

ITEM: PUBLIC HEARING (PUBLISHED NOTICE) TO ADOPT AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP, CALIFORNIA, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF LATHROP AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

RECOMMENDATION: Council to Consider the Following:

- 1. Hold a Public Hearing; and**
- 2. Adopt an Urgency Ordinance of the City of Lathrop, California, Authorizing an Amendment to the Contract Between the City Council of the City of Lathrop and the Board of Administration of the California Public Employees' Retirement System**

SUMMARY:

At the March 22, 2021, Special City Council Meeting, Council directed staff to create Capital Improvement Project GG 21-11, to begin the creation of the new Lathrop Police Department, and implement the transition of law enforcement services from the San Joaquin County Sheriff to the City. On August 9, 2021, the City Council adopted a formal resolution of intent to amend the contract with PERS to add the new police category. As required by law, an actuary was available at that Council Meeting to answer any questions. After approving the formal resolution of intent, the next step included setting the public hearing date for the urgency ordinance on September 13, 2021. The public hearing was published in the Manteca Bulletin on August 25, 2021.

One of the initial steps of the plan to form the Police Department recognizes the importance of adding a California Public Employee's Retirement System (CalPERS) safety member retirement plan.

Most cities that have a Police Department in the State of California provide for a safety member retirement plan through the California Public Employees' Retirement System (CalPERS). To stay competitive with other cities and to attract and retain sworn officer employees, it is recommended that the City of Lathrop amend its contract with CalPERS to allow its new sworn safety employees to become members of the retirement system. CalPERS is a defined benefit plan. Benefits are based on the member's age, service credit and 3-year highest average compensation at retirement. Under most benefit formulas, members become fully vested with five years of service credit and the minimum retirement age is 50.

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By adopting the CalPERS required Urgency Ordinance, the City will be electing to provide Section 7522.25(d) (2.7% @ 57 full formula) which does not provide for coordination with Social Security (the City does not participate in social security for its full-time employees).

BACKGROUND:

At the March 22, 2021, Special City Council Meeting, Council directed staff to create Capital Improvement Project GG 21-11, to begin the creation of the new Lathrop Police Department, and implement the transition of law enforcement services from the San Joaquin County Sheriff to the City. On August 9, 2021, the City Council adopted a formal resolution of intent to amend the contract with PERS to add the new police category. As required by law, an actuary was available at that Council Meeting to answer any questions. After approving the formal resolution of intent, the next step included setting the public hearing date for the urgency ordinance on September 13, 2021. The public hearing was published in the Manteca Bulletin on August 25, 2021.

One of the initial steps of the plan to form the Police Department recognizes the importance of adding a California Public Employee's Retirement System (CalPERS) safety member retirement plan.

Most cities that have a Police Department in the State of California provide for a safety member retirement plan through the California Public Employees' Retirement System (CalPERS). To stay competitive with other cities and to attract and retain sworn officer employees, it is recommended that the City of Lathrop amend its contract with CalPERS to allow its new sworn safety employees to become members of the retirement system. CalPERS is a defined benefit plan. Benefits are based on the member's age, service credit and 3-year highest average compensation at retirement. Under most benefit formulas, members become fully vested with five years of service credit and the minimum retirement age is 50.

By adopting the CalPERS required Urgency Ordinance, the City will be electing to provide Section 7522.25(d) (2.7% @ 57 full formula) which does not provide for coordination with Social Security (the City does not participate in social security for its full-time employees).

This formula provides to members 2.7% of the highest 3-year average compensation times the years of service at age 57 for eligible service credited with that employer.

REASON FOR RECOMMENDATION:

Staff recommends adopting the Urgency Ordinance to amend the contract between the Board of Administration of the California Public Employees Retirement System and the City of Lathrop. In order to stay competitive with other cities and to attract

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and retain sworn employees it is recommended that the City of Lathrop amend its contract with CalPERS to allow its new sworn safety employees to become members of the CalPERS retirement system.

FISCAL IMPACT:

The employer normal cost contribution rate for new local safety members is estimated to be 13.98% of earnable compensation. The employer costs have been included in the council adopted biennial FY 2021-23 Budget.

ATTACHMENTS:

- A. Urgency Ordinance, including "Exhibit"

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APPROVALS:




Thomas Hedegard
Deputy Finance Director

8/25/2021
Date



Cari James
Director of Finance &
Administrative Services

8/26/2021
Date



Salvador Navarrete
City Attorney

8-26-2021
Date



Stephen J Salvatore
City Manager

8-31-21
Date

ORDINANCE NO. 21-

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

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, the following is a statement of the proposed change detailed in the attached Exhibit:

To provide for a new police category with California Government Code ("Retirement Law") Section 7522.25(d) (2.7% @ 57 Full formula), Sections 21624 and 21626 (Post-Retirement Survivor Allowance) and Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members with 0% prior service.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LATHROP AS FOLLOWS:

Section 1, Recitals; Record of Proceedings. The City Council ("Council") hereby finds and determines that the foregoing recitals are true and correct; the recitals are hereby incorporated by reference into each of the findings as though fully set forth therein. The recitals constitute findings in this matter, and together with the Council information, serve as an adequate and appropriate evidentiary basis for the findings and actions set forth herein. The "Exhibit" attached to this urgency ordinance is incorporated herein by reference. The Council information together with the public hearing record concerning this matter as set forth in the minutes of the City Council meeting of September 13, 2021, and are incorporated by reference as though fully set forth herein, and constitute the record of proceedings. The record of proceedings is maintained in the offices of the City of Lathrop, City Clerk, 390 Towne Centre Drive, Lathrop, CA 95330.

Section 2, Approval. That an amendment to the contract between the City Council of the City of Lathrop and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked "Exhibit", and by such reference made a part hereof as though herein set out in full.

Section 3, Signature. The Mayor of the City of Lathrop is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 4, Authority. This urgency ordinance is enacted pursuant to the City of Lathrop's general police powers, Section 7 of Article XI of the California Constitution, and California Government Code Sections 36934 and 36937. The Council hereby finds and determines that there is immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the City Council. This urgency ordinance is needed to expedite the ability to assign sworn personnel to the local safety members plan which otherwise would be limited to the time constraints of a nonurgency ordinance.

Section 5, Term. This urgency ordinance is effective immediately pursuant to Government Code Section 36937(b). The City Clerk has prepared and published, at least ten days before the date of adoption, a summary of this ordinance once in a newspaper of general circulation printed and published in San Joaquin County and circulated in the City of Lathrop. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least ten days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

Section 6, Severability. If any section, subsection, sentence, clause or phrase of this urgency ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

* * * * *

The foregoing ordinance was regularly introduced and adopted by the City Council of the City of Lathrop at a meeting held on the 13th day of September, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:


ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

Attachment: "Exhibit" - Amendment to Contract Between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Lathrop



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

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

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 1, 1991, and witnessed December 30, 1990, and as amended effective March 6, 1999, August 10, 2001 and April 30, 2011 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 April 30, 2011, 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 entering membership in the miscellaneous classification on or prior to April 30, 2011, age 60 for classic local miscellaneous members entering membership for the first time in the miscellaneous classification after April 30, 2011, age 62 for new local miscellaneous members and age 57 for local safety members.

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2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1991 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 Police Officers (herein referred to as local safety members);
 - b. Employees other than local safety members (herein referred to as local miscellaneous members).

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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. **ELECTED OFFICIALS.**
6. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member entering membership in the miscellaneous classification on or prior to April 30, 2011 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 current service as a classic local miscellaneous member entering membership for the first time in the miscellaneous classification after April 30, 2011 shall be determined in accordance with Section 21353 of said Retirement law (2% at age 60 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. 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 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20938 (Limit Prior Service to Members Employed on Contract Date).
 - b. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - c. Section 21024 (Military Service Credit as Public Service).
 - d. Section 20475 (Different Level of Benefits): Section 21353 (2% @ 60 Full formula) is applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after April 30, 2011.

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- e. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
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 and local safety members of said Retirement System.
12. 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 21573 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.
 - b. 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.
 - c. 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.
 - d. 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

CITY COUNCIL
CITY OF LATHROP

BY _____
ANDY NGUYEN, ASSISTANT DIVISION CHIEF
PENSION CONTRACTS AND PREFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk