

**City of Garden Grove**

**INTERDEPARTMENTAL MEMORANDUM**

**To:** Matthew J. Fertal

**From:** John D.R. Clark

**Dept:** City Manger

**Dept:** Human Resources

**Subject:** FIRST READING OF ORDINANCE  
AMENDING THE CITY'S CONTRACT  
WITH PERS TO PROVIDE THE 2-YEAR  
ADDITIONAL SERVICE CREDIT OPTION

**Date:** March 23, 2010

OBJECTIVE

Present information regarding the second step of the implementation process for the California Public Employee's Retirement System (PERS) 2-Year Early Retirement program for all employees who meet PERS eligibility requirements, and request City Council approval of an ordinance and specific findings to effect the contract amendment. The City Council approved the Resolution of Intention to provide this benefit on March 9, 2010.

BACKGROUND

The PERS retirement system offers a 2-Year Early Retirement benefit for public agencies facing downsizing, layoffs, and/or reorganizations due to financial pressures or organizational changes. This benefit provides an extra two years of service to employees who retire during a fixed window period established by the city. The retirement factors for employees are based upon an increasing multiplier of both age and years of service. This benefit only adds 2 years to the years-of-service multiplier – but does not affect the age multiplier (i.e., this benefit does not “make” a 48-year-old person 50 in the eyes of PERS).

The benefit would add 6% for Safety employees and 5% for Miscellaneous employees. There are conditions attached to this benefit. Employees accepting this benefit are ineligible for unemployment for this two-year period and, if they even return to the PERS retirement system with any other PERS employer, **they automatically lose these two years of service credit.** The first condition prevents employees from claiming they were forced out (i.e., laid-off) and perhaps collecting unemployment insurance. The second condition prevents an employee from retiring from the City, then going to work for another public agency under PERS and keeping the early retirement benefit.

Use of Early Retirement Option

This benefit option has never been used by the City of Garden Grove, but in the past year, a number of other Orange County cities facing cutbacks and layoffs have made

PERS 2-YEAR EARLY RETIREMENT PROGRAM  
March 23, 2010  
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the offer. To date, Brea, Costa Mesa, Fountain Valley, Westminster and Yorba Linda have offered this same program; Newport Beach has offered a similar program through a different retirement system.

Financial Cost and Required Disclosure

The cost of providing this benefit will be rolled into the City's actuarial estimate two (2) fiscal years following its implementation, and would result in an increase to the percentage of payroll the City must pay on remaining active employees. If Garden Grove implements this program, it could end no earlier than during fiscal year 10-11, meaning the payroll cost increase won't be a factor until the fiscal year 13-14 budget.

Garden Grove has 171 employees who are eligible for the program, i.e., are age 50 or greater and have five (5) or more years of credited PERS service, whether solely at Garden Grove or in combination with other agencies. Although such estimation is of necessity very approximate, surveys of employees and expressions of interest indicate perhaps 40 of the 171 eligible employees will choose to retire. Assuming this percentage is close to the final result, the City would have a present value of future cost of \$2,358,139, to be amortized over 20 years beginning in 2013.

Remaining Process

Having adopted the Resolution of Intention on March 9, 2010, the City must now amend its contract with PERS through an ordinance, the first reading of which is agendaized tonight, as well as make certain findings. The second reading is set for April 13, 2010. The ordinance becomes effective 30 days later, the contract amendment the day after that, and the window period may open the following day (i.e., May 15, 2010). To expedite the savings and to proceed expeditiously with any necessary reorganization, the recommended window period is the 90-day minimum.

FINANCIAL IMPACT

Staff estimates implementation of this program will save the City \$150,000 in fiscal year 09-10, \$1,200,000 in fiscal year 10-11, and \$1,000,000 in fiscal year 11-12. These saving figures assume at least half of the vacated positions will have to be refilled (e.g., sworn Police and Fire positions) soon after the incumbent's departure. To insure this estimate is conservative, no savings from new employees coming in at lower step placement, or counting the salary savings during periods of recruitment, is included in the above figures.

The estimate of actual impact on the City's PERS rate in fiscal year 13-14 is also difficult to accurately estimate in advance of knowing which employees will elect to leave, however, a rough approximation based on 40 employees retiring early will add

.22% (1/5 of 1%) to our Miscellaneous payroll rate and .15% (1/7 of 1%) to our Safety rate, which in total equals about \$142,624 annually beginning July 1, 2013.

RECOMMENDED ACTIONS

It is recommended that the City Council:


- Approve on First Reading the attached ordinance amending the City's contract with PERS to provide for § 20903 (Two Years Additional Service Credit) for local miscellaneous members and local safety members.
- Find and determine that such an amendment is necessary because of an impending curtailment of services, or change in the manner of performing services, such that the best interests of the City of Garden Grove would be served by granting such additional service credit.
- Find and determine that the City Council is electing to become subject to the provisions of Government Code § 20903 because of impending mandatory transfers, demotions, and layoffs that constitute at least 1% of the designated eligible employees, resulting from the impending curtailment of services or change in the manner of performing services.
- Find and determine that it is the intention of the City Council that at the time Government Code § 20903 becomes operative that any vacancies created by retirements under this section, or at least one vacancy in any position vacated by a retirement under this section, shall remain permanently unfilled thereby resulting in an overall reduction in the workforce of the City.
- Designate all employees, regardless of classification or department, as eligible for the two years service credit if all other requirements are met.
- Designate the time period during which an eligible employee member of PERS must retire in order to receive the additional service credit as May 15, 2010 through August 13, 2010.



JOHN D.R. CLARK  
Human Resources Director

Attachments: 1. Proposed ordinance  
2. Exhibit attachment to ordinance

**Recommended for Approval**



**Matthew Ferial**  
City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
ADOPTING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL  
OF THE CITY OF GARDEN GROVE AND THE BOARD OF ADMINISTRATION OF  
THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE  
TWO YEARS ADDITIONAL SERVICE CREDIT (Government Code § 20903)

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

Section 1. That an amendment to the Contract between the City Council of the City of Garden Grove and the Board of Administration of the California Public Employees' Retirement System to Provide Two Years Additional Service Credit (Government Code § 20903) is hereby authorized and approved, a copy of said amendment being attached hereto, marked as "Exhibit," and by such reference made a part hereof as though herein set out in full.

Section 2. The Mayor of the City of Garden Grove is hereby authorized, empowered and directed to execute said amendment for and of behalf of said Agency.

Section 3. This ordinance shall take effect thirty (30) days after adoption and shall within fifteen (15) days of adoption be published with the names of Council Members voting for and against the same in a newspaper adjudicated and circulated in the City of Garden Grove.

The foregoing ordinance was adopted by the City Council of the City of Garden Grove on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
WILLIAM J. DALTON, MAYOR

*Attest:*

KATHLEEN BAILOR, CITY CLERK

\_\_\_\_\_



## EXHIBIT

California  
Public Employees' Retirement System

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# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Garden Grove

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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 January 12, 1974, and witnessed January 2, 1974, and as amended effective February 1, 1978, March 29, 1980, July 5, 1980, March 24, 1984, December 29, 1984, June 17, 1995, March 24, 2001, October 6, 2001, July 25, 2003, December 17, 2005, September 14, 2007 and April 25, 2008 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 April 25, 2008, and hereby replaced by the following paragraphs numbered 1 through 16 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 local miscellaneous members and age 50 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after January 12, 1974 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.

PLEASE DO NOT SIGN "EXHIBIT 2"

- (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. 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. **CROSSING GUARDS;**
  - b. **POLICE CADETS; AND**
  - c. **EMPLOYEES HIRED UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971 (PEPEMPLOYEES).**
- 6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

7. Assets accumulated in the local system and held by the Pacific Mutual Life Insurance Company under its contract with Public Agency was, and will be, transferred as released by said Company according to the following schedule:

1. \$2,000,000.00 minimum on January 12, 1974 plus;
2. \$60,000.00 on the 15<sup>th</sup> of each month thereafter until all amounts held by said Company and interest payable thereon have been transferred as provided in Section 20522, Government Code.

The rate of interest to be applied to the balance of assets not transferred on January 12, 1974, for the purposes of interest income, as referred to in Government Code Section 20522 is agreed to be 1.92%, as computed in accordance with that Section.

Benefits paid to pensioners and annuitants under the local system shall be continued by the Public Employees' Retirement System at the benefit level existing on contract date, pursuant to Government Code Section 20520.

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after December 17, 2005 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after December 17, 2005 shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
  - b. Section 21574.5 (Indexed Level of 1959 Survivor Benefits).



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- c. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - d. Section 20042 (One-Year Final Compensation).
  - e. Section 20965 (Credit for Unused Sick Leave).
  - f. Section 21548 (Pre-Retirement Option 2W Death Benefit).
  - g. Section 21623.5 (\$5,000 Retired Death Benefit).
  - h. Section 20996 (Military Service Credit as Prior Service).
  - i. Section 21024 (Military Service Credit as Public Service).
  - j. Section 20903 (Two Years Additional Service Credit).
12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on February 1, 1978. 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.
13. 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.
14. 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 21574.5 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 miscellaneous members and local safety 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.
15. 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.
16. 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 GARDEN GROVE

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

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

Attest:

\_\_\_\_\_  
Clerk