

# Agenda Report

July 8, 2024

**TO:** Honorable Mayor and City Council

**FROM:** Human Resources Department

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING PRE-TAX TREATMENT OF COST-SHARING CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM PAID BY MEMBERS OF THE PASADENA POLICE LIEUTENANTS ASSOCIATION, UNDER SECTION 414(H)2 OF THE INTERNAL REVENUE CODE**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the proposed action in the agenda report is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Section 15061(b)(3) "Common Sense" exemption; and
2. Adopt a Resolution to authorize the pre-tax treatment of cost-sharing contributions paid by members of the Pasadena Police Lieutenants Association to the California Public Employees' Retirement System.

**BACKGROUND:**

The City provides pension benefits to eligible members of the Pasadena Police Lieutenants Association (PPLA) through the California Public Employees' Retirement System (CalPERS). To fund those benefits, both the employer and the employees make contributions pursuant to California Government Code and the City's terms and conditions of employment for the Police Lieutenants.

Internal Revenue Code (IRC) Section 414(h)(2) 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 a 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. Absent the 414(h)(2) provision applicable to governmental plans, employee contributions to a defined benefit pension plan qualified under Section 401(a) would automatically be after-tax contributions (e.g., taxable income to the employee at the time the contribution was made).

As a result of the recently concluded negotiations for a new Memorandum of Understanding (MOU) between the City and PPLA, “cost-sharing contributions” will continue for members of PPLA hired on or before December 31, 2012, and for members hired on or after January 1, 2013, who have less than a six month break in CalPERS covered service or are members of an agency with reciprocity. The intent of the parties is that such cost-sharing contributions are deducted from employees’ pay on a pre-tax basis.

To ensure such contributions are deducted on a pre-tax basis pursuant to Section 414(h)2 of the IRC, the City must:

1. Label the cost-sharing contributions as “employee contributions.”
2. Adopt a resolution designating the employee cost-sharing contributions as employer contributions.
3. Deem the contributions to be mandatory, and employees cannot elect to receive cash in lieu of the contributions.

This resolution satisfies the first two requirements. In accordance with the last requirement, under the terms of the MOU, the contributions are mandatory, and employees cannot opt out. While this resolution is intended to exempt cost-sharing from income taxes, it will not exempt the contributions from applicable Medicare taxes. The pre-tax treatment of cost-sharing is the same tax treatment that applies to pension contributions deducted from employees’ compensation to pay their member share.

**COUNCIL POLICY CONSIDERATION:**

Approval of staff’s recommendation supports the City Council’s strategic goals of maintaining fiscal responsibility and stability.

**FISCAL IMPACT:**

There is no direct fiscal impact to the City as a result of this action, which allows for employee pension contributions to be handled on a pre-tax basis.

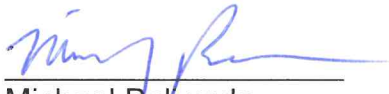
Respectfully submitted,



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MIGUEL MÁRQUEZ  
City Manager

Attachment A – Resolution Providing for the Pickup Under the Internal Revenue Code Section 414(H)2 of Cost-Sharing Contributions to CalPERS for the Safety Employees in the Bargaining Unit Represented by the Pasadena Police Lieutenants Association