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

## **TOWN OF ROSS**

### **ORDINANCE NO. 671**

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

The Town Council of the Town of Ross does ordain as follows:

##### **SECTION 1:**

That an amendment to the contract between the Town Council of the Town of Ross and 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 Town Council 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 shall be posted in three public places in Town.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 14<sup>th</sup> day of June, 2016, and was adopted at a regular meeting of the Ross Town Council on the \_\_\_\_ day of \_\_\_\_, 2016.

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Kathleen Hoertkorn, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk



## EXHIBIT

California  
Public Employees' Retirement System

# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Town Council  
Town of Ross

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 July 1, 1963, and witnessed May 9, 1963, and as amended effective December 15, 1974, August 1, 1975, December 1, 1976, October 13, 1977, October 1, 1979, June 30, 1998, June 29, 2008 and December 23, 2012 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 December 23, 2012, 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 entering membership in the miscellaneous classification on or prior to December 23, 2012, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after December 23, 2012, age 62 for new local miscellaneous members, age 55 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 July 1, 1963 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:

**NO ADDITIONAL EXCLUSIONS**

6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member entering membership in the miscellaneous classification on or prior to December 23, 2012 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).
8. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership for the first time with this agency in the miscellaneous classification after December 23, 2012 shall be determined in accordance with Section 21353 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 60 Modified).
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 Supplemental to Federal Social Security).
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 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Modified).
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 Supplemental to Federal Social Security).
12. Public Agency elected and elects to be subject to the following optional provisions:

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
- b. Section 21222.1 (Special 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
- c. Section 21024 (Military Service Credit as Public Service).
- d. Section 20042 (One-Year Final Compensation) for classic local safety members only.
- e. Section 20475 (Different Level of Benefits): Section 21353 (2% @ 60 Modified formula) is applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after December 23, 2012.
- f. Section 20516 (Employees Sharing Additional Cost):

From and after the effective date of this amendment to contract, 1% for classic local police members in the Unrepresented Police Management Group.

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.

- 13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 13, 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.
- 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:



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- a. 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.
  - b. 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

TOWN COUNCIL  
TOWN OF ROSS

BY \_\_\_\_\_  
RENEE OSTRANDER, CHIEF  
EMPLOYER ACCOUNT MANAGEMENT DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Employer Account Management Division  
Retirement and Social Security Contracts Unit  
P.O. Box 942709  
Sacramento, CA 94229-2709  
(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code the future annual costs as determined by the System Actuary for the increase/change in retirement Benefit(s) have been made public at a public meeting of the \_\_\_\_\_  
(governing body)

of the \_\_\_\_\_ on \_\_\_\_\_  
(public agency) (date)

which is at least two weeks prior to the adoption of the Resolution / Ordinance.

Adoption of the retirement benefit increase/change will not be placed on the consent calendar.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_

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Retirement and Social Security Contracts Unit

P.O. Box 942709

Sacramento, CA 94229-2709

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**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 20516**

I hereby certify that in accordance with Section 20516 of the Government Code, Town of  
Ross and its classic local police employees have agreed in writing to the following:

Section 20516 (Employees Sharing Additional Cost) of 1% for classic  
local police members in the Unrepresented Police Management  
Group.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

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**CERTIFICATION OF GOVERNING BODY'S ACTION**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_  
(date)

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

# CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

## GOVERNMENT CODE SECTION 20516

### COST SHARING BALLOT

For use by the classic local police members of the Town of Ross to determine their approval or disapproval of the proposal of said agency's governing body to amend its contract with the Board of Administration of the California Public Employees' Retirement System to provide Section 20516 (Employees Sharing Additional Cost).

Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to provide a benefit that changes the employees' rate of contribution.

Shall the contribution rate of the designated employees of the Public Agency named above share an additional 1% pursuant to Section 20516 Employees Sharing Additional Cost)?	YES      [ ]  NO        [ ]
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**NOTE:**    The change in the member contribution rate will be effective as of the effective date of the amendment to the contract.

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Sacramento, CA 94229-2709  
(888) CalPERS (225-7377)

**CERTIFICATION OF EMPLOYEE ELECTION**

I hereby certify that the following employees of the Town of Ross have expressed their approval or disapproval of said agency's intention to amend its contract to provide Section 20516 (Employees Sharing Additional Cost) of 1% for classic local police members in the Unrepresented Police Management Group on the basis described in the Resolution of Intention adopted by said agency's governing body on \_\_\_\_\_, \_\_\_\_\_, in such manner as to permit each employee to separately and secretly express his choice and that the outcome of such election was as follows:

	Number of employees eligible to vote	Number of votes approving said participation	Number of votes disapproving said participation
Local Police Officers as defined in Govt. Code Section 20425	_____	_____	_____

\_\_\_\_\_  
Clerk or Secretary

\_\_\_\_\_  
Date