Finance and Administration Committee

Agenda Item 6a

February 13, 2023

Item Name: Samoa Peninsula Fire Protection District Recommended Termination of Agency Contract

Program: Pension Contract Management Services

Item Type: Action

Recommendation

The CalPERS team requests the Finance and Administration Committee (FAC) recommend that the Board of Administration (Board) terminate the contract between the agency formerly known as Samoa Peninsula Fire Protection District (SPFPD) and the California Public Employees' Retirement System (CalPERS or System) in accordance with Government Code section 20572. The CalPERS team further requests that the committee recommend that the board declare SPFPD in default on the effective date of termination, if SPFPD has not paid the amounts required under Government Code section 20577.

Executive Summary

At the November 2022 FAC meeting, CalPERS team members presented an update on SPFPD's significant delinquency in the payment of its required contributions to the system. The update included the status of SPFPD, an agency which has not yet terminated its contract, but in April 2020 had merged into the Peninsula Community Service District (PCSD), a non-contracting agency. The purpose of this agenda item is to recommend termination of SPFPD's contract with CalPERS in accordance with Government Code section 20572. To the extent SPFPD fails to pay the full amount owed under Government Code section 20577, CalPERS team members further request the board declare SPFPD in default, which will require CalPERS to reduce the retirement benefits of SPFPD's retirees and beneficiaries due to the district's nonpayment of required contributions. As of January 23, 2023, the district has not kept up with its required employer contributions. As of that date the amount of arrears owed is $363,789, which includes $48,558 interest. If this contract is terminated with an effective date of April 15, 2023 the funded ratio will be 9.49% and benefits would need to be reduced accordingly.

Strategic Plan
This agenda item supports the pension sustainability goal of the CalPERS 2022-27 Strategic Plan, which aims to strengthen the long-term sustainability of the pension fund. Pension and health funding are considered a strategic risk to the organization, and proper management of employer contracts and collection of payments are critical to ensuring long-term sustainability.

Background

Fairhaven Fire District contracted with CalPERS effective July 6, 1970. In 1993, The Samoa Volunteer Fire Department and the Fairhaven Fire District merged, to form the Samoa Peninsula Fire Protection District. SPFPD was organized and governed by the Fire Protection District Act of 1987 (Health and Safety Code section 13800 et seq.). SPFPD provided fire protection, emergency services, and medical response rescue for its service area: the communities of Fairhaven, Finntown, and Samoa, in Humboldt County. Since September 2001, SPFPD has been a volunteer fire department and stopped reporting its employees to CalPERS.

SPFPD had been struggling financially for years due to reduction in property taxes following the closure of one of its largest economic drivers –Samoa Pulp Mill and has been using its reserves to make payments to CalPERS. In 2017, Humboldt County Local Agency Formation Commission (Humboldt LAFCO) approved the reorganization of SPFPD into the newly formed Peninsula Community Service District (PCSD) to add water, wastewater, streets, parks and recreation, landscape maintenance, and storm drainage services. The organization was seen as an opportunity for the organization to stablize its revenue position and continue to meet its pension obligations from the new multifamily residential (80 units) and commercial properties development that was projected to start in the fall 2019. The reorganization was completed in April 2020 as stated in the Humboldt LAFCO Agenda Item dated April 29, 2020 provided on Attachment 2. A condition of the reorganization was for PCSD to assume all of SPFPD’s liabilities including its CalPERS obligation.

In July 2019, prior to the completion of the LAFCO reorganization, SPFPD’s board president informed CalPERS that SPFPD was unable to pay the current unfunded accrued liability (UAL) payments and may file for bankruptcy. The board president requested CalPERS to allow the district extra time to pay off their UAL payments.

Following review of PCSD’s unaudited account balances and its five-year budgeted forecast, CalPERS agreed on a temporary, reduced payment arrangement. Beginning March 2020, the PCSD began making monthly payments of $1,000. This arrangement was scheduled to end by July 1, 2021.

On May 10, 2021, PCSD requested a year extension on the temporary payment arrangement due to the delay in development of the new community service district. According to the district’s revised PCSD Financial Plan Draft provided on Attachment 3, the district would begin receiving additional tax revenue during the fiscal year 2021-22. CalPERS agreed to extend the payment arrangement for an additional year and increased the monthly payment to $1,500.

On August 4, 2022, CalPERS team members notified PCSD that the payment arrangement had come to an end and requested the district begin making full on-going monthly payments immediately. In addition, PCSD would have to become current by December 31, 2022. Notwithstanding PCSD's commitment to making full payment at the end of the arrangement, CalPERS has still not received the promised payment and can no longer extend any relief due to the low funded status of the plan.

Since September 2022, CalPERS team members have had multiple discussions with the PCSD regarding its delinquencies. CalPERS team members made clear the importance of receiving immediate payments toward the on-going monthly UAL payment and paying the outstanding balance to avoid involuntary termination.

On September 29, 2022, CalPERS sent a collection notice to PCSD to collect the outstanding amounts provided on Attachment 4. CalPERS sent a second collection notice on November 15, 2022, provided on Attachment 5. On December 22, 2022, CalPERS sent a third and final demand letter, providing PCSD 30 days to pay the amount owed provided in Attachment 6. If payment was not received, CalPERS team members would recommend termination of the contract.

CalPERS team members notified the retirees and beneficiaries with copies of these collection letters via certified mail and email, to advise them of the potential termination, which would require benefit reductions if payment was not made by PCSD. In addition, CalPERS team members also sent copies of these collection letters to the County of Humboldt 4th District Supervisor and the Executive Officer of Humboldt County Local Agency Formation Commission asking for their assistance to avoid the involuntary termination.

PCSD was allotted over three years to address its delinquent UAL payments. During this time, PCSD was not able to pay its UAL delinquencies nor provide assurance that it would be able to become current. CalPERS team members began the formal notifications and collections process, including the three letters to PCSD and three notifications to the affected retirees and beneficiaries. As of January 23, 2023, the amount of arrears owed is $363,789.

Government Code section 20572 provides that if an agency fails for 30 days after demand by the board to pay in full any installment of contributions required by its contract, the board can terminate that contract by a resolution adopted by a majority vote of its members. The resolution to terminate is effective 60 days after notice of its adoption has been sent by registered mail to the governing body of the agency. CalPERS team members have exhausted all reasonable efforts to collect from PCSD the amounts owed, including providing multiple opportunities to bring its account current. Because the PCSD has failed to make any payments towards its UAL within 30 days of the date of CalPERS' final demand letter, CalPERS team members recommend the board terminate the SPFPD's contract.

Further, under Government Code section 20577, if an agency fails to pay the full amount owed upon termination, the board can declare the agency in default and consequently shall reduce member retirement benefits as of the date the board declares default, in proportion to the amount of the deficiency in accumulated contributions of the agency and its employees. CalPERS team members recommend that, to the extent that PCSD fails to pay the full amount of its termination liability by the effective date of termination, the board declares SPFPD in default and retirement benefits paid to its retirees reduced, in accordance with section 20577. The table below outlines the termination cost and the impacted retirees and beneficiaries.

	Termination Cost		**Employees/Retirees Impacted**
Rate Plan	Termination Unfunded Accrued Liability (based on 3.6% discount rate)	Funded % (based on a 3.6% discount rate)	Plan Participants[1]
Safety	$1,827,200	9.49%	**Total= 9** Transferred= 0 Separated= 0 Retired= 9

[1]No active members

Pursuant to Government Code section 20572, termination is effective 60 days after the mailing of the notice of termination to the district. If the district fails to pay the amount of the termination liability and benefit reductions are implemented as required under Government Code section 20577, CalPERS will notify the district's current five retirees and four beneficiaries of this decision before the implementation of the reduction. The reduction in members' benefits will occur on the first pay period 30 days after the contract termination date.

Budget and Fiscal Impacts

Termination of the pension contracts and addressing the outstanding liabilities of the SPFPD through the reduction in benefits will align the benefits received by members with the contribution amounts paid into the System on their behalf.

Benefits and Risks

CalPERS is charged with administering the System in accordance with the law. Enforcing the provisions of CalPERS' contracts and the Public Employees' Retirement Law with respect to contract terminations and resulting benefit reductions, when appropriate, helps ensure that employers contracting with CalPERS comply with the statutory provisions governing the system. This includes agreeing to timely payment of required contributions and termination liabilities to fully fund benefits accrued prior to termination. The board has a fiduciary duty to ensure the integrity of the system to pay benefits and to protect the soundness of the system when employers do not pay their required contributions to CalPERS.

Other contracting agencies will not be impacted by the involuntary termination of SPFPD's contract. However, the retirement benefits of a total of five retirees and four beneficiaries will be impacted by future benefit reductions.

Attachments

Attachment 1 – Peninsula Community Service District (formerly known as Samoa Peninsula
Fire Protection District) Recommended Termination of Agency Contract PowerPoint
Attachment 2 – Samoa Peninsula Fire Protection District Reorganization
Attachment 3 – Peninsula Community Service District Financial Plan
Attachment 4 – First Final Collections Letter
Attachment 5 – Second Final Collections Letter
Attachment 6 – Formal Demand Letter

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