



Council Meeting: November 20, 2012

SUBJECT: Discussion and Possible Action to Amend the CalPERS Contract to Provide 20475 (Different Level of Benefits) and Section 21353 (2% @ 60 Full Formula).

BACKGROUND

The Sunnyvale Employees' Association current Memorandum of Understanding (MOU) expired on June 30, 2012. The City of Sunnyvale and SEA have been engaged in the meet and confer process since April 2012 and continues to be in discussions to reach a tentative agreement. At this time there has not been a ratification of the membership, but in anticipation of a contract approved by the SEA membership prior to the end of the calendar year, City staff is presenting this report to have all options available to the City. Once ratification has occurred with the SEA membership, a revised MOU will be presented to City Council for approval.

The City and SEA have been in discussions to amend the amend the California Public Employees' Retirement System (CalPERS) retirement contract to implement a second tier of coverage for the miscellaneous group with a benefit formula of 2% @ 60 with the Single Highest Year calculation. The procedures for implementing the contract amendment are established by state statute. The first step in the process is for the City Council to adopt a Resolution of Intention. The introduction and first reading of the Ordinance, as well as the adoption, is scheduled to occur on the December 18, 2012 Council meeting and the contract amendment will go into effect on December 19, 2012 with the implementation of an emergency ordinance. As a result of the provisions in the recently passed Public Employees' Pension Reform Act, only governing body approved two-tier contract amendments received by CalPERS before the deadline of December 31, 2012 will be eligible for enactment.

EXISTING POLICY

Council Policy 7.3.1 – Legislative Management

Goal 7.3D: Maintain a quality workforce, consistent with state and federal laws, City Charter, and adopted policies in order to assure that City services are provided in an effective, efficient and high quality manner.

Policy 7.3D.1: Maintain a recruitment and selection process that ensures a highly competent workforce.

Action Statement 7.3D.1a: Maintain a competitive pay and benefit package for employees.

DISCUSSION

The City of Sunnyvale and SEA had reached a tentative agreement for a new Memorandum of Understanding. The Tentative Agreement was presented to the full membership and the membership voted to decline the Tentative Agreement as presented. The City team and SEA continue to have discussions and in anticipation that an agreement can be reached and ratified by the SEA membership prior to December 31, 2012 we are moving forward with this proposed action. The Tentative Agreement between the City and Association provides for implementation of a two-tier retirement plan, local miscellaneous 2% @ 60 Single Highest Year calculation, for all newly hired employees that are current members of CalPERS or a reciprocal retirement system.

City staff has talked with SEA in regards to moving forward with this action based upon the timeline restrictions provided by CalPERS. They agreed that it was acceptable for the City to move forward with this recommended action so that if, by any chance, the SEA agreement is ratified, the City is in the best possible position to move forward with implementation. If there is no agreement with SEA to implement the two-tier retirement formula, the action taken by the City Council will not be implemented.

CalPERS requires that all employees in the same membership category have identical benefit retirement formulas. Currently, there are three other Sunnyvale Associations that are classified in the local miscellaneous membership category: Communication Officers Association (COA), Service Employees International Union Local 521 (SEIU), and Sunnyvale Managers Association (SMA). The City previously met with the associations and the City Council approved contract extensions that included a me-too provision for a two-tier retirement plan. The contract amendment will also apply to unrepresented newly hired employees that are categorized in the local miscellaneous membership category.

Sunnyvale Association	Approval Date	Report to Council No:
Communications Officers Association	03/20/2012	12-078
Service Employees International Union Local 521	11/15/2011	11-251
Sunnyvale Managers Association	04/26/2011	11-079

Prior to implementing a second tier retirement plan, CalPERS contract amendment procedures require the City to request an actuarial report to determine the impact upon future annual costs. The actuarial report has been received, and the next step is City Council action to approve the resolutions and ordinance amendment. Based on the actuarial report, decreases in the employer rate will occur as employees are hired into the second tier. Further, the local miscellaneous member contribution rate will be seven percent (7%) of reportable earnings for those miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to the contract. In comparison, the current miscellaneous member contribution rate is eight percent (8%) of reportable earnings.

FISCAL IMPACT

Establishing a two-tier retirement plan at the miscellaneous 2% @ 60 formula will affect an unknown number of future hires. As noted previously in this report, this formula will only be applicable to people hired by the City of Sunnyvale after December 31, 2012 who are coming from another CalPERS agency. While it is not possible to quantify the exact fiscal impact of this action, as the City does not know how many future hires will be current CalPERS members, this formula change will provide cost savings to the City for each applicable new hire. The normal cost difference between the current miscellaneous 2.7% @ 55 formula and the proposed miscellaneous 2% @ 60 formula is approximately 4.5% of pay. Based on current average miscellaneous salary, each applicable hire brought in under the 2% @ 60 formula as opposed to the 2.7% @ 55 will yield approximately \$3,800 in annual savings. If no action is taken, future hires that are current CalPERS members will receive the 2.7% @ 55 enhanced benefit formula that current miscellaneous City employees receive. Taking this action will ensure that new hires that are existing members of CalPERS will have a pension formula that is closer to the 2.0% @ 62 formula that new members to CalPERS hired after January 1, 2013 will receive.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

Adopt the Resolution of Intention to amend the CalPERS contract to provide Section 20475 (Different Level of Benefits) and Section 21353 (2% @ 60 Full formula Single Highest Year calculation) applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this contract amendment; and Section

414(h)(2) of the Internal Revenue code, whereby employee-paid contributions are made on a pre-tax basis. Adopt the related resolutions.

Reviewed by:

Teri Silva, Director of Human Resources
Prepared by: Lisa Velasco, Human Resources Manager

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Sunnyvale to provide for local miscellaneous members Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

- B. Resolution to Tax Defer Member Paid Contributions – IRC 414(h)(2) Employer Pick-Up for Local Miscellaneous Members.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE GIVING NOTICE OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE SUNNYVALE CITY COUNCIL TO PROVIDE SECTION 20475 (DIFFERENT LEVEL OF BENEFITS) AND SECTION 21353 (2% @ 60 FULL FORMULA SINGLE HIGHEST YEAR CALCULATION) FOR LOCAL MISCELLANEOUS MEMBERS ENTERING MEMBERSHIP FOR THE FIRST TIME IN THE MISCELLANEOUS CLASSIFICATION AFTER THE EFFECTIVE DATE OF THE CONTRACT AMENDMENT

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 public agencies may elect to subject themselves and their employees to amendments to the 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 changed:

"To provide Section 20475 (Different Level of benefits) and Section 21353 (2% @ 60 Full formula Single Highest Year calculation) for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of the contract amendment."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT it hereby gives notice of intention to approve an amendment to the contract between the City of Sunnyvale and the Board of Administration of the Public Employees' Retirement System to provide different level of benefits and 2% @60 Full formula for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of the contract amendment.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael Martello, Interim City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO TAX DEFER MEMBER PAID CONTRIBUTIONS – IRC 414(H)(2) EMPLOYER PICK-UP ON BEHALF OF LOCAL MISCELLANEOUS MEMBERS

WHEREAS, the governing body of the City of Sunnyvale has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the City of Sunnyvale has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to Local Miscellaneous Members who are members of the California Public Employees' Retirement System:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

I. The City of Sunnyvale will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code Section 20691 to the California Public Employees' Retirement System on behalf local miscellaneous members who are members of the California Public Employees Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.

II. The contributions made by the City of Sunnyvale to the California Public Employees' Retirement System, although designated as employee contributions, are being paid by the City of Sunnyvale in lieu of contributions by the employees who are members of the California Public Employees' Retirement System.

III. Employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Sunnyvale to the California Public Employees' Retirement System.

IV. The City of Sunnyvale shall pay to the California Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.

V. The amount of the contributions designated as employee contributions and paid by the City of Sunnyvale to the California Public Employees' Retirement System on behalf of an employee shall be the entire contribution required of the employee by the California Public Employees' Retirement Law (California Government Code Sections 20000, et seq.).

VI. The contributions designated as employee contributions made by City of Sunnyvale to the California Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the California Public Employees' Retirement System.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael Martello, Interim City Attorney

FOR CALPERS USE ONLY

RESOLUTION TO TAX DEFER MEMBER PAID CONTRIBUTIONS – IRC 414(h)(2)

Approved by: _____

Title: _____