AGENDA SECTION: CONSENT
AGENDA ITEM # 3
REPORT # 12-4

STAFF REPORT
COUNCIL MEETING DATE
JANUARY 23, 2012

ITEM FOR COUNCIL CONSIDERATION

ORDINANCE TO AMEND THE CITY'S CALPERS CONTRACT

Report prepared by: Arlene Balmadrid, HR Administrator

Signature

Reviewed by: Dave Durflinger, City Manager

Signature

STAFF RECOMMENDATION

Action Item **X**; Non-Action Item __

Approve a second reading of Ordinance No. 654 amending the contract with the California Public Employees' Retirement System (CalPERS), specifically, modifying the terms of the retirement benefits program in order to implement the cost sharing agreement between the City and its employees.

Motion: I move to approve Ordinance No. 654 on second reading, as read by title only.

I. BACKGROUND

At its regular meeting of May 31, 2011, through adoption of Resolution Nos. 5319 and 5320, the City Council approved the Conditions of Employment for Management and Miscellaneous Personnel. Additionally, through adoption of Resolution No. 5324, the City Council approved the Memorandum of Understanding for Fiscal Year 2011-2012 between the City of Carpinteria and Service Employees International Union (SEIU) Local 620, representing employees in the general service and public works bargaining units.

Resolution Nos. 5319, 5320 and 5324 provided that all employees who are members of the Public Employees' Retirement System shall pay three percent (3%) of the Employer Paid Member Contribution ("EPMC"), effective the first full pay period after July 1, 2011. These resolutions also provide that if permitted by CalPERS, employees will contribute this same amount (3%) to the employer's contribution rate, rather than to the member's contribution, at a later date.

As part of CalPERS contract amendment process, CalPERS requires that an employee election be held. On December 8, 2011, the City of Carpinteria held an employee election to consider changing the employee member contribution rate from 7% (paid for by the City and reported to CalPERS as reportable income for retirement purposes) plus a 3% contribution (paid for by the employees on a pre-tax basis), for a total of 10%. The change would mean that instead of the City paying and reporting 4% of the members' contributions and employees paying the remaining 3%, the City will pay and report the full 7% of the required members' contribution and employees will pay 3% of the City's (employer) required contribution.

The majority of the employees approved the proposed CalPERS contract amendment to provide for employee cost sharing of the City required contribution rate.

Also, one of the steps in the procedures to implement changes to the employer paid member contributions (Government Code section 20516 (a) is the approval by the City of Carpinteria, City Council of a resolution giving notice of its intention to approve an amendment to the CalPERS contract. On December 12, 2011, the City Council approved, Resolution No. 5352, a resolution of intention approving the amendment to the CalPERS contract, modifying the terms of the retirement benefits program.

The first reading of the Ordinance No. 654 was presented and approved by the City Council on January 9, 2012.

II. DISCUSSION

The final step to amend the CalPERS contract to modify the terms of the retirement benefits program is for the City Council to approve an Ordinance amending the contract.

This is the second reading of the Ordinance. The effective date of the Ordinance is 30 days after the City of Carpinteria City Council adopts the final ordinance to amend CalPERS contract.

III. FINANCIAL CONSIDERATIONS

The implementation of cost sharing under Government Code section 20516(a) is part of the cost savings initiatives to balance the City's budget. Additionally, upon implementation of Government Code section 20516(a), employees' retirement benefits will not be affected by the cost sharing arrangement, since it will allow for the reporting of the full seven percent (7%) employee contribution as earnable compensation for purposes of calculating retirement compensation.

IV. LEGAL ISSUES

N/A

V. ATTACHMENTS:

Ordinance No. 654
Exhibit A

ORDINANCE NO. 654

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF CARPINTERIA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The City Council of the City of Carpinteria does ordain as follows:

SECTION 1.

That an amendment to the contract between the City Council of the City of Carpinteria and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit A, and by such reference made a part hereof as though herein set out in full.

SECTION 2.

The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Carpinteria.

SECTION 3.

This Ordinance shall take effect thirty (30) days after the date of its adoption and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least once in the Coastal View News, a newspaper of general circulation, published and circulated in the City of Carpinteria and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED this 23rd day of January, 2012, by the following called vote:

AYES: **COUNCILMEMBER:**
NOES: **COUNCILMEMBER:**
ABSENT:

_____
Al Clark,
Mayor, City of Carpinteria

ATTEST: _____
Fidela Garcia
City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 23rd of January 2012.

_____
Fidela Garcia
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

_____
Peter Brown
City Attorney, City of Carpinteria

CalPERS

EXHIBIT - A

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

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

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 October 29, 1966, and witnessed September 26, 1966, and as amended effective March 27, 1982, December 26, 1987, March 16, 2000, September 16, 2000 and July 25, 2002 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 12 are hereby stricken from said contract as executed effective July 25, 2002, and hereby replaced by the following paragraphs numbered 1 through 13 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 October 29, 1966 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.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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.

   (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.

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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 Police Officers (herein referred to as local safety members);

   b. 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. PERSONS COMPENSATED ON AN HOURLY BASIS;
   b. ELECTED OFFICIALS; AND
   c. FIRE FIGHTERS.

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member 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 local safety member shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).

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

   a. Section 20042 (One-Year Final Compensation).

   b. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.

   c. Section 20965 (Credit for Unused Sick Leave).

   d. Section 21623.5 ($2,000 Retired Death Benefit).

   e. Section 21335 (3% Cost-of-Living Allowance, base year 2000).

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

Section 21354 (2% @ 55 Full formula) effective September 16, 2000 and Section 21623.5 ($2000 Retired Death Benefit) effective March 16, 2000 for local miscellaneous members.

From and after the effective date of this amendment to contract the miscellaneous employees of Public Agency shall be assessed an additional 3% of their compensation for a total contribution rate of 10% pursuant to Government Code Section 20516.

9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 27, 1982. 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.

10. 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.

11. 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.

12. 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.

13. 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

BY_____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF CARPINTERIA

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk

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