

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject:**

**RESOLUTION OF INTENTION AND INTRODUCTION OF TOWN ORDINANCE TO AMEND THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS) AND THE TOWN OF APPLE VALLEY TO IMPLEMENT CALIFORNIA GOVERNMENT CODE SECTION 20475 (DIFFERENT LEVEL OF BENEFITS), SECTION 21354 (2% @ 55 FORMULA) AND SECTION 20037 (THREE-YEAR FINAL COMPENSATION) FOR ALL LOCAL MISCELLANEOUS MEMBERS.**

**Summary Statement:**

On June 22, 2011, staff presented the idea of adding the two year additional service credit retirement incentive benefit to allow for salary savings in lieu of layoffs. In addition to the two year retirement incentive, during the FY 2011/2012 budget process, Town staff discussed adopting a new second formula retirement benefit of 2% at 55 with a three-year final average compensation for all new hires. Over the last two months, staff has been working with representatives from the California Public Employees' Retirement System (CalPERS) to assemble the required paperwork to implement the pension reforms discussed with Council.

Currently, the Town of Apple Valley offers the 2.7% @ 55 formula for all new hires. The Town's current employer contribution rate for this benefit is 16.633% for the miscellaneous members with an employer paid employee rate of 8%. The Town requested and received a contract amendment cost analyst conducted by the CalPERS Actuarial Office. The cost analysis valuation is attached.

(Continued)

**Recommended Action:**

1. Adopt of Resolution No. 2011-43, Resolution of Intention to amend the contract between the Board of Administration of the California Public Employees' Retirement System and the Town Council of the Town of Apple Valley as it relates to these benefit changes;
2. Move to waive the reading of Ordinance No. 423 in its entirety and read by title only.
3. Move to introduce Ordinance No. 423, authorizing an amendment to the contract.

**Proposed by:** Nikki Salas, Director of HR/Risk Mgmt      **Item Number** \_\_\_\_\_

**T. M. Approval:** \_\_\_\_\_      **Budgeted Item**  **Yes**  **No**  **N/A**

Council Meeting Date: 8/23/11

With the adoption of the new 2% @ 55 formula, the employer contribution rate will be 9.539% of reportable earning for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to the contract. Additionally, the Town's new hires will pay the employee contribution rate of 7%. The implement of the new second tier retirement plan will result in a savings to the Town for all new employees hired after the implement of the amended contract with CalPERS. This item is being submitted for Council's consideration as necessitated by Government Code Section 7507.

In order to implement the amendment to the Town's CalPERS contract, the Town Council must adopt a Resolution declaring the Town's intention to amend the contract. Pursuant to Government Code Section 20471, there must be a 20-day period between the adoption of the Resolution of Intention and the adoption of a final Ordinance. Furthermore, the effective date of this amendment cannot be earlier than the first day of a payroll period following the effective date of the final Ordinance. Therefore, Ordinance No 423 will be submitted to the Council for adoption on September 13, 2011, and become effective October 13, 2011. The contract amendment will be effective on October 23, 2011.

**RESOLUTION NO. 2011-43**

**INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
TOWN COUNCIL  
TOWN OF APPLE VALLEY**

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, one of the steps in the procedure 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 change:

To provide Section 20475 (Different Level of Benefits), Section 21354 (2% @ 55 full formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

**APPROVED AND ADOPTED** by the Town Council of the Town of Apple Valley this 23<sup>rd</sup> day of August, 2011.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
TOWN CLERK

## ORDINANCE NO. 423

### AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, APPLE VALLEY, CALIFORNIA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

An Ordinance of the Town of Apple Valley of the Town of Apple Valley authorizing an amendment to the contract between the Town Council of the Town of Apple Valley, Apple Valley, CA and the Board of Administration of the California Public Employees' Retirement System.

The Town Council of the Town of Apple Valley does ordain as follows:

- Section 1. That an amendment to the contract between the Town Council of the Town of Apple Valley, Apple Valley, California 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 2. The Mayor of the Town Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.
- Section 3. Except as specifically amended or revised by the provisions of this ordinance, the provisions of the Town of Apple Valley Municipal Code shall remain in effect.
- Section 4. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under section 36933 of the Government Code of the State of California.
- Section 5. This ordinance shall become effective thirty (30) days after the date of its adoption.
- Section 6. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

**PASSED, APPROVED AND ADOPTED** this 14<sup>TH</sup> day of September, 2011.

Town of Apple Valley

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Town Manager



California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Town Council  
Town of Apple Valley

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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 October 15, 1989, and witnessed September 5, 1989, and as amended effective March 9, 1994, April 12, 1997, December 15, 2000, September 25, 2001, August 22, 2002 and December 11, 2003 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 11, 2003, and hereby replaced by the following paragraphs numbered 1 through 15 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.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after October 15, 1989 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. Employees other than local safety members (herein referred to as local miscellaneous members).

- PLEASE DO NOT SIGN BEYOND THIS LINE
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. **SAFETY EMPLOYEES.**
  6. Removal of the exclusion of "Elected Officials", pursuant to Section 20503, is declarative of agency's previous interpretation and does not mandate any new classes of employees into membership.
  7. This contract shall be a continuation of the contract of the Apple Valley Water District, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred November 28, 1988.
    - a. All benefits provided under this contract shall apply to all past service for former employees of the Town of Apple Valley.
  8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after August 22, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
  9. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after August 22, 2002 and not 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 21354.5 of said Retirement Law (2.7% at age 55 Full).
  10. 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 21354 of said Retirement Law (2% at age 55 Full).
  11. Public Agency elected and elects to be subject to the following optional provisions:
    - a. Section 20042 (One-Year Final Compensation) for local miscellaneous members entering membership on or prior to the effective date of this amendment to contract.
    - b. Section 20938 (Limit Prior Service to Members Employed on Contract Date).



- 2011 DC METRO "BANKING"
- c. Section 20965 (Credit for Unused Sick Leave).
  - d. Section 21024 (Military Service Credit as Public Service).
  - e. Section 20503 (To Remove the Exclusion of Elected Official, Prospectively from December 11, 2003).
  - f. Section 20475 (Different Level of Benefits). Section 21354 (2% @ 55 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.
12. 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 of said Retirement System.
13. 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.
14. 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.

15. 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

TOWN COUNCIL  
TOWN OF APPLE VALLEY

BY \_\_\_\_\_  
DARRYL WATSON, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk



**California Public Employees' Retirement System**  
 Actuarial Office  
 P.O. Box 1494  
 Sacramento, CA 95812-1494  
 TTY: (916) 795-3240  
 (888) 225-7377 phone • (916) 795-2744 fax  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

**RECEIVED**  
 JUL 21 2011

July 11, 2011

Employer Number: 1487  
 Employer Name: TOWN OF APPLE VALLEY  
 Rate Plan: MISCELLANEOUS PLAN

Re: New Second Tier Plan (Section 20475: Different Level of Benefits Provided for New Employees; Section 21354 2% @ 55 Full Formula)

Dear Requestor:

In the table below, we show your 2011-2012 employer contribution rates before and after opening a second tier.

Of the five rate components, the first three are specific to the pool to which the plan belongs and the last two are specific to your agency. However, the Phase out of Normal Cost Difference will be 0% beginning with rates established for 2011-2012, so it has no impact from that time on.

The Side Fund will continue to be paid off by the first tier plan since all the past service on which it is based belongs to those current members who will continue in the first tier. The scheduled dollar amounts payable will continue as before. However, because newly hired members will be covered by the second tier, the number of members and payroll in the first tier will (after several years) gradually decline. The Amortization of Side Fund rate component is the dollars needed to pay off the side fund divided by the payroll. So as long as the Side Fund remains, **the first tier rate will increase as its payroll decreases**. The first tier side fund is scheduled to be paid off after 17 years from June 30, 2011.

Therefore, in determining the employer contributions savings, Amortization of Side Fund should be excluded. For your agency, the ultimate annual employer savings equals the difference between the Normal Cost and Surcharges rates times the second tier payroll. For 2011-2012 the Normal Cost and Surcharges percentage savings is  $(9.887\% + 0.649\%) - (7.684\% + 0.000\%) = 2.852\%$ . **The employer annual dollar savings is about 2.9% of the second tier fiscal year payroll.**

The Risk Pool's Payment on Amortization Bases is a temporary adjustment to the pool's contribution to "get the pool back on schedule". This temporary adjustment varies in amount and duration from pool to pool.

As of June 30, 2009	Existing Plan	New Second Tier Plan
	2.7% @ 55	2% @ 55 for newly hired members
<b>2011-2012 Employer Contribution Rate:</b>		
Risk Pool's Net Employer Normal Cost	9.887%	7.684%
Risk Pool's Payment on Amortization Bases	4.226%	1.855%
One-Year Final Compensation	0.649%	0.000%
Phase out of Normal Cost Difference	0.000%	0.000%
Amortization of Side Fund	1.871%	0.000%
<b>Total Employer Contribution Rate</b>	<b>16.633%</b>	<b>9.539%</b>
<b>2011-2012 Employee Contribution Rate</b>	<b>8.000%</b>	<b>7.000%</b>

The employee rate reduction of 1% would begin immediately after you hire your first employee and last indefinitely.

**California Public Employees' Retirement System**  
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