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## SUMMARY OF PROPOSED ORDINANCE

ORDINANCE NO. 4979

### **THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:**

The proposed ordinance would amend the County's contract with CalPERS to provide a different level of benefits for newly hired employees for local miscellaneous and local safety members, resulting in a decrease in the employer rate as employees are hired into the Second Tier.

Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract, and

Section 20475 (Different Level of Benefits). Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

Indemnification language was added in paragraph 3 of the Amendment to Contract because of a change to existing retirement benefits, provisions or formulas for newly hired employees. County agrees to indemnify, defend and hold harmless CalPERS in the event of legal challenges related to this amendment.

A non-substantive change has been made in paragraph 11.g. of the Amendment to Contract in regard to Military Service Credit as public service.

Introduction of this Ordinance will be heard by the Board of Supervisors on August 7, 2012, in the Board Meeting room, 330 Fair Lane, Placerville, California. This ordinance shall take effect thirty (30) days following the adoption hereof.

A full and complete copy of the full text of the proposed ordinance is available for viewing in the office of the Clerk of the Board of Supervisors at 330 Fair Lane, Placerville, California.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 7 day of August, 2012, by the following vote of said Board:

Ayes: Sweeney, Santiago, Knight, Nutting, Briggs

**ATTEST**

Terri Daly, Acting  
Clerk of the Board of Supervisors

By \_\_\_\_\_

Deputy Clerk

Noes: none  
Absent: none

Chair, Board of Supervisors

John R. Knight

**I CERTIFY THAT:**

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date \_\_\_\_\_

ATTEST Terri Daly Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_

Deputy Clerk

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08/02/12



## SUMMARY

ORDINANCE NO. 4979

### **THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:**

This ordinance amends the County's contract with CalPERS to provide a different level of benefits for newly hired employees for local miscellaneous and local safety members, resulting in a decrease in the employer rate as employees are hired into the Second Tier.

Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract, and

Section 20475 (Different Level of Benefits). Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

Indemnification language was added in paragraph 3 of the Amendment to Contract because of a change to existing retirement benefits, provisions or formulas for newly hired employees. County agrees to indemnify, defend and hold harmless CalPERS in the event of legal challenges related to this amendment.

A non-substantive change has been made in paragraph 11.g. of the Amendment to Contract in regard to Military Service Credit as public service.

This Ordinance was Adopted by the Board of Supervisors on Tuesday, August 28, 2012.

A full and complete copy of the full text of the proposed ordinance is available for viewing in the office of the Clerk of the Board of Supervisors at 330 Fair Lane, Placerville, California.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 28 day of August, 2012, by the following vote of said Board:

Ayes: Sweeney, Nutting, Knight, Santiago

**ATTEST**

Terri Daly, Acting  
Clerk of the Board of Supervisors

By \_\_\_\_\_

Deputy Clerk

Noes: None  
Absent: Briggs

\_\_\_\_\_  
Chair, Board of Supervisors

John R. Knight

**I CERTIFY THAT:**

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date \_\_\_\_\_

ATTEST Terri Daly, Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_

Deputy Clerk

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ORDINANCE NO. 4979

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES  
ORDAIN AS FOLLOWS:**

AN AMENDMENT TO THE CONTRACT BETWEEN THE  
BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO  
AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

Section 1. That an amendment to the contract between the Board of Supervisors of the County of El Dorado 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 Chair of the Board of Supervisors of the County of El Dorado is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said agency.

Section 3. This ordinance shall become effective thirty (30) days following adoption hereof, and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least once in the Mountain Democrat, a newspaper of general circulation, published and circulated in the County of El Dorado and thenceforth and thereafter the same shall be in full force and effect.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 28 day of August, 2012, by the following vote of said Board:

ATTEST  
TERRI DALY  
Acting Clerk of the Board of Supervisors

By \_\_\_\_\_

Deputy Clerk

Ayes: Sweeney, Nutting, Knight, Santiago  
Noes: None  
Absent: Briggs

Chair, Board of Supervisors  
John R. Knight

APPROVED AS TO FORM  
LOUIS B. GREEN  
COUNTY COUNSEL

By \_\_\_\_\_

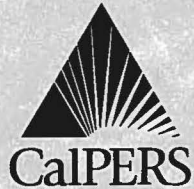
Judith M. Kerr  
Deputy County Counsel

I CERTIFY THAT:  
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date \_\_\_\_\_  
ATTEST: TERRI DALY, Acting Clerk of the Board of Supervisors  
of the County of El Dorado, State of California.

By \_\_\_\_\_

Deputy Clerk



California  
Public Employees' Retirement System

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## **AMENDMENT TO CONTRACT**

**Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Board of Supervisors  
County of El Dorado**

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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, 1965, and witnessed December 9, 1964, and as amended effective July 19, 1975, December 10, 1975, September 20, 1980, October 18, 1980, December 27, 1980, November 28, 1981, October 2, 1982, July 1, 1985, October 31, 1992, December 2, 1994, June 21, 1997, February 7, 1998, June 19, 1999, September 25, 1999, July 29, 2000, June 2, 2001, November 30, 2002 and June 28, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

Pursuant to Government Code sections 20460.1, 20469.1, subdivision (b), and 71624, this contract is hereby amended to add the Trial Court of El Dorado County, hereinafter referred to as Trial Court, as a contracting party. Trial Court shall participate in the Public Employees' Retirement System from and after the implementation date of the Trial Court Employment Protection and Governance Act pursuant to the terms and conditions of this contract, making its employees 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 in this contract 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.

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective June 28, 2003, 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 local miscellaneous members entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract, age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract and age 50 for local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1965 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 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.
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. County Peace Officers (included 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. **FIREFIGHTERS.**
6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1980, termination of Social Security, 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 current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).

9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after the effective date of this amendment to contract shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20440 ("County Peace Officer" shall include bailiffs as described in Government Code Section 20440).
  - b. Section 20439 ("County Peace Officer" shall include county jail, detention or correctional facility employees as described in Government Code Section 20439).
  - c. Section 20042 (One-Year Final Compensation) for those local miscellaneous members and local safety members entering membership on or prior to the effective date of this amendment to contract.
  - d. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local miscellaneous members entering membership on or prior to July 1, 1985.
  - e. Section 20903 (Two Years Additional Service Credit).
  - f. Section 20475 (Different Level of Benefits). Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after July 1, 1985.

Section 21353 (2% @ 60 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

Section 21362 (2% @ 50 Full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

- g. Section 21024 (Military Service Credit as Public Service).
  - h. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
  - i. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
  - j. Section 20438 ("County Peace Officer" shall include probation officers, deputy and assistant probation officers, juvenile hall employees, and persons employed as peace officers pursuant to Section 830.5 of the Penal Code as described in Government Code Section 20438).
  - k. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service).
12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on September 20, 1980. 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.
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 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.

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. <sup>SEE</sup>

B. This amendment shall be effective on the 28<sup>th</sup> day of August, 2012.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF SUPERVISORS  
COUNTY OF EL DORADO

BY Karen De Frank  
KAREN DE FRANK, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY [Signature]  
PRESIDING OFFICER

8/28/12  
Witness Date

Attest:  
Marcie MacFarland  
Clerk