SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

Special Meeting of the Board of Directors
July 30, 2009
3:30 p.m.

AGENDA

MEMBERS OF THE PUBLIC MAY ADDRESS THE BOARD OF DIRECTORS REGARDING ANY MATTER ON THIS AGENDA. PLEASE COMPLETE A "REQUEST TO ADDRESS THE BOARD" FORM (AVAILABLE AT THE ENTRANCE TO THE BOARD ROOM) AND HAND IT TO THE SECRETARY BEFORE THE ITEM IS CONSIDERED BY THE BOARD. IF YOU WISH TO DISCUSS A MATTER THAT IS NOT ON THE AGENDA DURING A REGULAR MEETING, YOU MAY DO SO UNDER GENERAL DISCUSSION AND PUBLIC COMMENT.

ANY ACTION REQUIRING MORE THAN A MAJORITY VOTE FOR PASSAGE WILL BE SO NOTED.

1. Roll Call and Pledge of Allegiance. (Board Room, Third Floor)
2. Public Comment on Item 3 Only.
3. Resolution of Intent to Amend Contract between the District and California Public Employees Retirement System (CalPERS) to include Sick Leave Conversion to Service Credit.* Board requested to adopt.
4. Public Comment on Item 5 Only.
5. Revision to Board Rules - Board Rule 5-3 - Reimbursable Expenses.* Board requested to authorize. (Director Keller's request.)
6. Public Comment on Item 7-A Only.
7. CLOSED SESSION (Room 303, Board Conference Room)

   A. CONFERENCE WITH LABOR NEGOTIATORS

   Designated representatives: Dorothy W. Dugger, General Manager; Teresa E. Murphy, Assistant General Manager, Administration; and M. Carol Stevens, Burke, Williams, & Sorensen, LLP

   Employee Organizations:
   (1) Amalgamated Transit Union, Local 1555;
   (2) American Federation of State, County and Municipal Employees, Local 3993;
   (3) BART Police Officers Association;
   (4) BART Police Managers Association;
   (5) Service Employees International Union, Local 1021; and
   (6) Service Employees International Union, Local 1021, BART Professional Chapter

   Government Code Section: 54957.6

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to this meeting, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board/Committee meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Director Keller **DATE:** July 24, 2009

FROM: Matthew Burrows, General Counsel

SUBJECT: Proposed Revisions to Board Rules

At your request, I have prepared proposed revisions to the Rules of the Board of Directors intended to accomplish 3 things.

1) Place an express cap on the reimbursement amount on meals for Directors, both in the area and while away on business, of $50.00.

2) To expressly prohibit, in the Board Rules, reimbursement for the purchase of alcoholic beverages.

3) A requirement that any expenditure of public funds made by a District employee on behalf of a Director will identify the Board member and the purpose of the expenditure.

Proposed Revisions to the existing Board Rules are shown below, with the underlined language indicating additions and the struck through language indicating deletions.

I. Board Rule 5-3.1(d) could be amended as follows:

Actual cost for personal expenses, including meals, when away from the District on business for periods in excess of twenty-four (24) hours, <u>except that reimbursement for meals may not exceed $50.00 per Director per meal and may not include the cost of alcoholic beverages.</u> In lieu of reimbursement of actual personal expenses, payment will be made for receipted cost of lodging, telephone and local transportation charges, plus a per diem allowance as prescribed in Management Procedure No. 20 for meals and all other personal expenses incurred while in travel status.

II. A new Board Rule 5-3.2(a)(5) could be added as follows

<u>(5) In regards to personal expenses incurred by Directors while conducting the District's business within the area, or when away from the area for less than twenty four (24) hours, reimbursement for meals may not exceed $50.00 per Director per meal and may not include the cost of alcoholic beverages.</u>

III. Board Rule 5-3.3 could be amended as follows:

(a) Directors shall submit monthly expense reports to the Board through the Controller-Treasurer during the two months following the month in which the expenses are incurred. The Controller-Treasurer shall make a written report to the Board of any expense reports not filed within the two-month period. Expense reports shall include full itemization for all expenses. Such itemization shall include, either on the report or on the supporting document, the date incurred, a description of the expense, the purpose and the amount, including appropriate receipts. Vouchers or receipts satisfactorily supporting requests for reimbursement shall be furnished to the Controller-Treasurer for all items of expense for which such receipts are normally furnished.

(b) The monthly expense report shall include the actual cost of all ~~meals and entertainment~~ travel and personal expenses of any kind received by a Director which are paid for by the District regardless of whose expense account (Director or employee) the items are billed to.

Proposed Motion

That Board Rule 5-3 (Reimbursable Expenses) be amended as described in Examples I, II and III.

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EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:	GENERAL MANAGER ACTION REQ'D:
DATE: c 7/24/09	BOARD INITIATED ITEM: No

Originator/Prepared by: Peter Y Horikoshi Dept: Signature/Date: 7/24/09	General Counsel 7/24/09	Controller/Treasurer 7/24/09	District Secretary [ ]	BARC 7-24-09 [ ]

TITLE:

Resolutions of Intention to Amend Contract between the District and California Public Employees Retirement System (CalPERS) to include Service Credit for Unused Sick Leave. (Board requested to adopt.)

NARRATIVE:

The action the Board is requested to take preserves the District's ability to amend its contract with CalPERS in the near term to include the option called "Service Credit for Unused Sick Leave," provided under California Government Code Section 20965. Because the election of the benefit remains under consideration in the collective bargaining process, we are requesting that the Board consider two separate Resolutions; one for the District's miscellaneous members of CalPERS (all classifications except sworn police officers), and the other for both miscellaneous members and safety members (all classifications). The BART Police Officers' Association (BPOA) and the BART Police Managers' Association (BPMA), who represent BART's safety members, have indicated they may wish to negotiate alternative cost-saving items rather than the service credit option. CalPERS requires a Resolution of Intention as a preliminary step prior to Board action to adopt an amendment. Although both of the Resolutions of Intention will be sent forward to CalPERS for action, the District will inform CalPERS as to which amendment will be approved by the Board when negotiations have been concluded. Board action on the Resolutions of Intention is necessary now because the required pricing analysis performed by CalPERS at our request is no longer valid beyond July 31, 2009. Once the Board's Resolutions have been properly recorded by CalPERS' staff, the District will have the option to implement at any time prior to July 1, 2010, or to refrain from implementing either amendment.

This item was first introduced in the special meeting of the Board of Directors on July 16, 2009, at which no Board action was required.

Both the July 16, 2009 meeting, and today's meeting are to satisfy procedural requirements flowing from recent changes in State law. These changes specify that prior to authorizing certain changes to retirement benefits or other post employment benefits, local legislative bodies, including the District, must undertake preliminary steps. Specifically, California Government Code Section 7507 requires that the legislative body have, "secure[d] the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal costs and any additional accrued liability," and that the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, "be made public at a public meeting at least two weeks prior to the adoption of any changes." This requirement was met during the special meeting of the Board of Directors on July 16, 2009.

An actuary from CalPERS will be present at the meeting to provide information as needed as the Board considers the adoption of the benefit change.

CalPERS Service Credit for Unused Sick Leave

The proposed change would provide for the conversion at the time of retirement of an employee' s accrued, unused sick leave to service credit towards the CalPERS pension. The current conversion rate is approximately one day of service credit for each day of sick leave. To be eligible, an employee's effective date of retirement must be within four months of separation from employment with the employer which granted the sick leave credit.

Currently, employees can realize a benefit from unused sick leave in four ways:
1. Sick leave can be 'banked' annually, subject to certain rules, to be paid out upon termination or retirement at the employee's final rate of pay;
2. Upon retirement, 50% of the employee's unbanked available sick leave can be paid out at the employee's final rate of pay;
3. Sick leave can be transferred annually into the employee's Money Purchase Pension Plan (MPPP) account, subject to IRS contribution limits and other rules; and
4. For the majority of employees, sick leave can be 'bought-out' annually, subject to certain rules, at the employee's rate of pay as of the date of the payment.

Under the new program, the first two of these options, the 'banking' program and 50% pay out at retirement, would be eliminated for all sick leave earned after the effective date of the change. The ability to buyout and the MPPP options would continue as in the past.

In addition, employees would make a one-time choice as to the disposition of accrued sick leave hours earned prior to the effective date of this change. They could either:
- preserve all banked and available hours to be paid out under the present rules; or
- elect to have all previously earned sick leave, both banked and unbanked, converted to CalPERS service credit under the new program.

The new program only affects the disposition of unused sick leave at retirement. All current and future accrued sick leave would remain available for the employee's use to maintain income during a period of illness or other qualifying circumstances during his/her employment.

Costs of the new program are more than offset by savings from the prospective elimination of programs currently in effect that provide for payment of unused sick leave at the pay rate on the date of termination or retirement as applicable, rather than the pay rate on the date the leave accrued.

Actuarial Analysis and Cost/Savings

The CalPERS Actuarial valuations that discuss the costs of amending the CalPERS contract by adding the option of Service Credit for Unused Sick Leave for the miscellaneous group (all groups except sworn police) and the safety group (sworn police) state that in the category of miscellaneous employees, the increase in the Employer contribution rate will be +0.369%. The increase in the Employer rate for safety employees (sworn police) will be +0.523%. Both of these actuarial valuations have been made available to the public. District staff estimates that the discontinuation of Retirement Sick Leave Banking and Retirement Sick Leave 50% Buyback benefits coupled with the adoption of the CalPERS Service Credit for Unused Sick Leave benefit effective October 21, 2009 will more than offset the increase in the CalPERS Employer rate. The first year net savings, if this option applies to all bargaining units for a full year, is $2.2 Million for miscellaneous employees and $0.2 Million for safety employees. The actual savings for FY10, when implemented, will be slightly less, as the change will not be implemented until October. An actuary from CalPERS will be available to answer questions.

Recommendation: To adopt the attached Resolutions

Motion: The Board approves the attached "Resolutions of Intention to Approve an Amendment to Contract between the Board of Administration, California Public Employees' Retirement System and the Board of Directors, San Francisco Bay Area Rapid Transit District" one for miscellaneous members and one for miscellaneous and safety members.

Attachments

- CalPERS Valuation of Credit for Sick Leave for Miscellaneous Employees
- CalPERS Valuation of Credit for Sick Leave for Safety Employees
- CalPERS Resolution of Intention to Approve an Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisco Bay Area Rapid Transit District for Miscellaneous Members
- CalPERS Resolution of Intention to Approve an Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the Board of Directors San Francisco Bay Area Rapid Transit District for Miscellaneous and Safety Members

CalPERS
Actuarial Office
P.O. Box 1494
Sacramento, CA 95812
Telecommunications Device for the Deaf - (916) 795-3240
(888) CalPERS (225-7377) FAX (916) 795-3005

May 13, 2009

Employer Number: 393
Employer Name: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Dear Requestor:

A contract amendment(s) cost analysis for the valuation(s) requested and related information is enclosed.

The change in the employer contribution rate, as of the effective date of the proposed amendment, is displayed on page 4.

If you are aware of others interested in this information (i.e., payroll staff, county court employees, port districts, etc.), please inform them. Sections 20463 (b) and (c) of the California Public Employees' Retirement Law require the governing body of a public agency which requests a contract amendment cost analysis to provide each affected employee organization with a copy within five days of receipt. If this cost analysis is requested by an employee organization, the employee organization is likewise required to provide a copy of the analysis to the public agency within five days of receipt.

IMPORTANT: This cost analysis expires August 1, 2009. A Resolution of Intention (R of I) approved by the agency governing body to amend the contract must be received by this office on or before August 1, 2009 and the amendment effective date must be before July 1, 2010. If either of these two conditions are not met, an updated cost analysis is required to amend the contract. An updated cost analysis may be available as early as November 2009.

To complete the contract amendment process based on the enclosed analysis, you must do the following:

- Complete and return the enclosed Contract Amendment Request and Schedule of Agency Actions form. Within 30 days, CalPERS staff will send your agency the R of I form for adoption.
- Complete and return the adopted R of I to CalPERS on or before August 1, 2009. Adoption of the Final Resolution by this date is not required.

If you have questions about the cost analysis, please call (888) CalPERS (225-7377). Please ask to speak to a contracts analyst for questions about the timing of the contract amendment. Please ask to speak to me for questions about this cost analysis.

Impact of Downturn
As you no doubt are aware, the current financial market volatility has impacted CalPERS trust fund and may impact future employer rates. CalPERS issued Circular Letter No. 200-056-08 on November 18, 2008, a copy of which is enclosed with this cost analysis. This Circular Letter addresses the issue of the recent investment return experience on employer rates; and, we feel it is important for your agency to consider the letter's possible implications on your agency's employer contribution rate in light of the fact that you are currently considering an amendment to your contract.

David Du Bois

David Du Bois, FSA
Senior Pension Actuary, CalPERS

Enclosures

Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- First, all actuarial calculations, including the ones in this cost estimate are based on a lot of assumptions about the future – demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions about what salary increases each employee receives and the most important assumption: what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. For example, the asset earnings for the past 15 years at CalPERS have ranged from -7.2% to 20.1%, yet the 15 year compound return has been 10.4%, well above our assumption.

- Second, the very nature of actuarial funding produces the answer to the question of amendment cost as the sum of two separate pieces:

    1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and

    2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of current members) which is expressed as a lump sum dollar amount.

- The cost is the sum of a percent of future pay and a lump sum dollar amount (the sum of an apple and an orange if you will). To communicate the total cost, either the increase in Normal Cost (i.e., future percent of payroll) must be converted to a lump sum dollar amount (in which case the result is called the increase in the present value of benefits), or the Past Service Cost (i.e., the lump sum) must be converted to a percent of payroll (in which case the result is the increase in the employer's rate). Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. So, the new employer rate can be computed in many different ways depending on how long one will take to pay for it. And don't forget the first bullet point above; all of these results depend on all of the assumptions being exactly realized.

Rate Volatility

As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions are exactly realized (terminations, deaths, disabilities, retirements, salary growth, and investment return) there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called gains and losses and serve to raise or lower the employer's rates from year to year. So, the rates will bounce around, especially due to the ups and downs of investment returns.

The volatility in annual employer rates may be affected by this amendment. The reason is that higher benefits and earlier retirement ages require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two plans, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, see what happens when assets rise or fall 10% above or below the actuarial assumption. For the plan with a ratio of 4, this 10 percent gain or loss in assets is the same in dollars as 40% of payroll; and for the plan with a ratio of 8, this is equivalent to 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first plan's rate changes by 2% of pay while the second plan's rate changes by 4% of pay.

When a plan is amended, liability changes but assets do not. In addition, the desired state is to be 100% funded (i.e., to bring assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the plan's potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility.

As of June 30, 2007		Current Plan		Post-Amendment
Accrued Liability	$	1,307,371,591	$	1,313,535,632
Payroll		210,109,479		210,109,479
Volatility Index		6.2		6.3

It should also be noted that these ratios tend to stabilize as the plan matures. That is, all plans with no past service start their lives with zero assets and zero accrued liability – and so asset to payroll ratio and liability to payroll ratio of zero. However, as time goes by these ratios begin to rise and then tend to stabilize at some constant amount as the plan matures. Higher benefit levels and earlier expected retirements produce higher constant future ratios. For example, our miscellaneous plans have average ratios that range from 2.6% for 2% @ 60 plans to 5.1% for 2.7% @ 55 plans. For safety plans, the ratios range from 5.2% for 2% @ 55 plans to 9.3% for 3% @ 50 plans.

Present Value of Projected Benefits

The table below shows the change in the total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for *current* members of the plan (i.e., without regard to future employees). The difference between this amount and current plan assets must be paid by future employee and employer contributions. As such, the change in the present value of benefits due to the plan amendment represents the "cost" of the plan amendment.

However, for plans with excess assets some or all of this "cost" may already be covered by current excess assets.

As of June 30, 2007		Current Plan		Post-Amendment
Total Assets at Market Value (MVA)	$	1,462,445,815	$	1,462,445,815
Actuarial Value of Assets (AVA)		1,263,850,927		1,263,850,927
AVA / MVA		86.4%		86.4%
Present Value of Projected Benefits (PVB)	$	1,535,801,757	$	1,543,789,040
Actuarial Value of Assets (AVA)		1,263,850,927		1,263,850,927
Present Value of Future Employer and Employee Contributions (PVB – AVA)	$	271,950,830	$	279,938,113
Change to PVB				7,987,283

Accrued Liability

It is not required, nor necessarily desirable, to have accumulated assets sufficient to cover the total present value of benefits until every member has left employment. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates the "desirable" level of plan assets as of that point in time by subtracting the present value of scheduled future employee contributions and future employer normal costs from the total present value of benefits. The resulting "desirable" level of assets is called the *accrued liability*.

A plan with assets exactly equal to the plan's accrued liability is simply "on schedule" in funding that plan, and only future employee contributions and future employer normal costs are needed. A plan with assets below the accrued liability is "behind schedule", or is said to have an *unfunded liability*, and must temporarily increase contributions to get back on schedule. A plan with assets in excess of the plan's accrued liability is "ahead of schedule", or is said to have *excess assets*, and can temporarily reduce future contributions. A plan with assets (AVA) in excess of the total present value of benefits is called *super-funded*, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move all the way from being super-funded to being in an unfunded position.

The changes in your plan's accrued liability, unfunded accrued liability, and the actuarial values of assets funded ratio as of June 30, 2007 due to the plan amendment are shown in the table below.

As of June 30, 2007	Current Plan	Post-Amendment
Entry Age Normal Accrued Liability (AL)	$ 1,307,371,591	$ 1,313,535,632
Actuarial Value of Assets (AVA)	1,263,850,927	1,263,850,927
Unfunded Liability/(Excess Assets) (UAL = AL – AVA)	$ 43,520,664	$ 49,684,705
Funded Ratio (AVA / AL)	96.7%	96.2%
Change to AL		6,164,041

Total Employer Contribution Rate

While the table above gives the changes in the accrued liability and funded status of the plan due to the amendment, there remains the question of what will happen to the employer contribution rate because of the change in plan provisions.

CalPERS policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" on the following page. If the contract amendment effective date is on or before June 30, 2009, the change in the employer contribution rate should be added to the employer's current rate. In general, the policy also provides that the change in unfunded liability due to the plan amendment will be separately amortized over a period of 20 years from the effective date of the amendment and all other components of the plan's unfunded liability/excess assets will continue to be amortized separately.

However, your actuary may choose to apply different rules to plans with a current employer contribution rate of zero. The pre-amendment excess assets in these plans were sufficient to cover the employer's normal cost for one or more years into the future. A plan amendment will use up some or all of the pre-amendment excess assets. In order to maintain our goal of providing rates that are relatively stable, while taking into account known or expected future events, your actuary may decide to spread any remaining excess assets over a single number of years. This is known as a "fresh start" and will, in no case, be less than 5 years. You may call your actuary to discuss further alternative financing options. If the amendment uses up all excess assets and creates an unfunded liability (i.e., from being ahead of schedule to behind schedule), the total post-amendment unfunded liability may be amortized over 20 years.

In no case may the annual contribution with regard to a positive unfunded liability be less than the amount which would be required to amortize that unfunded liability, as a level percent of pay, over 30 years. The table on the following page shows the change in your plan's employer contribution rate due to the plan amendment for fiscal year 2009-2010.

As of June 30, 2007	Current Plan	Post-Amendment
2009-2010 Employer Rate		
Payment for Normal Cost	7.511%	7.628%
Payment on Amortization Bases	1.800%	2.052%
Total Employer Rate	9.311%	**9.680%**
Change to Normal Cost		0.117%
Change to Total Employer Rate		0.369%
Current Amortization Bases [1]	Multiple Bases	
Amendment Amortization Base		
- Fresh Start [2]		N/A
- Multiple Base [3]		20-year
2009-2010 Employee Rate		
Total Employee Rate	6.997%	6.997%
Change to Total Employee Rate		0.000%
2010-2011		
Estimated Employer Rate	9.2%	9.6%
Projection Amortization Base	Multiple Base	Multiple Base

1 – Details of the current amortization base are shown on page 13 of June 30, 2007 annual valuation report. If you have adopted any other subsequent amendments, the current amortization base is the schedule after these adopted amendments.
2 - If a fixed number of years is shown, it means that the current unfunded actuarial liability is projected and amortized over this fixed number of years. This amortization replaces the amortization schedule shown in your June 30, 2007 annual valuation and any other subsequent amendments you have adopted.
3 - If 20-year is shown, it means that the change in liability due to plan amendments is amortized separately over a 20-year period. This amortization schedule is in addition to the amortization schedule shown in the June 30, 2007 annual valuation and any other subsequent amendments you have adopted.

In the above table, the information shown represents the actual initial contribution rate that will apply during fiscal year 2009-2010 if you adopt the amendment. However, these figures do not incorporate the investment return in 2007-2008. The estimated employer rate shown for 2010-2011 incorporates this return and assumes no demographic gains or losses. The rate of return used for the post-amendment analysis was -5.1%. Due to timing and availability of data, the annual valuation projected an employer rate using a rate of return of -2.5%. If the investment rate of return of -5.1% had been available at the time of the annual valuation, the projected employer contribution rate shown in the annual valuation report would be approximately 0.1% higher.

Note that the change in normal cost in the table above may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's payment on amortization bases shown in the table above is a temporary adjustment to the employer contribution to "get the plan back on schedule". This temporary adjustment to the employer rate varies in duration from plan to plan. For example, a plan with initial excess assets being amortized over a short period of time will typically experience a large rate increase when excess assets are fully amortized. While a plan amendment for such a plan may produce little or no increase in the employer contribution rate now, the change in normal cost due to the plan amendment will become fully reflected in the employer contribution rate as soon as initial excess assets are fully amortized.

Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Any mandated benefit improvements not included in the June 30, 2007 annual valuation have not been incorporated into this cost analysis.

Please note that the cost analysis provided in this document **may not** be relied upon after August 1, 2009. If you have not taken action to amend your contract, by this date, you must contact our office for an updated cost analysis, based on the new annual valuation.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2007 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions change from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2007 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.

David Du Bois

David Du Bois, FSA
Senior Pension Actuary, CalPERS

Fin Process Ids: Annual-317004 Base-325491 Proposal-325492

CalPERS
Actuarial Office
P.O. Box 1494
Sacramento, CA 95812
Telecommunications Device for the Deaf - (916) 795-3240
(888) CalPERS (225-7377) FAX (916) 795-3005

July 7, 2009

Employer Number: 393
Employer Name: SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Dear Requestor:

A contract amendment(s) cost analysis for the valuation(s) requested and related information is enclosed.

The change in the employer contribution rate, as of the effective date of the proposed amendment, is displayed on page 4.

If you are aware of others interested in this information (i.e., payroll staff, county court employees, port districts, etc.), please inform them. Sections 20463 (b) and (c) of the California Public Employees' Retirement Law require the governing body of a public agency which requests a contract amendment cost analysis to provide each affected employee organization with a copy within five days of receipt. If this cost analysis is requested by an employee organization, the employee organization is likewise required to provide a copy of the analysis to the public agency within five days of receipt.

IMPORTANT: This cost analysis expires August 1, 2009. A Resolution of Intention (R of I) approved by the agency governing body to amend the contract must be received by this office on or before August 1, 2009 and the amendment effective date must be before July 1, 2010. If either of these two conditions are not met, an updated cost analysis is required to amend the contract. An updated cost analysis may be available as early as November 2009.

To complete the contract amendment process based on the enclosed analysis, you must do the following:

- Complete and return the enclosed Contract Amendment Request and Schedule of Agency Actions form. Within 30 days, CalPERS staff will send your agency the R of I form for adoption.
- Complete and return the adopted R of I to CalPERS on or before August 1, 2009. Adoption of the Final Resolution by this date is not required.

If you have questions about the cost analysis, please call (888) CalPERS (225-7377). Please ask to speak to a contracts analyst for questions about the timing of the contract amendment. Please ask to speak to me for questions about this cost analysis.

Impact of Downturn
As you no doubt are aware, the current financial market volatility has impacted CalPERS trust fund and will impact future employer rates. The CalPERS Chief Actuary has proposed a new smoothing policy which our board approved on June 17, 2009. An agenda item was written highlighting the changes to our smoothing policy which will be implemented in the June 30, 2009 valuation. <u>A copy of the agenda item is enclosed with this cost analysis</u>. This agenda item addresses the issue of the recent investment return experience on employer rates; and we feel it is important for your agency to consider the letter's possible implications on your agency's employer contribution rate in light of the fact that you are currently considering an amendment to your contract.

David Du Bois

David Du Bois, FSA
Senior Pension Actuary, CalPERS

Enclosures

Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- First, all actuarial calculations, including the ones in this cost estimate are based on a lot of assumptions about the future – demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions about what salary increases each employee receives and the most important assumption: what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. For example, the asset earnings for the past 15 years at CalPERS have ranged from -7.2% to 20.1%, yet the 15 year compound return has been 10.4%, well above our assumption.

- Second, the very nature of actuarial funding produces the answer to the question of amendment cost as the sum of two separate pieces:

    1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and

    2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of current members) which is expressed as a lump sum dollar amount.

- The cost is the sum of a percent of future pay and a lump sum dollar amount (the sum of an apple and an orange if you will). To communicate the total cost, either the increase in Normal Cost (i.e., future percent of payroll) must be converted to a lump sum dollar amount (in which case the result is called the increase in the present value of benefits), or the Past Service Cost (i.e., the lump sum) must be converted to a percent of payroll (in which case the result is the increase in the employer's rate). Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. So, the new employer rate can be computed in many different ways depending on how long one will take to pay for it. And don't forget the first bullet point above; all of these results depend on all of the assumptions being exactly realized.

Rate Volatility

As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions are exactly realized (terminations, deaths, disabilities, retirements, salary growth, and investment return) there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called gains and losses and serve to raise or lower the employer's rates from year to year. So, the rates will bounce around, especially due to the ups and downs of investment returns.

The volatility in annual employer rates may be affected by this amendment. The reason is that higher benefits and earlier retirement ages require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two plans, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, see what happens when assets rise or fall 10% above or below the actuarial assumption. For the plan with a ratio of 4, this 10 percent gain or loss in assets is the same in dollars as 40% of payroll; and for the plan with a ratio of 8, this is equivalent to 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first plan's rate changes by 2% of pay while the second plan's rate changes by 4% of pay.

When a plan is amended, liability changes but assets do not. In addition, the desired state is to be 100% funded (i.e., to bring assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the plan's potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility.

As of June 30, 2007		Current Plan		Post-Amendment
Accrued Liability	$	151,615,777	$	152,236,222
Payroll		16,172,204		16,172,204
Volatility Index		9.4		9.4

It should also be noted that these ratios tend to stabilize as the plan matures. That is, all plans with no past service start their lives with zero assets and zero accrued liability – and so asset to payroll ratio and liability to payroll ratio of zero. However, as time goes by these ratios begin to rise and then tend to stabilize at some constant amount as the plan matures. Higher benefit levels and earlier expected retirements produce higher constant future ratios. For example, our miscellaneous plans have average ratios that range from 2.6% for 2% @ 60 plans to 5.1% for 2.7% @ 55 plans. For safety plans, the ratios range from 5.2% for 2% @ 55 plans to 9.3% for 3% @ 50 plans.

Present Value of Projected Benefits

The table below shows the change in the total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for *current* members of the plan (i.e., without regard to future employees). The difference between this amount and current plan assets must be paid by future employee and employer contributions. As such, the change in the present value of benefits due to the plan amendment represents the "cost" of the plan amendment.

However, for plans with excess assets some or all of this "cost" may already be covered by current excess assets.

As of June 30, 2007		Current Plan		Post-Amendment
Total Assets at Market Value (MVA)	$	138,994,612	$	138,994,612
Actuarial Value of Assets (AVA)		120,492,555		120,492,555
AVA / MVA		86.7%		86.7%
Present Value of Projected Benefits (PVB)	$	191,048,860	$	191,923,169
Actuarial Value of Assets (AVA)		120,492,555		120,492,555
Present Value of Future Employer and Employee Contributions (PVB – AVA)	$	70,556,305	$	71,430,614
Change to PVB				874,309

Accrued Liability

It is not required, nor necessarily desirable, to have accumulated assets sufficient to cover the total present value of benefits until every member has left employment. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates the "desirable" level of plan assets as of that point in time by subtracting the present value of scheduled future employee contributions and future employer normal costs from the total present value of benefits. The resulting "desirable" level of assets is called the *accrued liability.*

A plan with assets exactly equal to the plan's accrued liability is simply "on schedule" in funding that plan, and only future employee contributions and future employer normal costs are needed. A plan with assets below the accrued liability is "behind schedule", or is said to have an *unfunded liability*, and must temporarily increase contributions to get back on schedule. A plan with assets in excess of the plan's accrued liability is "ahead of schedule", or is said to have *excess assets*, and can temporarily reduce future contributions. A plan with assets (AVA) in excess of the total present value of benefits is called *super-funded*, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move all the way from being super-funded to being in an unfunded position.

The changes in your plan's accrued liability, unfunded accrued liability, and the actuarial values of assets funded ratio as of June 30, 2007 due to the plan amendment are shown in the table below.

As of June 30, 2007	Current Plan	Post-Amendment
Entry Age Normal Accrued Liability (AL)	$ 151,615,777	$ 152,236,222
Actuarial Value of Assets (AVA)	120,492,555	120,492,555
Unfunded Liability/(Excess Assets) (UAL = AL – AVA)	$ 31,123,222	$ 31,743,667
Funded Ratio (AVA / AL)	79.5%	79.1%
Change to AL		620,445

Total Employer Contribution Rate

While the table above gives the changes in the accrued liability and funded status of the plan due to the amendment, there remains the question of what will happen to the employer contribution rate because of the change in plan provisions.

CalPERS policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" on the following page. If the contract amendment effective date is on or before June 30, 2009, the change in the employer contribution rate should be added to the employer's current rate. In general, the policy also provides that the change in unfunded liability due to the plan amendment will be separately amortized over a period of 20 years from the effective date of the amendment and all other components of the plan's unfunded liability/excess assets will continue to be amortized separately.

However, your actuary may choose to apply different rules to plans with a current employer contribution rate of zero. The pre-amendment excess assets in these plans were sufficient to cover the employer's normal cost for one or more years into the future. A plan amendment will use up some or all of the pre-amendment excess assets. In order to maintain our goal of providing rates that are relatively stable, while taking into account known or expected future events, your actuary may decide to spread any remaining excess assets over a single number of years. This is known as a "fresh start" and will, in no case, be less than 5 years. You may call your actuary to discuss further alternative financing options. If the amendment uses up all excess assets and creates an unfunded liability (i.e., from being ahead of schedule to behind schedule), the total post-amendment unfunded liability may be amortized over 20 years.

In no case may the annual contribution with regard to a positive unfunded liability be less than the amount which would be required to amortize that unfunded liability, as a level percent of pay, over 30 years. The table on the following page shows the change in your plan's employer contribution rate due to the plan amendment for fiscal year 2009-2010.

CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June 30, 2007
SAFETY PLAN FOR SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
Employer Number: 393
Benefit Description: Section 20965, Credit for Unused Sick Leave (Safety Only)

As of June 30, 2007	Current Plan	Post-Amendment
2009-2010 Employer Rate		
Payment for Normal Cost	20.333%	20.521%
Payment on Amortization Bases	13.115%	13.450%
Total Employer Rate	33.448%	**33.971%**
Change to Normal Cost		0.188%
Change to Total Employer Rate		0.523%
Current Amortization Bases [1]	Multiple Bases	
Amendment Amortization Base		
- Fresh Start [2]		N/A
- Multiple Base [3]		20-year
2009-2010 Employee Rate		
Total Employee Rate	9.000%	9.000%
Change to Total Employee Rate		0.000%
2010-2011		
Estimated Employer Rate	33.2%	33.8%
Projection Amortization Base	Multiple Base	Multiple Base

1 – Details of the current amortization base are shown on page 13 of June 30, 2007 annual valuation report. If you have adopted any other subsequent amendments, the current amortization base is the schedule after these adopted amendments.
2 - If a fixed number of years is shown, it means that the current unfunded actuarial liability is projected and amortized over this fixed number of years. This amortization replaces the amortization schedule shown in your June 30, 2007 annual valuation and any other subsequent amendments you have adopted.
3 - If 20-year is shown, it means that the change in liability due to plan amendments is amortized separately over a 20-year period. This amortization schedule is in addition to the amortization schedule shown in the June 30, 2007 annual valuation and any other subsequent amendments you have adopted.

In the above table, the information shown represents the actual initial contribution rate that will apply during fiscal year 2009-2010 if you adopt the amendment. However, these figures do not incorporate the investment return in 2007-2008. The estimated employer rate shown for 2010-2011 incorporates this return and assumes no demographic gains or losses. The rate of return used for the post-amendment analysis was -5.1%. Due to timing and availability of data, the annual valuation projected an employer rate using a rate of return of -2.5%. If the investment rate of return of -5.1% had been available at the time of the annual valuation, the projected employer contribution rate shown in the annual valuation report would be approximately 0.1% higher.

Note that the change in normal cost in the table above may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's payment on amortization bases shown in the table above is a temporary adjustment to the employer contribution to "get the plan back on schedule". This temporary adjustment to the employer rate varies in duration from plan to plan. For example, a plan with initial excess assets being amortized over a short period of time will typically experience a large rate increase when excess assets are fully amortized. While a plan amendment for such a plan may produce little or no increase in the employer contribution rate now, the change in normal cost due to the plan amendment will become fully reflected in the employer contribution rate as soon as initial excess assets are fully amortized.

Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Any mandated benefit improvements not included in the June 30, 2007 annual valuation have not been incorporated into this cost analysis.

Please note that the cost analysis provided in this document **may not** be relied upon after August 1, 2009. If you have not taken action to amend your contract, by this date, you must contact our office for an updated cost analysis, based on the new annual valuation.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2007 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions change from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2007 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.

David Du Bois

David Du Bois, FSA
Senior Pension Actuary, CalPERS

Fin Process Ids: Annual-316194 Base-326791 Proposal-326792

RESOLUTION OF INTENTION

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

BOARD OF DIRECTORS
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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 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 change:

To provide Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members.

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.

By:____________________________
Presiding Officer

____
Title

____
Date adopted and approved

(Amendment)
CON-302 (Rev. 4/96)

C

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
San Francisco Bay Area Rapid Transit District

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 December 1, 1958, and witnessed November 14, 1958, and as amended effective January 1, 1961, August 26, 1969, January 31, 1972, July 1, 1976, October 1, 1976, July 1, 1978, January 1, 1981, December 11, 1989, August 31, 1992, January 13, 1995, April 26, 1996, July 16, 1998, September 13, 2002, November 22, 2002 and July 1, 2004 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 1, 2004, 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 December 1, 1958 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. 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. **FIRE FIGHTERS.**

6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1960, the effective date of Social Security coverage, and 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).

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 21362.2 of said Retirement Law (3% at age 50 Full).

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

   a. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.

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

   c. Section 21024 (Military Service Credit as Public Service).

   d. Section 21027 (Military Service Credit for Retired Persons).

   e. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local safety members in the following groups:

      Police Managers' Association
      Police Officers Association

f. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local miscellaneous members in the following groups:

BART Police Officers' Association
BART Police Management Association

g. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members only.

9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1978. 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. 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 safety members.

b. 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.

c. 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___________________________________
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

BY______________________________
PRESIDING OFFICER

____
Witness Date

Attest:

____
Clerk

RESOLUTION OF INTENTION

TO APPROVE AN AMENDMENT TO CONTRACT

BETWEEN THE

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

AND THE

BOARD OF DIRECTORS
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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 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 change:

To provide Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members and local safety members.

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.

By:______________________________
Presiding Officer

____
Title

____
Date adopted and approved

CalPERS

EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Directors
San Francisco Bay Area Rapid Transit District

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 December 1, 1958, and witnessed November 14, 1958, and as amended effective January 1, 1961, August 26, 1969, January 31, 1972, July 1, 1976, October 1, 1976, July 1, 1978, January 1, 1981, December 11, 1989, August 31, 1992, January 13, 1995, April 26, 1996, July 16, 1998, September 13, 2002, November 22, 2002 and July 1, 2004 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 1, 2004, 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 December 1, 1958 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. 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. FIRE FIGHTERS.

6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1960, the effective date of Social Security coverage, and 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).

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 21362.2 of said Retirement Law (3% at age 50 Full).

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

   a. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.

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

   c. Section 21024 (Military Service Credit as Public Service).

   d. Section 21027 (Military Service Credit for Retired Persons).

   e. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local safety members in the following groups:

      Police Managers' Association
      Police Officers Association

f. Section 20692 (Employer Paid Member Contributions Converted to Payrate During the Final Compensation Period) for local miscellaneous members in the following groups:

   BART Police Officers' Association
   BART Police Management Association

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

9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1978. 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. 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 safety members.

    b. 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.

    c. 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	BOARD OF DIRECTORS SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
BY_______________________________ LORI MCGARTLAND, CHIEF EMPLOYER SERVICES DIVISION PUBLIC EMPLOYEES' RETIREMENT SYSTEM	BY_______________________________ PRESIDING OFFICER
	_______________________________ Witness Date
	Attest: _______________________________ Clerk