



Midpeninsula Regional
Open Space District

R-24-69
Meeting 24-14
May 22, 2024

AGENDA ITEM 9

AGENDA ITEM

Adoption of Resolution of Intention to Approve an Amendment to the Contract Between the California Public Employees' Retirement System (PERS) and the Midpeninsula Regional Open Space District to provide Section 21151, Industrial Disability Retirement for Local Miscellaneous Members

GENERAL MANAGER'S RECOMMENDATION

Adopt the Resolution of Intention to Amend the California Public Employees' Retirement System contract to provide Section 21151, Industrial Disability Retirement for Local Miscellaneous Members.

SUMMARY

California Public Employees Retirement Law (Government Code Section 21151) governs Industrial Disability Retirement for Local Miscellaneous Members through the California Public Employees' Retirement System (PERS). Section 21151 provides that an industrially disabled member qualifies for a retirement allowance regardless of age or length of employment. Industrial Disability Retirement (also referred to as IDR) is defined as the inability to perform the usual job duties due to a work-related injury or illness. The IDR allowance is 50% of final compensation unless a member is qualified for service retirement, in which case the member will receive either an IDR benefit or a service retirement benefit, whichever is greater.

DISCUSSION

On October 11, 2023, the Board of Directors (Board) approved a Memorandum of Understanding (MOU) with the Midpeninsula Rangers Peace Officers Association (POA) that included IDR as an added, new benefit for the represented Rangers starting in Fiscal Year 2024-2025. PERS law requires the District to enroll all of its employees in the PERS Miscellaneous member category to receive this benefit. PERS requires a two-step process for amending its contract with the District to add the IDR benefit. The first step is Board adoption of the attached Resolution of Intention to add the IDR benefit, which informs the Board and public regarding the future costs of the proposed amendment to the District's PERS contract. The final Board action will be the adoption of the Final Resolution, which is scheduled for the June 12, 2024 Board meeting. The effective date of the District's PERS contract amendment, including changes in the employee and employer contribution rates, will become effective as of the first day of a payroll period following the effective date of the Final Resolution (scheduled for June 12, 2024). If adopted on June 12th, it would be effective June 24, 2024 (pay period 24-14).

FISCAL IMPACT

According to the PERS actuarial analysis of the District's total fiscal year 2024-25 cost for all pension benefits, IDR will cost 0.28% of gross payroll for classic employees (approximately 73 employees) and 0.32% of gross payroll for PEPRA (Public Employees' Pension Reform Act) employees (approximately 109 employees). Under the Public Employees' Pension Reform Act (PEPRA) law, members hired on or after January 1, 2013, are subject to increases or decreases to their member contribution rate each fiscal year based on the CalPERS annual actuarial valuations. By law, the PEPRA member contribution rate is approximately 50% of the total normal cost of the PEPRA member benefits. As such, the contribution rate for PEPRA members will increase by 0.25% offsetting the 0.32% cost noted above, resulting in a net 0.07% Change in the Total Normal Cost to the District.

The estimated annual payroll for Fiscal Year 2024-25 (FY25) is approximately \$22,363,421. The total incremental additional annual cost for Section 21151 IDR for FY25 is approximately \$67,498. The total cost is estimated at \$28,454 for classic employees and \$39,044 for PEPRA employees. However, approximately \$30,504 of that cost is offset by the increased employee contributions for employees classified as CalPERS PEPRA members. The net cost to the District is estimated at \$36,994.

Additionally, the following information has been identified in the PERS actuarial analysis:

Classic Miscellaneous Plan (i.e., Classic Members) (Attachment 3):

1. Change in the Present Value of Benefits	\$198,654
2. Change in the Total Normal Cost	0.28%
3. Change in Total Unfunded Accrued Liability (UAL) Payment	\$0

New Miscellaneous Plan (i.e., PEPRA Members) (Attachment 3):

1. Change in the Present Value of Benefits	\$248,496
2. Change in the Total Normal Cost	0.07%
3. Change in Total Unfunded Accrued Liability (UAL) Payment	\$0

PRIOR BOARD AND COMMITTEE REVIEW

October 11, 2023: The Board approved a Memorandum of Understanding (MOU) with the Midpeninsula Rangers Peace Officers Association (POA) that included IDR. ([R-23-115, meeting minutes](#))

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

If approved, a resolution for final approval and adoption of the benefit will be brought to the Board on June 12, 2024.

Attachment(s)

1. Resolution of Intention to Approve an Amendment to the Contract Between the California Public Employees' Retirement System (PERS) and the Midpeninsula Regional Open Space District to provide Section 21151, Industrial Disability Retirement for Local Miscellaneous Members
2. Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the Board of Directors Midpeninsula Regional Open Space District.
3. Resolution of Intention Letter from CalPERS dated April 11, 2024
4. Certification of Governing Body's Action
5. Certification of Compliance with Government Code Section 7507

Responsible Department Head:

Candice Basnight, Human Resources Manager

Prepared by:

Rebecca Wolfe, Human Resources Supervisor

Contact person:

Candice Basnight, Human Resources Manager

**RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
BOARD OF DIRECTORS
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

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 21151 (Industrial Disability Retirement for Local Miscellaneous Members).

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
(Amendment)
CON-302



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

**Between the
Board of Administration
California Public Employees' Retirement System
and the
Board Of Directors
Midpeninsula Regional Open Space District**



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 December 31, 1973, and witnessed November 14, 1973, and as amended effective April 4, 1977, June 26, 1997, October 9, 2006, and August 4, 2014, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective August 4, 2014, and hereby replaced by the following paragraphs numbered 1 through 14 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 and age 62 for new local miscellaneous members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after December 31, 1973, 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. 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. **SAFETY EMPLOYEES.**

6. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after October 9, 2006, shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after October 9, 2006, shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).
8. 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 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation) for classic members only.
 - b. Section 21574.5 (Indexed Level of 1959 Survivor Benefits).
 - c. Section 21151 (Industrial Disability Retirement for Local Miscellaneous Members).
10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on April 4, 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.
11. 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.
12. Public Agency shall also contribute to said Retirement System as follows:
 - 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.
- 13. 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.
- 14. 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

BOARD OF DIRECTORS
MIDPENINSULA REGIONAL OPEN
SPACE DISTRICT

BY _____
MELODY BENAVIDES, CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

PLEASE DO NOT SIGN "EXHIBIT ONLY"

Witness Date
Attest:

Clerk

California Public Employees' Retirement System
 Financial Office | Pension Contracts & Prefunding Programs Division
 P.O. Box 942715, Sacramento, CA 94229-2715

www.calpers.ca.gov
888 CalPERS (or 888-225-7377)
 TTY: (877) 249-7442



Candice Basnight
 Human Resources Manager
 Midpeninsula Regional Open Space District
 5050 El Camino Real
 Los Altos, CA 94022-1530

CalPERS ID 2857159579

April 11, 2024

Dear Candice Basnight,

Thank you for contacting CalPERS regarding your retirement contract. Provided in my|CalPERS you will find the Resolution of Intention and Exhibit Amendment to Contract to provide Section 21151 (Industrial Disability Retirement for Local Miscellaneous Members).

Also provided are the following documents:

1. Form CON-12, Certification of Governing Body's Action.
2. Form CON-12AA, Certification of Compliance with Government Code Section 7507.
3. Instruction sheet for submission of Resolution of Intention documents and required certifications into my|CalPERS.

Any change in the employee or employer contribution rates will become effective as of the effective date of the contract amendment.

Disclosure of the cost of this Contract Amendment

Classic Miscellaneous Plan:

We recommend that the agency disclose these values identified in the amendment actuarial valuation for the adoption of this plan amendment:

1. Change in the Present Value of Benefits	\$ 198,654
2. Change in the Total Normal Cost	0.28%
3. Change in Total UAL Payment	\$0

New Miscellaneous Plan:

We recommend that the agency disclose these values identified in the amendment actuarial valuation for the adoption of this plan amendment:

1. Change in the Present Value of Benefits	\$ 248,496
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Midpeninsula Regional
Open Space District

April 11, 2024

2. Change in the Total Normal Cost	0.07%
3. Change in Total UAL Payment	\$0

Effective January 1, 2009 Government Code Section 7507 requires the following:

- **Future annual costs** of the proposed contract amendment be made public at a public meeting at least two weeks prior to the adoption of the final **Resolution**.
- An actuary be present at the public meeting to provide information if future costs exceed $\frac{1}{2}$ of 1% of the future annual costs of existing benefits.
- A local public agency's chief executive officer acknowledge in writing that he or she understands the current and future cost of the retirement benefit as determined by the actuary.
- Expansion of the definition of the term "future annual costs" to include "normal cost and any change in accrued liability".
- Adoption of the retirement benefit increase or change cannot be placed on the consent calendar.

The agency is to certify compliance on the enclosed Certification of Compliance with Government Code Section 7507 (form CON-12AA).

In summary, the following documents must be submitted through my|CalPERS before we can forward the actual contract and final documents necessary to complete the proposed amendment. **PLEASE DO NOT HOLD THESE DOCUMENTS PENDING ADOPTION OF THE FINAL RESOLUTION.**

1. Resolution of Intention, certified copy.
2. Form CON-12, Certification of Governing Body's Action.
3. Form CON-12AA, Certification of Compliance with Government Code Section 7507.

If your agency adopts the Resolution of Intention on May 22, 2024, the earliest date the final Resolution may be adopted is June 11, 2024. There must be a 20 day period between the adoption of the Resolution of Intention and the adoption of the final Resolution pursuant to Government Code Section 20471. There are no exceptions to this law.

The effective date of this amendment cannot be earlier than the first day of a payroll period following the effective date of the final Resolution.

Please do not retype the Amendment to Contract and/or agreement documents. Only documents provided by this office will be accepted. If you have any questions regarding any documents, please contact this office prior to presenting to your governing body for adoption. Another contract amendment cannot be started until this amendment is completed or cancelled.

Midpeninsula Regional
Open Space District

April 11, 2024

We are here to assist you. If you have any questions or would like additional information, please visit our website www.calpers.ca.gov, or you may contact us toll free at **888 CalPERS** or (**888-225-7377**).

Sincerely,



Tommy Pacheco
Pension Contracts Analyst
Financial Office | Pension Contracts & Prefunding Programs Division

TP:em

Enclosures

California Public Employees' Retirement System
Financial Office | Pension Contracts & Prefunding Programs Division
P.O. Box 942715, Sacramento, CA 94229-2715

www.calpers.ca.gov
888 CalPERS (or 888-225-7377)
TTY: (877) 249-7442



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)

_____ of the
(public agency)

on _____.
(date)

Clerk/Secretary

Title



California Public Employees' Retirement System
Financial Office | Pension Contracts and Prefunding Programs Division
P.O. Box 942703, Sacramento, CA 94229-2703
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

**Certification of Compliance with
Government Code Section 7507**

By signing below, I hereby certify that in accordance with Section 7507 of the Government Code statements 1, 2, and 3 are true; and that statement 4 is applicable and is true if I have placed my initials beside the statement:

1. Services of an actuary were secured to provide a statement of the actuarial impact upon future annual costs before authorizing changes in retirement plan benefits.
2. The actuary prepared a statement of the actuarial impact of the proposed changes in benefits upon future annual costs, including normal cost and any additional accrued liability. The statement of the actuarial impact for the increase in benefits was made public on _____ at a public meeting of the _____
(date) (governing body)
of the _____
(public agency)
which is at least two weeks prior to the adoption of the final Resolution / Ordinance.
3. Adoption of the retirement benefit increase will not be placed on the consent calendar.
4. N/A [INITIAL HERE IF THIS STATEMENT APPLIES]
An actuary was present to provide information as needed at the public meeting at which the adoption of the benefit change was considered. (The presence of an actuary is required if future costs of the benefit changes exceed one half of one percent of the future annual costs of the existing benefits.)

Signature

Print Name of Authorized Signer

Title

Date _____