EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF OCTOBER 24, 2012

REGULAR MEETING

TO: **Ron Briggs, Chair, and Members of the El Dorado County Local Agency Formation Commission**

FROM: **José C. Henríquez, Executive Officer**

AGENDA ITEM #6: **PUBLIC HEARING TO CONSIDER AND ADOPT THE CONTRACT BETWEEN EL DORADO LAFCO AND THE CALIFORNIA PUBLIC RETIREMENT SYSTEM**

RECOMMENDATION

Staff recommends that the Commission consider and adopt, after public comment, the attached Resolution of Intention to Approve a Contract with the California Public Employees Retirement System and Resolution to Tax Defer Member Paid Contributions and direct staff to administer and implement the contract with CalPERS.

REASON FOR RECOMMENDED ACTION

El Dorado LAFCO does not have a contract of its own with CalPERS. As explained immediately below, LAFCO's previous method of offering retirement benefits to its employees is no longer available. Entering into a contract with PERS gives the Commission the ability to offer retirement benefits as well as providing the Commission with a way of tailoring benefits to future employees.

BACKGROUND

When El Dorado LAFCO became independent, it either did not or could not pursue its own contract with the California Public Employees Retirement System. Instead, an arrangement was entered with the County of El Dorado and CalPERS whereby LAFCO sent its contributions to the retirement system under the County's employer code. Funds were differentiated from the County funds by LAFCO having its own "office code."

This arrangement worked fairly well, but it was not without its issues. Among them were delayed notifications from PERS to LAFCO and, for understandable reasons, a reluctance by the County to designate the LAFCO Executive Officer as a retirement administrator within the CalPERS automated system. Another drawback was that LAFCO was tied to the County's contract with PERS.

In the fall of 2011, CalPERS implemented a new reporting system called myCalPERS. This new system is intended to be 100% automated; however, myCalPERS also no longer recognized office codes. The LAFCO retirement funds were automatically deposited with the County funds, an arrangement neither agency wanted. Further, CalPERS also did away with its old manual reporting system when myCalPERS went live, so the only available option was for LAFCO to enter into its own contract.

At PERS' recommendation, LAFCO stopped making payments to the retirement system and both parties entered into negotiations. The goal was that once the contract was approved, PERS would start the process of separating LAFCO's funds from the County and LAFCO can resume its retirement contributions at the end of each pay period. In the meantime, retirement funds were deposited into a separate account and have been diligently tracked by LAFCO's payroll person.

Contract Highlights

The full contract is attached to this memo as Exhibit A to Attachment A. The contract essentially mirrors the County's contract, as it was at the time negotiations started, with minor modifications. The reason for using the County's OPERS contrast as the starting point was because that benefit package was what the current set of employees were hired under; however, upon its successful adoption and implementation the Commission can modify it for new employees.

The employer contribution rate is based on a contract to provide a retirement formula of 2% @ 55, with "One-Year Final Compensation," public service credit for California Senate Fellows, Assembly Fellowship, Executive Fellowship, or Judicial Administration Fellowship Programs and "Two Years Additional Service Credit" with 100% prior service for local miscellaneous members.

According to the actuarial report (refer to Attachment A), LAFCO's unfunded liability is significantly lower than the County's unfunded liability, resulting in a lower employer contribution rate. Upon adoption of the contract, LAFCO's Fiscal Year 2012-2013 employer rate will be 12.89%, almost 2 percentage points lower than the County's rate of 14.606% and generating some unanticipated budgetary savings.

Process

Adoption of the contract is a three step process:

1. The first step is to approve the Resolution of Intention to Approve a Contract with CalPERS (please refer to Attachment B). As part of this step, a disclosure of the total contract cost must be made. The first component of the cost is 12.89% of total payroll, which is the employer share of retirement benefits. The Commission included those costs in its budget. Under the Commission's Policies and Guidelines, the employee share of the current set of employees is also paid for by LAFCO and constitutes the second component. These costs are also included in the LAFCO budget for Fiscal Year 2012-2013 as shown below.

	County Contract	*LAFCO Contract*
Total Budgeted Payroll	$212,947	$212,947
Employer Rate	14.606%	12.89%
Employer Share	$31,103	$27,449
Employee Share (7%)	$12,173	$12,173
Total LAFCO Cost	$43,276	$39,622
LAFCO Budget	$49,226	$49,226

CalPERS also requires that LAFCO makes public the estimated costs for the next twelve months. Based on all reasonable assumptions on the cost of payroll in calendar year 2013, staff believes the total estimated cost (employer share and LAFCO paying the employee share for the three current members of staff) is:

	LAFCO Contract
Total Budgeted Payroll	$219,783
Employer Rate	12.89%
Employer Share	$28,330
Employee Share (7%)	$12,620
Total Estimated LAFCO Cost	$40,950

2. Contingent upon the Commission's approval in step 1 above, the second step is for the LAFCO employees to vote to accept the contract and the 1959 Survivor Benefits package. At least two votes will be required for the successful passage of both items.
3. Contingent upon successful approvals in steps 1 and 2, the originals are sent back to CalPERS and its staff will send the final resolution for the Commission to approve at the December 5, 2012 meeting. If the Commission approves the Final Resolution, the contract becomes effective December 16, 2012, which is the first day of the first full period after the Commission meeting.

Once CalPERS receives the entire package, its actuaries will move the existing retirement funds out of the County's account into LAFCO's own account.

Miscellaneous

Since the Commission's Policies and Guidelines calls for LAFCO to pay the employee share of PERS, CalPERS requires that the Commission also adopt L-2012-10 (please refer to Attachment C). This complies with Internal Revenue Code Section 414(h)(2), which allows public agencies to designate required employee contributions as being "picked up" by the employer and treated as employer contributions for tax purposes. The effect of the pick-up is to defer tax on employee contribution amounts until the member retires and receives retirement benefits, or separates from employment and takes a refund of contributions. If the Commission were not to approve L-2012-10, the pick-up would be considered taxable income to the employee at the time the contribution was made. Attachment D contains the two CalPERS Circulars explaining the Federal tax reporting requirements.

Part of this contract includes enrolling in the 1959 Survivor Benefits Program: Fourth Level. This program provides benefits to an employee's survivor(s) in case of death prior to retirement. This type of coverage is available to those employees who are not covered by Social Security. This benefit is payable in addition any pre-retirement death benefit paid by CalPERS. All of the assets in this program are pooled. The employer cost is $5.40 per month per employee for the next five years. After that, LAFCO will pay the net premium for the "Fourth Level" pool. The LAFCO cost to enroll in this program for a year is $194 assuming all three current employees elect to enroll. In addition, the employee cost will be $2.00 per month, for a total annual cost of $24 for each employee. Attachment E contains an explanation of this program.

Implementation of these agreements also includes CalPERS moving the already-paid LAFCO contributions out of the County of El Dorado's account into LAFCO's own account. This next step will involve partnering with the County's Risk Management and Human Resource

Departments; however, this step will not be taken up until and after the Commission acts to approve the final resolution in December.

This Contract and California's New Pension Reform

As the Commission is aware, the Governor signed AB 340, instituting some pension reforms. Most of the provisions are channeled towards "new" employee members to CalPERS ("new" defined as brand new to the retirement system, not new contracts such as the matter considered here or employees who belonged to another retirement system with a reciprocity agreement in place prior to joining PERS). Consequently, this item is largely unaffected by the new law with the exception of one specific provision that could potentially apply to LAFCO. Staff is conferring with Counsel to determine the extent of the impact and identify the options that are available to the Commission. Once these are determined, staff will return in a few months for discussion.

<u>Attachments</u>

Attachment A: LAFCO's Actuarial Report

Attachment B: LAFCO Resolution L-2012-09: Resolution of Intention to Approve a Contract Between the Board of Administration – California Public Employees Retirement System and the Commission – El Dorado Local Agency Formation Commission

Attachment C: LAFCO Resolution L-2012-10: Resolution to Tax Defer Member Paid Contributions - IRC 414(h)(2) Employer Pick-Up

Attachment D: CalPERS Circular Letters 200-049-08 and 200-019-10

Attachment E: CalPERS Plans New to the 1959 Survivor Benefit Program: Fourth Level