URGENCY ORDINANCE NO 2011-01

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

The City Council of the City of Avenal does ordain as follows:

Section 1:

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

Section 2:

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

Section 3:

This Urgency Ordinance shall take effect immediately following the second reading March 24, 2011. Before the expiration of 15 days after its passage, this ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Avenal Chimes, a newspaper of general circulation published in the County of Kings and thenceforth and thereafter the same shall be in full force and effect.

On a motion by Council member CURTY, seconded by Council member GRAVELLE, the foregoing Ordinance is approved on the 24TH day of MARCH, 2011, by the following roll call vote:

AYES: GRAVELLE, PRECIADO, OVALLE, CURTY.
NOES: NONE.
ABSENT: CASIDA.
ABSTAIN: NONE.

APPROVED: _____
Mayor Pro Tem Ovalle

ATTEST: _____
City Clerk

CalPERS

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

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

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 3, 1979, and witnessed July 24, 1980, and as amended effective June 24, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 11 are hereby stricken from said contract as executed effective June 24, 2007, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 55 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after December 3, 1979 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. ELECTED OFFICIALS; AND

   b. FIREFIGHTERS.

6. This contract shall be a continuation of the benefits of the contract of the Avenal Community Services District, hereinafter referred to as "Former Agency", pursuant to Section 20567.2 of the Government Code, Former Agency having ceased to exist and having been required by law to be succeeded by Public Agency on December 3, 1979. Public Agency, by this contract, assumes the accumulated contributions and assets derived therefrom and liability for prior and current service under Former Agency's contract with respect to the Former Agency's employees. Legislation repealed said Section effective January 1, 1988.

   a. Service performed for the agency prior to December 3, 1979 shall be subject to the terms and conditions of the former agency's contract as it was in effect at that time. Service performed after December 3, 1979 shall be subject to the terms and conditions of this contract. For purposes of computing retirement allowances, separate calculations shall be made for service performed under each contract.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).

8. 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 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Modified).

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

   a. Section 20938 (Limit Prior Service to Members Employed on Contract Date) for local safety members only.

10. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.

11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local micellaneous members and local safety members of said Retirement System.

12. Public Agency shall also contribute to said Retirement System as follows:

    a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

    b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF AVENAL

BY _____
PRESIDING OFFICER

MARCH 24, 2011
Witness Date

Attest:
Clerk