



# *CITY COUNCIL AGENDA REPORT*

---

MEETING DATE: FEBRUARY 15, 2011

ITEM NUMBER: IV-1

**SUBJECT:** AMENDMENT TO THE CONTRACT BETWEEN CALPERS AND THE CITY OF COSTA MESA TO INCLUDE PROVISIONS PURSUANT TO GOVERNMENT CODE 20516 "COST SHARING" (LOCAL SAFETY AND MISCELLANEOUS PLANS)

**DATE:** FEBRUARY 3, 2011

**FROM:** ADMINISTRATIVE SERVICES DEPARTMENT/HUMAN RESOURCES DIVISION

**PRESENTATION BY:** DEBRA YASUI, HUMAN RESOURCES ADMINISTRATOR  
BOBBY YOUNG, BUDGET AND RESEARCH OFFICER

**FOR FURTHER INFORMATION CONTACT:** DEBRA YASUI AT (714) 754-5052  
RYAN THOMAS AT (714) 754-5104

---

## **RECOMMENDATION:**

- 1) Adopt Urgency Ordinance No.\_\_\_\_ (Attachment I) which authorizes an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City Council of the City of Costa Mesa to implement Government Code Section 20516 "Cost Sharing" for Local Safety and Local Miscellaneous employees.
- 2) Give second reading to by title only and adopt Ordinance No.\_\_\_\_ (Attachment II) which authorizes the amendment to the CalPERS contract to implement Government Code Section 20516 "Cost Sharing" for Local Safety and Local Miscellaneous employees.

## **BACKGROUND:**

Presently, the City of Costa Mesa contracts for three retirement plans with CalPERS: a 3% @ 50 plan for Sworn Police employees, a 3% @ 50 plan for Sworn Fire employees and a 2.5% @ 55 plan for Miscellaneous employees.

In October 2010, the City Council approved Side Letters of Agreement (LOA) that amended portions of the Memoranda of Understanding (MOU) with the various employee associations and a Resolution for Unrepresented Employees (Executive and Confidential). These included provisions to implement employee contributions toward retirement (pursuant to Government Code Section 20516 "Cost Sharing") as follows:

- Costa Mesa Firefighters Association (CMFA): Employees covered by the agreement will contribute 5% of the employee's PERSable earnings towards their employee retirement contribution commencing October 24, 2010, and continuing through 26 consecutive pay periods.

- Costa Mesa City Employees Association (CMCEA): Employees will contribute an additional 4% of PERSable earnings towards the employee portion of retirement for 52 pay periods (total of 7.52%).
- Costa Mesa Police Management Association (CMPMA) and Costa Mesa Police Association (CMPA): Employee contributions totaling 5% of PERSable earnings will be paid for 104 pay periods.
- Costa Mesa Fire Management Association (CMFMA): Employee contributions of 5% PERSable earnings will be paid towards the employee retirement contribution, commencing October 24, 2010. This would occur for a minimum of 26 consecutive pay periods and continue for up to 104 pay periods.
- Unrepresented Executive and Confidential Employees: Employees would be subject to the same cost sharing as CMCEA members.

This “cost sharing” requires an amendment to the City’s contract with CalPERS. On October 28, 2010, City staff submitted a request to CalPERS to initiate the contract amendment process. On December 16, 2010, the City received the contract amendment packet.

### **ANALYSIS:**

This CalPERS contract amendment was a key provision of the negotiated agreements between the City and the CMFA, CMCEA, CMPA, CMPMA and CMFMA that were approved by the City Council on October 12 and October 26, 2010. The parties to these agreements considered a wide variety of issues in the context of good faith negotiations in accordance with Government Code Section 3500 et seq. (Meyers-Milias-Brown Act).

CalPERS requires that clearly defined procedures be followed for contract amendments. The following are guidelines provided by CalPERS in order to complete the contract amendment process:

- First, a Resolution of Intention must be approved by the City Council, and a first reading of the Ordinance authorizing an amendment to the contract must take place. These occurred at the City Council meeting of January 18, 2011. In addition, authorization was granted for the City Clerk to execute required certifications: “Certification of Governing Body’s Action” and “Certification of Compliance with Government Code Section 20516”.
- Next, Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to provide a benefit which changes the employees’ rate of contribution. This election was held for each contract group from January 26, 2011 through February 1, 2011. The ballots were counted by Human Resources/Risk Management staff independently and certified by the City Clerk. Representatives from the employee associations were invited to observe the tabulation of the ballots.
- The employees approved the contract amendment with the results of the election as follows:

**Miscellaneous Group**

Number of Eligible Employees: 276  
Number of Ballots Cast: 166  
Voter Turn Out: 60.14%  
Number of Yes Votes: 149 (89.76% of total votes)  
Number of No Votes: 17 (10.24% of total votes)

**Fire Group**

Number of Eligible Employees: 80  
Number of Ballots Cast: 57  
Voter Turn Out: 71.25%  
Number of Yes Votes: 54 (94.74% of total votes)  
Number of No Votes: 3 (5.26% of total votes)

**Police Group**

Number of Eligible Employees: 147  
Number of Ballots Cast: 114  
Voter Turn Out: 77.55%  
Number of Yes Votes: 114 (100% of total votes)  
Number of No Votes: 0 (0% of total votes)

- A final reading of the Ordinance and a City Council vote on adoption must occur at least twenty (20) days after the adoption of the Resolution of Intention. The first opportunity to accomplish this is the February 15, 2011 City Council Meeting. The City Attorney recommends that an Urgency Ordinance be presented for adoption concurrently. If the Urgency Ordinance is adopted, it may take effect as early as the day following adoption, February 16, 2011. If the Urgency Ordinance is challenged, and the regular Ordinance is adopted, it may take effect no less than 30 days later. In this case, the effective date of the regular Ordinance will be March 18, 2011.
- The effective date of the contract amendment must be the first day of a payroll period and may not be earlier than the day after the effective date of the Ordinance (or Urgency Ordinance). Therefore, contingent upon CalPERS' timely processing of the required documentation, the earliest possible effective date of the contract amendment would be February 27, 2011, the first day of a payroll period.

**ALTERNATIVES CONSIDERED:**

The LOAs were adopted by the City Council and represent the successful conclusion of the legal process. As such, no alternatives are being considered.

**FISCAL REVIEW:**

The implementation of the LOA articles with CMCEA, CMFA, CMPMA, CMPA, CMFMA, and the Resolution affecting the Unrepresented Executive and Confidential groups will provide an annual total cost savings to the City of approximately \$3.6 million. Implementing this resolution will provide a savings of approximately \$1,167,000 in the 2010-2011 fiscal year. It is estimated that for the two (2) fiscal years following the cost sharing contract amendment, the City will achieve a cost savings of approximately \$6.0 million.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed the attached documents and, where appropriate, approved them as to form.

**CONCLUSION:**

The final step required in the process to implement Government Code Section 20516 "Cost Sharing" is adoption of the Ordinance to amend the CalPERS contract. This must be completed in order to obtain the cost savings agreed to through the LOAs and Resolution with the various employee groups.

---

DEBRA YASUI  
Human Resources Administrator/Risk

---

STEPHEN N. MANDOKI  
Director of Administrative Services

---

COLLEEN O'DONOGHUE  
Assistant Finance Director

---

KIMBERLY HALL BARLOW  
City Attorney

DISTRIBUTION: City Manager  
Assistant City Manager  
City Attorney  
City Clerk  
Assistant Finance Director  
Budget and Research Manager

ATTACHMENTS: I [Urgency Ordinance No.](#)  
II [Ordinance No.](#)