ORDINANCE NO. 2055

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING SECTION 2.05.100 TO "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA" TO AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF SANTA CLARA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara Municipal Code Section 2.05.090 authorizes the City Council of the City of Santa Clara to contract with the Board of Administration, Public Employees' Retirement System to provide retirement benefits for its employees;

WHEREAS, in April 1, 1959, a contract provision was approved that excludes Crossing Guards and employees of the Recreation Department and City Library employees who normally are employed on a less than one-half time basis notwithstanding the fact that they may at time be employed temporarily on a greater than one-half time basis;

WHEREAS, CalPERS has informed the City that this provision is no longer valid because temporary employment is excluded from membership by Government Code section 20305 until membership requirements are met;

WHEREAS, some additional modifications are required in the Amendment to reflect changes arising from the passage of PEPRA; and

WHEREAS, CalPERS requires that the City amend its contract with CalPERS to make these modifications and the City Council agrees.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

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SECTION 1: That a new Section 2.05.100 is added to Chapter 2.05 (entitled "General Provisions") of Title 2 (entitled "Administration and Personnel") of "The Code of the City of Santa Clara, California" to read as follows:

"**2.05.100 Amendment to Agreement with Board of Administration for the California Public Employees Retirement System.**

That an amendment to the contract between the City of Santa Clara and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached to this Ordinance, and by such reference made a part hereof as though herein set out in full."

SECTION 2: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 3: **Savings clause**. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

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SECTION 4: **Effective date**. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 18TH day of October, 2022, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, Watanabe and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:

NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

FINALLY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA this 15TH day of November, 2022, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, Watanabe and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:

NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Amendment to Contract between the Board of Administration of the Public Employees' Retirement System and the City Council of the City of Santa Clara

CalPERS

CITY CLERK FILE COPY

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Santa Clara

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 September 1, 1943, and witnessed September 1, 1943, and as amended effective September 1, 1947, July 1, 1950, May 1, 1956, October 1, 1958, April 1, 1959, July 1, 1959, April 1, 1963, July 1, 1964, October 1, 1964, August 1, 1969, January 27, 1974, June 26, 1975, March 19, 1978, January 3, 1982, August 8, 1990, May 23, 1993, January 9, 2000, June 15, 2000, October 15, 2000, May 26, 2002, December 17, 2006, and December 27, 2006, 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 December 27, 2006, 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 classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 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 September 1, 1943, 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. Removal of the exclusion of "All Hourly Rated Or Hourly Basis Employees," pursuant to Section 20503, is declarative of agency's previous interpretation and does not mandate any new classes of employees into membership.

7. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after December 17, 2006, shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

8. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after December 17, 2006, shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and 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 21362.2 of said Retirement Law (3% at age 50 Full).

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 Full).

12. Public Agency elected and elects to be subject to the following optional provisions:

    a. Section 21571 (Basic Level of 1959 Survivor Benefits) for local miscellaneous members only.

    b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.

    c. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.

    d. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.

e. Section 20042 (One-Year Final Compensation) for classic local police members and classic local miscellaneous members only.

f. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 20042 (One-Year Final Compensation) for classic local police members.

From and after January 3, 1982, the classic local police employees of Public Agency shall be assessed an additional 2.250% of their compensation for a total contribution rate of 11.250% pursuant to Government Code Section 20516.

g. Section 21024 (Military Service Credit as Public Service).

h. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.

i. Section 20503 (To Remove the Exclusion of "All Hourly Rated Or Hourly Basis Employees," prospectively from June 15, 2000).

j. Section 21548 (Pre-Retirement Option 2W Death Benefit).

k. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).

l. Section 20503 (To Remove the Exclusion of "Crossing Guards And Employees Of The Recreation Department And City Library Who Normally Are Employed On A Less Than Half-Time Basis Not Withstanding The Fact That They May At Times Be Employed Temporarily On A Greater Than Half-Time Basis And Who Are Employed April 1, 1959, Or Thereafter," prospectively from the effective date of this amendment to contract).

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 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 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 16 day of December, 2022

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

CITY COUNCIL
CITY OF SANTA CLARA

BY Rajeev Bhasin
PRESIDING OFFICER

January 27, 2023
Witness Date

Attest:

Nora Pimentel
Clerk

APPROVED AS TO FORM:
SANTA CLARA CITY ATTORNEY'S OFFICE

AMENDMENT CalPERS ID #5184718394
PERS-CON-702A