



CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 20, 2012

ITEM NUMBER: QB-1

SUBJECT: AMENDMENT TO THE CONTRACT BETWEEN CALPERS AND THE CITY OF COSTA MESA TO INCLUDE PROVISIONS PURSUANT TO GOVERNMENT CODE SECTION 20475 IMPLEMENTING THE 2%@50 RETIREMENT FORMULA FOR FIRE SAFETY EMPLOYEES; AND ADOPTION OF RESOLUTIONS DOCUMENTING EMPLOYER PAID MEMBER CONTRIBUTIONS

DATE: NOVEMBER 8, 2012

FROM: CEO's OFFICE/HUMAN RESOURCES DIVISION

PRESENTATION BY: LANCE M. NAKAMOTO, HUMAN RESOURCES MANAGER
RYAN L. THOMAS, PRINCIPAL HUMAN RESOURCES ANALYST

FOR FURTHER INFORMATION CONTACT: LANCE M. NAKAMOTO AT (714) 754-5172
RYAN THOMAS AT (714) 754-5104

RECOMMENDATION:

- 1) Give second reading by title only and adopt Ordinance No. 12-8 (Attachment I), which authorizes the amendment to the California Public Employee's Retirement System (CalPERS) contract to implement the 2%@50 retirement formula for Safety Fire employees under Government Code Section 20475.
- 2) Adopt Resolution No. 12-__ (Attachment II), which documents the Employer Paid Member Contribution (EPMC) with CalPERS for the Costa Mesa Firefighters Association (CMFA) and Costa Mesa Fire Management Association (CMFMA).
- 3) Adopt Resolution No. 12-__ (Attachment III), which documents the EPMC with CalPERS for the Costa Mesa City Employees Association (CMCEA) and the Confidential employee group.

BACKGROUND:

Presently, the City of Costa Mesa contracts with CalPERS for a 3%@50 retirement plan for Fire Safety employees. Prospectively, in the event the City was to hire existing or current CalPERS or other public agency retirement members (i.e. lateral candidate), they would be covered by the 2%@50 formula. Employees covered by the 2%@50 CalPERS Benefit Formula shall contribute 9% of the employee's PERSable earnings towards their employee retirement contribution. Assembly Bill 340, also known as the California Employees' Pension Reform Act, passed by the legislature and signed by the Governor provides that effective January 1, 2013 new CalPERS members will receive lower retirement formulas.

At the October 16, 2012, City Council meeting, the City Council adopted Resolution of Intention No. 12-67, gave first reading by title only to Ordinance No.12-8 and waived future reading.

ANALYSIS:

The following regulations are required by CalPERS in order to complete the contract amendment process:

1. A final reading of the Ordinance and a City Council vote on adoption must occur at least twenty (20) days after the adoption of the Resolution of Intention (November 20, 2012 City Council Meeting).
2. The effective date of the contract amendment must be the first day of a payroll period and may not be earlier than the day after the effective date of the Ordinance. Therefore, the effective date of the contract would be December 30, 2012, the first day of the next pay period.

In conjunction with the implementation of the 2nd tier retirement benefit for CMFA, City staff was advised by CalPERS to ensure the change to EPMC amounts (9% for 1st tier employees and 0% for 2nd tier employees) are documented. As CMCEA has also implemented the 2nd tier retirement effective March 11, 2012, staff is also documenting the change to the EPMC amounts for CMCEA (2.949% for 1st tier employees and 0% for 2nd tier employees).

ALTERNATIVES CONSIDERED:

The implementation of this 2nd tier retirement plan is the City's obligation under the Amendment to the Memorandum of Understanding (MOU) with CMFA (Attachment IV) and the Amendment to the Letter of Agreement (LOA) with CMFMA (Attachment V) that were adopted by the City Council on September 4, 2012. Any other alternatives that the City Council would like to discuss with CMFA or CMFMA would have to be done through the meet and confer process.

FISCAL REVIEW:

The employer contribution rate will be 19.204% of reportable earnings for local fire members entering membership for the first time in the fire classification after the effective date of this amendment to contract.

The immediate total fiscal impact is unknown at this time due to fact that the 2%@50 benefit will only be given to new employees. However, the 2%@50 benefit is less expensive and therefore will cost less than the current 3%@50 benefit.

Eventually, the City will have less active participants in the 3%@50 plan, which may increase CalPERS rates for that plan, but the total retirement cost to the City should remain constant before reducing over time.

Also, the 2nd tier retirement should also provide lower total liabilities and therefore help reduce total unfunded liabilities the City currently has and would continue to have if new hires were provided the 3%@50 benefit. Plans with this lower benefit would also be less volatile during periods of economic recession and therefore more stable.

LEGAL REVIEW:

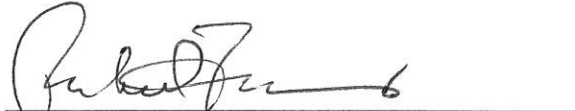
The City Attorney's Office has reviewed the attached documents and, where appropriate, approved them as to form.

CONCLUSION:

In order to amend the CalPERS contract to establish a 2nd tier 2%@50 retirement formula for new hires within the safety fire employees group, the attached Ordinance authorizing the amendment to the contract to implement Government Code Section 20475 must be adopted.



LANCE M. NAKAMOTO
Human Resources Manager



RICHARD FRANCIS
Assistant Chief Executive Officer



BOBBY YOUNG
Director of Finance and I.T.



TOM DUARTE
City Attorney

DISTRIBUTION: CEO
Assistant CEO
City Attorney
City Clerk
Assistant Finance Director
Budget and Research Manager

ATTACHMENTS: I Ordinance No. 12-8
II Resolution No. 12-__
III Resolution No. 12-__
IV Amendment to Memorandum of Understanding between the CMFA and the City of Costa Mesa
V Amendment to Letter of Agreement between the CMFMA and the City of Costa Mesa
VI Side Letter of Agreement between the CMCEA and the City of Costa Mesa

ORDINANCE NO. 12-8

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

WHEREAS, due to the ongoing economic difficulties, the City of Costa Mesa ("City") recently negotiated and approved revised agreements with its employees whereby all employee groups will contribute additional sums towards the employee portion of their retirement contribution; and

WHEREAS, as a result of these negotiations, on or about September 4, 2012, the City Council adopted amendments to the Costa Mesa Fire Association ("CMFA") Memorandum of Understanding ("MOU") and Costa Mesa Fire Management Association ("CMFMA") with the City by way of a Side Letter of Agreement ("LOA"); and

WHEREAS, the LOA revises retirement contributions for second tier employees; and

WHEREAS, the City has been working with the California Public Employment Retirement Systems ("CalPERS") in order to effectuate the changes to City's MOU with CMFA and CMFMA; and

WHEREAS, CalPERS has stringent timelines for amendment to CalPERS contracts including a limited window of time each year to amend contracts, processing of only one contract amendment at a time, and a special valuation from CalPERS that requires time for completion; and

WHEREAS, additionally, CalPERS procedures for contract amendments requires the effective date of the contract amendment as the first day of a payroll period and may not be earlier than the day after the effective date of the Ordinance; and

WHEREAS, on October 16, 2012, Resolution of Intention No. 12- was approved by the City Council, and a first reading of the Ordinance authorizing an amendment to the contract occurred; and

WHEREAS, a final reading of the Ordinance and a City Council vote on adoption will occur on November 20, 2012.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. That an amendment to the contract between the City Council of the City of Costa Mesa and the Board of Administration, California Public Employees'

Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit "A," and by such reference made a part hereof as though herein set out in full.

Section 2. The Mayor of the City of Costa Mesa is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 4: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law.

PASSED AND ADOPTED this _____ day of _____, 2012.

Eric Bever
Mayor of the City of Costa Mesa

ATTEST:

Brenda Green
Interim City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

Tom Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Brenda Green, Interim City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 12- was introduced and considered section by section at a regular meeting of said City Council held on the 16th day October 2012, and was thereafter passed and adopted as a whole as an ordinance, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this _____ day of _____, 2012.

City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTION ("EPMC") RELATING TO COSTA MESA FIREFIGHTERS ASSOCIATION ("CMFA") AND COSTA MESA FIRE MANAGEMENT ASSOCIATION ("CMFMA") EMPLOYEES.

WHEREAS, the governing body of the CITY OF COSTA MESA has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691; and

WHEREAS, the governing body of the CITY OF COSTA MESA has a written agreement with the Costa Mesa Firefighters Association ("CMFA") and Costa Mesa Fire Management Association ("CMFMA") respectively that specifically provide for the normal member contributions to be paid by the employer and reported as additional compensation; and

WHEREAS, one of the steps to change Government Code Section 20691 is the adoption by the governing body of the CITY OF COSTA MESA of a Resolution for paying and reporting the value of said Employer Paid Member Contributions ("EPMC") pursuant to Title 2 of the California Code of Regulations Section 571(a)(1); and

WHEREAS, the governing body of the CITY OF COSTA MESA has indentified the following conditions for the purpose of its election to pay EPMC; and

- This benefit shall apply to all CMFA and CMFMA employees.
- For employees eligible for the 1st tier retirement benefit (3%@50), this benefit shall consist of paying 9% of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable (excluding Government Code Section 20636(c)(4)) as additional compensation.
- For employees eligible for the 2nd tier retirement benefit (2%@50), this benefit shall consist of paying 0% of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable (excluding Government Code Section 20636(c)(4)) as additional compensation.
- The effective date of this Resolution must occur on or before December 30, 2012.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the CITY OF COSTA MESA hereby ordains as follows:

Section 1. For employees eligible for the 1st tier retirement benefit (3%@50), the CITY OF COSTA MESA shall pay 9% of the normal contributions as Employer Paid Member

Contributions and report the same percent (value) of compensation earnable as additional compensation.

Section 2. For employees eligible for the 2nd tier retirement benefit (2%@50), the CITY OF COSTA MESA shall pay none ("0%") of the normal contributions as EPMC, and report the same percent (value) of compensation earnable as additional compensation.

Section 3. The Employer Paid Member Contributions set forth in Sections 1 and 2 above, shall apply to all Costa Mesa Firefighters' Association and Costa Mesa Fire Management Association employees.

Section 4. If any provision of this Resolution, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 5. This Resolution shall take effect immediately.

Section 6. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND APPROVED ON THIS DAY OF NOVEMBER, 2012.

BY

(Name of Official)

(Title of Official)

(Date adopted and approved)

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTION ("EPMC") RELATED TO COSTA MESA CITY EMPLOYEES ASSOCIATION ("CMCEA") AND NON-REPRESENTED CONFIDENTIAL EMPLOYEES.

WHEREAS, the governing body of the CITY OF COSTA MESA has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691; and

WHEREAS, the governing body of the CITY OF COSTA MESA has a written agreement with the Costa Mesa Employees Association ("CMCEA") and Non-Represented Confidential Employees ("Confidential Employees") that specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation; and

WHEREAS, one of the steps in the procedures to change Section 20691 is the adoption by the governing body of the CITY OF COSTA MESA of a Resolution for paying and reporting the value of said Employer Paid Member Contributions (EPMC); pursuant to CCR title 2 section 571(a)(1); and

WHEREAS, the governing body of the CITY OF COSTA MESA has indentified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all CMCEA and Confidential Employees.
- For full-time employees eligible for the 1st tier retirement benefit (2.5% @ 55), this benefit shall consist of paying 2.949% of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable (excluding Government Code Section 20636(c)(4)) as additional compensation.
- For full-time employees eligible for the 2nd tier retirement benefit (2% @ 60), this benefit shall consist of paying 0% of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable (excluding Government Code Section 20636(c)(4)) as additional compensation.
- The effective date of this Resolution must occur on or before December 2, 2012.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the CITY OF COSTA MESA hereby ordains as follows:

Section 1. For full-time employees eligible for the 1st tier retirement benefit (2.5% @ 55), the CITY OF COSTA MESA shall pay 2.949% of the normal contributions as EPMC, and report the same percent (value) of compensation earnable as additional compensation.

Section 2. For full-time employees eligible for the 2nd tier retirement benefit (2%@60), the CITY OF COSTA MESA shall pay none ("0%") of the normal contributions as EPMC, and report the same percent (value) of compensation earnable as additional compensation.

Section 3. The Employer Paid Member Contributions set forth in Sections 1 and 2 above, shall apply to all Costa Mesa Employee Association employees and Non-Represented Confidential Employees.

Section 4. If any provision of this Resolution, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 5. This Resolution shall take effect immediately.

Section 6. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND APPROVED ON THIS DAY OF NOVEMBER, 2012.
BY

(Name of Official)

(Title of Official)

_____(Date adopted and approved)

AMENDMENT TO 2007-2013 MEMORANDUM OF UNDERSTANDING BETWEEN REPRESENTATIVES OF THE COSTA MESA FIREFIGHTERS ASSOCIATION AND THE CITY OF COSTA MESA (AS MODIFIED BY THE OCTOBER 20, 2010 SIDE LETTER OF AGREEMENT)

This AMENDMENT to the 2007-2013 Memorandum of Understanding between representatives of the Costa Mesa Firefighter Association and the City of Costa Mesa (as modified by the October 20, 2010 Side Letter of Agreement) shall take precedence over any and all conflicting provisions within the 2007-2013 MOU and/or the October 20, 2010 Side Letter of Agreement. Unless otherwise indicated all provisions of this AMENDMENT shall be effective concurrent with City Council adoption of the AMENDMENT. **HOWEVER, THIS AMENDMENT SHALL BE OF NO FORCE OR EFFECT UNLESS AND UNTIL ADOPTED BY THE CITY COUNCIL.**

Representatives of the Costa Mesa Firefighters Association and the City of Costa Mesa having met and conferred in good faith, do now agree as follows:

1. Article 2 – TERM OF AGREEMENT – there shall be no extension of the MOU expiring on June 30, 2014. Unless specifically addressed to the contrary in this AMENDMENT, any and all matters within the scope of representation, including those within the MOU expiring on June 30, 2014, shall be subject to modification on and after July 1, 2014, subject to completion of the meet and confer process and any related impasse proceedings.
2. Article 3 – BASIC SALARIES AND WAGES – through and including June 30, 2017, there shall be no base salary adjustments, and/or there shall be no “salary adjustments” as that term is used in MOU Article 3 or as provided for in MOU Articles 3.2 and/or 3.3 Phase I and/or the October 20, 2010 Side Letter of Agreement. Further, Article 3.3 Phase I shall be null and void and stricken from the MOU.
3. Article 6 – RETIREMENT – MOU Article 6.1 CalPERS shall be amended to provide that all unit safety members hired on and after City Council adoption of this AMENDMENT and the effective date of necessary CalPERS contract AMENDMENTS, shall be enrolled in the Government Code § 21362 “2% @ 50” pension benefit formula.

As is provided for in Government Code § 20037, said employees who shall be enrolled in the “2% @ 50” pension benefit formula, shall have “final compensation” determined by computation of the highest average annual compensation earnable by the member during any period of three consecutive years of employment preceding the effective date of the employee’s retirement.

Pursuant to Government Code § 20691, each unit safety member subject to enrollment in the "2% @ 50" pension benefit formula shall be individually responsible for contributing 100% of the normal rate of employee PERS contribution mandated by Government Code § 20678, as it may from time to time provide. There will be no Employer Paid Member Contribution (EPMC) under the "2% at 50" pension benefit formula.

With the exception of the Government Code § 20965 UNUSED SICK LEAVE SERVICE CREDIT and any optional post-retirement survivor allowances provided for in Government Code § 21624 or otherwise, said unit safety members enrolled in the "2% @ 50" pension benefit formula shall be subject to the CalPERS options described in Section 6.3 of the MOU, to the extent that any such option is not contrary to the provisions of this AMENDMENT and/or is otherwise not made available by CalPERS to unit safety members enrolled in the "2% @ 50" pension benefit formula.

Effective retroactive to July 1, 2012, those unit safety members employed prior to the effective date of the "2% @ 50" pension benefit formula and who are subject to the Government Code § 21362.2 "3% @ 50" pension benefit formula, shall be individually responsible for contributing 5% of "compensation earnable" to the normal rate of local safety member contribution to CalPERS. This contribution shall be made pursuant to the City's existing Government Code § 20516(a) cost sharing contract or Government Code § 20516(f) if CalPERS requires the cost sharing to be made pursuant to subsection (f). The City will continue to pay and report the value of the Employer Paid Member Contribution (EPMC) at 9% for those unit safety members employed prior to the effective date of the "2% at 50" pension benefit formula.

Absent a state law mandate requiring a modification to the amount of individual-funded payment of normal rates of retirement benefit contributions, the above member contribution provisions shall not be subject to modification prior to June 30, 2017.

This AMENDMENT and the MOU shall be subject to a reopener confined to addressing any state law mandates becoming effective during the term of the AMENDMENT and MOU and which impact any aspect of the pension benefits/funding as are applicable to any unit members. The resultant meet and confer process shall be a good faith process by which to address in all or part, the offsetting of a reduction in compensation resulting from the aforesaid statutory mandate(s). As with any

Government Code § 3500 et. seq. meet and confer process, an agreement in the above regard is not mandated.

4. Article 12 – STAFFING LEVELS – the provisions of MOU Article 12.1 shall in their entirety be null and void and stricken from the MOU.

Article 12.1 shall be replaced by Exhibit A to this AMENDMENT, a document entitled FIRE DEPARTMENT OPERATIONAL RESTRUCTURING. Any and/or all provisions in Exhibit A shall be subject to change based upon concurrence of the Fire Chief and the Chief Executive Officer. Although the Fire Chief and/or Chief Executive Officer shall solicit and consider Association perspectives regarding any such contemplated change, the solicitation and consideration of Association perspectives shall not be governed by the requirements of Government Code § 3500 et. seq., the Meyers-Milias-Brown Act. Therefore, the Association clearly, knowingly, and unequivocally waives its rights to engage in the meet and confer process as a condition precedent to any change in the Exhibit A.

As regards unit members employed prior to City Council adoption of this AMENDMENT, through and including June 30, 2017, there shall be no layoff. This provision shall be of no force or effect on and after July 1, 2017.

Through and including June 30, 2017, any City contracting with a third party (public sector) for provision of any or all functions presently performed by City employees occupying classifications represented by the Costa Mesa Firefighters Association, shall not result in the layoff of any unit member employed prior to City Council adoption of this AMENDMENT. This provision shall be of no force or effect on and after July 1, 2017.

Further, through and including June 30, 2017, the Costa Mesa Fire Department shall remain operational as a department of the City.

5. WORK SCHEDULE – attached to this AMENDMENT as Exhibit B is an exemplar of the 56 hour work week schedule that shall not be subject to modification prior to July 1, 2017. (The 56 hour work week is based on 24 hour shifts.) This provision shall not prevent shift/assignment changes impacting the actual days of the week that any unit member works.
6. Article 7 – RETIREE MEDICAL PROGRAMS – MOU Article 7.1 RETIREMENT HEALTH SAVINGS PLAN shall be suspended, resulting in a suspension of the MOU Article 7.1 mandated 1% employee and 1%

City contributions to the plan. Accordingly, there shall be a suspension of the payroll deduction of the 1% former employee mandated contribution.

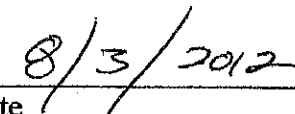
If permitted by any applicable statute or regulation, any future City funding of the Retirement Health Savings Plan shall terminate. If not permitted by applicable statute, the City shall have the option of either: 1) dissolving the Plan or 2) suspending any and all City funding of the Plan without time limitation.

7. Any provisions of this AMENDMENT which specifically provide for a matter within the scope of representation remaining unchanged through June 30, 2017, shall be subject to modification thereafter by means of the meet and confer process and any then-applicable impasse resolution proceedings, unless it is also provided that the particular provision shall be of no force or effect on or after July 1, 2017, in which case the terms and conditions of employment existing prior to this AMENDMENT, shall be reinstated effective July 1, 2017.

AGREED:



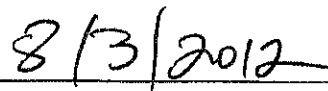
Costa Mesa Firefighters Association



Date



City of Costa Mesa



Date

AMENDMENT TO OCTOBER 26, 2010-JUNE 30, 2014 LETTER OF AGREEMENT
BETWEEN THE COSTA MESA FIRE MANAGEMENT ASSOCIATION
AND THE CITY OF COSTA MESA

This AMENDMENT to the October 26, 2010-June 30, 2014 LETTER OF AGREEMENT between representatives of the Costa Mesa Fire Management Association and the City of Costa Mesa shall take precedence over any and all conflicting provisions within said Letter of Agreement or within any City Council approved Resolution or conflicting past practices within the scope of representation. Unless otherwise indicated, all provisions of this AMENDMENT shall be effective concurrent with City Council adoption of the AMENDMENT. **HOWEVER, THIS AMENDMENT SHALL BE OF NO FORCE OR EFFECT UNLESS AND UNTIL ADOPTED BY THE CITY COUNCIL.**

Representatives of the Costa Mesa Fire Management Association and the City of Costa Mesa having met and conferred in good faith, do now agree as follows:

1. ARTICLE 2 – TERM OF LETTER OF AGREEMENT – there shall be no extension of the LETTER OF AGREEMENT expiring on June 30, 2014. Unless specifically addressed to the contrary in this AMENDMENT, any and all matters within the scope of representation, including those within the LETTER OF AGREEMENT, shall be subject to modification on and after July 1, 2014, subject to completion of the meet and confer process and any related impasse proceedings.
2. BASIC SALARIES AND WAGES – through and including June 30, 2017, there shall be no base salary adjustments, and/or there shall be no “salary adjustments” as that term is used in LETTER OF AGREEMENT ARTICLE VII.
3. ARTICLE II – RETIREMENT – The LETTER OF AGREEMENT shall be amended to provide that all unit safety members hired on and after City Council adoption of this AMENDMENT and the effective date of necessary CalPERS contract AMENDMENTS, shall be enrolled in the Government Code § 21362 “2% @ 50” pension benefit formula.

As is provided for in Government Code § 20037, said employees who shall be enrolled in the “2% @ 50” pension benefit formula, shall have “final compensation” determined by computation of the highest average annual compensation earnable by the member during any period of three consecutive years of employment preceding the effective date of the employee’s retirement.

Pursuant to Government Code § 20691, each unit safety member subject to enrollment in the “2% @ 50” pension benefit formula shall be individually responsible for contributing 100% of the normal rate of

employee PERS contribution mandated by Government Code § 20678, as it may from time to time provide. There will be no Employer Paid Member Contribution (EPMC) under the “2% at 50” pension benefit formula.

With the exception of any optional post-retirement survivor allowances provided for in Government Code § 21624 or otherwise, said unit safety members enrolled in the “2% @ 50” pension benefit formula shall be subject to the CalPERS options described in Section 6.3 of the LETTER OF AGREEMENT, to the extent that any such option is not contrary to the provisions of this AMENDMENT and/or is otherwise not made available by CalPERS to unit safety members enrolled in the “2% @ 50” pension benefit formula.

Through and including June 30, 2017, unit safety members employed prior to the effective date of the “2% @ 50” pension benefit formula and who are subject to the Government Code § 21362.2 “3% @ 50” pension benefit formula, shall be individually responsible for contributing 5% of “compensation earnable” to the normal rate of local safety member contribution to CalPERS. This contribution shall be made pursuant to the City’s existing Government Code § 20516 cost sharing contract. The City will continue to pay and report the value of the Employer Paid Member Contribution (EPMC) at 9% for those unit safety members employed prior to the effective date of the “2% at 50” pension benefit formula.

Absent a state law mandate requiring a modification to the aLETTER OF AGREEMENTnt of individual-funded payment of normal rates of retirement benefit contributions, the above member contribution provisions shall not be subject to modification prior to June 30, 2017.

This AMENDMENT shall be subject to a reopener confined to addressing any state law mandates becoming effective during the term of the AMENDMENT and which impact any aspect of the pension benefits/funding as are applicable to any unit members. The resultant meet and confer process shall be a good faith process by which to address in all or part, the offsetting of a reduction in compensation resulting from the aforesaid statutory mandate(s). As with any Government Code § 3500 et. seq. meet and confer process, an agreement in the above regard is not mandated.

4. LAYOFFS/CONTRACTING - As regards unit members employed prior to City Council adoption of this AMENDMENT, through and including June 30, 2017, there shall be no layoff. This provision shall be of no force or effect on and after July 1, 2017.

Through and including June 30, 2017, any City contracting with a third party (public sector) for provision of any or all functions presently performed by City employees occupying classifications represented by the Costa Mesa Fire Management Association, shall not result in the layoff of any unit member employed prior to City Council adoption of this AMENDMENT. This provision shall be of no force or effect on and after July 1, 2017.

Further, through and including June 30, 2017, the Costa Mesa Fire Department shall remain operational as a department of the City.

5. WORK SCHEDULE – attached to this ADMENDMENT as Exhibit A is an example of the 56-hour work schedule that shall not be subject to modification prior to July 1, 2017. (The 56 hour work week is based upon 24 hour shifts). At the sole discretion of the Fire Chief with concurrence by the City's Chief Executive Officer, one unit member can be assigned to a forty (40) hour per week administrative assignment.
6. ARTICLE III – RETIREE MEDICAL PROGRAM – RETIREMENT HEALTH SAVINGS PLAN shall be suspended indefinitely, resulting in a suspension of the mandated 1% employee and 1% City contributions to the plan. Accordingly, there shall be a suspension of the payroll deduction of the 1% former employee mandated contribution.

If permitted by any applicable statute or regulation, any future City funding of the Retirement Health Savings Plan shall terminate. If not permitted by applicable statute, the City shall have the option of either: 1) dissolving the Plan or 2) suspending any and all City funding of the Plan without time limitation.

7. ARTICLE VIII – the City's contribution towards employees' medical and health care benefits shall be frozen at the 2010 level for calendar years 2011, 2012 and 2013.

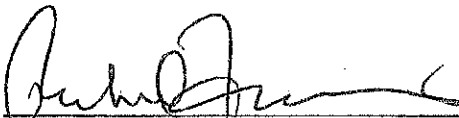
AGREED:



Costa Mesa Fire Management Association

8/31/12

Date



City of Costa Mesa

8-31-12

Date



Side Letter of Agreement
September 1, 2004 – August 31, 2009
Memorandum of Understanding
Between the
Costa Mesa City Employees Association (CMCEA)
And the City of Costa Mesa

This side Letter of Agreement ("Agreement") is entered into by and between the City of Costa Mesa ("City") and the Costa Mesa City Employees Association ("CMCEA"). As part of the City's Budget Development Strategies to balance the City's 2010-2011 Operating Budget and future fiscal year budgets, CMCEA and the City had conducted numerous meet & confer meetings to reach concurrence on the items presented in a Side Letter of Agreement approved in October 2010. This side Letter of Agreement provides further clarification to Article 6 - Retirement Contribution.

I. Article 6 – Retirement – Retirement Contribution:

The City of Costa Mesa currently pays a portion of each affected employee's California PERS normal member contribution into each affected employee's account with PERS and includes this Employer Paid Member Contribution (EPMC) within the employee's compensation earnable that is reported to PERS.

As of February 27, 2011, the City amended the CalPERS contract to provide for Section 20516 "Cost Sharing" increasing the employee contribution rate to 10.469%. Effective February 27, 2011, employees increased their contribution to 7.52% and the City's contribution went to 2.949%. As a result of the changes to the Employee and City contributions, EPMC for CMCEA/miscellaneous represented employees is 2.949% for employees eligible for the 2.5%@55 benefit.

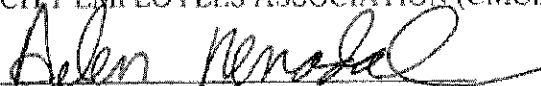
Effective March 11, 2012, the City amended the CalPERS contract to provide for a second tier PERS retirement formula of 2%@60 for new hires. Employees hired under this benefit contribute 100% of the employee contribution rate of 7%. As a result, EPMC for employees hired under the 2%@60 formula is 0%.

CalPERS requires that changes to the EPMC be adopted by the governing body of the City of Costa Mesa.

II. - MOU Provisions:

Except as provided herein, all remaining terms and provisions of the aforementioned MOU and Side Letter shall remain in full force.

REPRESENTATIVES OF THE COSTA MESA
CITY EMPLOYEES ASSOCIATION (CMCEA)


HELEN NENADAL
CMCEA President

REPRESENTATIVES OF THE CITY OF
COSTA MESA


LANCE M. NAKAMOTO
Human Resources Manager