SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-C**

FROM: Steve Mack, General Manager

Meeting Date: October 4, 2012

SUBJECT: DISCUSSION/ACTION RE APPROVAL OF RESOLUTION 12-16, RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF CALPERS AND THE BOARD OF DIRECTIONS OF THE SWEETWATER SPRINGS WATER DISTRICT

RECOMMENDED ACTION: Approve Resolution 12-16 which is a resolution of intention to approve an amendment to the contract between CalPERS and Sweetwater Springs Water District to add the provision of partial service retirement to the District's retirement program with CalPERS.

FISCAL IMPACT: none.

DISCUSSION:

In discussions on my future employment with the District I have requested that the Board consider partial service retirement as an element of that future employment. Partial service retirement means that an employee can work less than full time, for example 70%, and collect the employee's CalPERS retirement benefit for the remainder of the 100%, in this example, 30% of the retirement benefit. To implement this provision the District needs to modify its contract with CalPERS. CalPERS (and State law) requires specific steps be followed to modify agency contracts. The first step is passage of a resolution of intention to modify the contract which is Resolution 12-16, which is attached. This resolution must be passed prior to approval of the resolution approving the actual modification. As well as this resolution, the District must forward to CalPERS certification of the governing body's action and certification of compliance with Government Code Section 7507.

Government Code Section 7507 requires that the future annual costs or benefit change of the proposed contract be made public at a public meeting at least two weeks prior to the adoption of the final resolution. This particular contract modification does not have any cost, per se, to the District. There will be no change in the employer or employee cost percentage because of this modification. If implemented for specific employees, there will be cost savings to the District depending on the specific employee costs and amount of partial retirement. In the example stated above with 70% of full time, if the District and General Manager were to take advantage of this contract modification with

respect to the General Manager position at 70% of full time, the annual savings to the District would be approximately $46,000 through salary and retirement benefits cost reductions (based on the 2012 budget information) .

If the Board approves Resolution 12-16, staff will return in November with the final resolution which will implement the contract modification.

California Public Employees' Retirement System
Customer Account Services Division
Retirement Account Services Section
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or **888**-225-7377) phone (916) 795-3005 fax
www.calpers.ca.gov

September 20, 2012 CalPERS ID#3473496188

Ms. Julie Kenny
Sweetwater Springs Water District
P.O. Box 48
Guerneville, CA 95446

Dear Ms. Kenny:

Enclosed are two copies of the Resolution of Intention to amend the agency's contract to provide Section 21118 (Partial Service Retirement) for local miscellaneous members.

Also enclosed are the following documents:

1. Form CON-12, Certification of Governing Body's Action.

2. Form CON-12A, Certification of Compliance with Government Code Section 7507.

3. Enclosed is an instruction sheet for submission of Resolution of Intention documents and required certifications into my|CalPERS.

Government Code Section 7507 requires that the **future annual costs or benefit change** of the proposed contract be made public at a public meeting at least two weeks prior to the adoption of the final Resolution. The agency is to certify compliance on the enclosed Certification of Compliance with Government Code Section 7507.

In summary, the following documents must be submitted through my|CalPERS before we can forward the actual contract and other final documents necessary to complete the proposed amendment. DO NOT HOLD THESE DOCUMENTS PENDING ADOPTION OF THE FINAL RESOLUTION.

1. Resolution of Intention, original or certified copy.

2. Certification of Governing Body's Action (CON-12), original.

3. Certification of Compliance with Government Code Section 7507, (CON-12A), original or certified copy.

If your agency adopts the Resolution of Intention on October 4, 2012, the earliest date the final Resolution may be adopted is October 24, 2012. There must be a 20 day period between the adoption of the Resolution of Intention and the adoption of the final Resolution pursuant to Government Code Section 20471. THERE ARE NO EXCEPTIONS TO THIS LAW.

The effective date of this amendment may be as early as the day following the effective date of the final Resolution.

Please do not retype the Amendment to Contract and/or agreement documents. Only documents provided by this office will be accepted. If you have a problem with any of the documents, please contact this office prior to presenting to your governing body for adoption. Another contract amendment cannot be started until this amendment is completed or cancelled.

If you have any questions regarding this letter or the enclosed material, please call (888) CalPERS (225-7377).

Sincerely,

Danielle Brooks
Employer Representative
Public Agency Contract Services

DB:rj

Enclosures

Instructions for Uploading Documents in

my|CalPERS

1. Scan all required documents **individually**.

2. Save documents to your computer.

3. Log into my|CalPERS.

4. Click on the **"Profile"** tab.

5. Click on the **"Retirement Contract"** tab.

6. In the Contract Event Summary Box, click on the blue link that says **"Amendment"** with the status showing **"Amendment in Progress"**.

7. Scroll down to the "**Documents**" Box.

8. You will need to click on each of the corresponding blue links that say **"Provide Document"**, hit the browse button, locate the saved document on your computer and upload.

9. Once all the documents have been uploaded into the links, scroll down to **"Available Actions"** box and click the button to **"Submit Initial Contract Amendment Documents"**.

10. Click the **"Submit"** button.

****Special Note:** Please save this instruction sheet for submitting the Amendment to Contract **"final"** documents packet.

RESOLUTION 12-16

RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
BOARD OF DIRECTORS
SWEETWATER SPRINGS WATER 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 21118 (Partial Service Retirement) 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 Sukey Robb-Wilder

Board President
Title

October 4, 2012
Date adopted and approved

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

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF GOVERNING BODY'S ACTION

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

Board of Directors of the
(governing body)

Sweetwater Springs Water District
(public agency)

on October 4, 2012.
(date)

Julie A. Kenny
Clerk/Secretary

Clerk of the Board
Title

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT CODE SECTION 7507

I hereby certify that in accordance with Section 7507 of the Government Code the future annual costs as determined by the System Actuary for the increase/change in retirement benefit(s) have been made public at a public meeting of the

Board of Directors of the
(governing body)

Sweetwater Springs Water District
(public agency)

on October 4, 2012 which is at least two weeks prior to the adoption of the
(date)

Resolution / Ordinance.

Adoption of the retirement benefit increase/change will not be placed on the consent calendar.

Julie A. Kenny
Clerk/Secretary

Clerk of the Board
Title

Date October 4, 2012

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
Sweetwater Springs Water 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 20, 2001, and witnessed November 1, 2001, and as amended effective May 12, 2011 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 May 12, 2011, and hereby replaced by the following paragraphs numbered 1 through 12 inclusive:

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

2. Public Agency shall participate in the Public Employees' Retirement System from and after December 20, 2001 ma king its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:

   (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

   (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.

   (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

   (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

   (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

   (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

   (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Employees other than local safety members (herein referred to as local miscellaneous members).

5. Any exclusion(s) shall remain in effect until such time as the Public Employees' Retirement System determines that continuing said exclusion(s) would risk a finding of non-compliance with any federal tax laws or regulations. If such a determination is contemplated, the Public Employees' Retirement System will meet with the Public Agency to discuss the matter and coordinate any required changes or amendments to the contract.

   In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. SAFETY EMPLOYEES; AND

   b. MEMBERS OF THE GOVERNING BODY FIRST ELECTED OR APPOINTED PRIOR TO JULY 1, 1994. (Elected or appointed officials who are first elected or appointed on or after July 1, 1994 or to a term of office not consecutive with a term held on June 30, 1994 are excluded pursuant to Government Code Section 20322).

6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

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 (2% at age 55 Full).

8. 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).

   b. Section 21536 (Local System Service Credit Included in Basic Death Benefit).

   c. Section 21118 (Partial Service Retirement).

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

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

    a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.

    b. 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.

11. 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.

12. 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_____
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS
SWEETWATER SPRINGS WATER DISTRICT

BY_____
PRESIDING OFFICER

_____
Witness Date

Attest:

_____
Clerk