

**Council Meeting: April 27, 2010**

**SUBJECT:** Adopt a Resolution To Include a Pre-tax Repayment Option for Employee Service Credit Purchases through the California Public Employees' Retirement System (CalPERS).

**REPORT IN BRIEF**

This report recommends that the City Council adopt a resolution with the California Public Employees' Retirement System (CalPERS) to allow current and future employees the ability to purchase retirement service credit on a pre-tax basis

**BACKGROUND**

CalPERS permits employees to purchase retirement service credit for time spent in active military duty, service prior to membership, "buy-back" of prior service and additional retirement service credit. Currently, City employees have the option of purchasing the service credit through payroll deduction on an after-tax basis.

**EXISTING POLICY**

Pursuant to the provisions of Internal Revenue Code Section 414(h)(2), the City's current agreement with CalPERS permits employee retirement contributions be deducted on a pre-tax basis. This is called the "Employer Pick-Up" and allows employee contributions to be treated as employer contributions for federal and state tax purposes, thus lowering the employees' taxable gross income. By filing this resolution with CalPERS, the City is able to extend the pre-tax option for employee payments of service credit purchases.

**DISCUSSION**

By adopting this resolution with CalPERS, the City will provide employees who opt to purchase retirement service credit with the benefit of deferring income tax liability on their service credit purchases. There is no cost to the City to permit employee service credit purchases on a pre-tax basis.

**FISCAL IMPACT**

There is no fiscal impact to the City for adopting this resolution.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City.

**ALTERNATIVES**

1. Adopt the resolution with CalPERS to allow employee service credit purchases on a pre-tax basis.
2. Do not adopt the resolution with CalPERS to allow employee service credit purchases on a pre-tax basis.

**RECOMMENDATION**

Staff recommends approval of Alternative 1: Adopt the resolution with CalPERS to offer employee service credit purchases on a pre-tax basis.

Reviewed by:

Erwin Young, Director, Human Resources  
Prepared by: Dee Schabot, Human Resources Manager

Approved by:

Gary Luebbers  
City Manager

**Attachment**

Resolution – CalPERS; To Tax Defer Service Credit Purchases

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE APPROVING (UNDER INTERNAL  
REVENUE CODE SECTION 414(h)(2)):**

**EMPLOYER PICKUP RESOLUTION  
PRE-TAX PAYROLL DEDUCTION PLAN  
FOR SERVICE CREDIT PURCHASES  
(CONTRIBUTION CODE 14)**

WHEREAS, the Board of Administration of the California Public Employees' Retirement System (CalPERS) at the April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) Section 414(h)(2); and

WHEREAS, the City of Sunnyvale has the authority to implement the provisions of IRC Section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

WHEREAS, the City of Sunnyvale elects to participate in the pre-tax payroll deduction plan for all employees in the following specified classification groups:

Miscellaneous  
Public Safety

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE:

1. That the City of Sunnyvale will implement the provisions of IRC Section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deductions plan. "Employee contributions" shall mean those contributions reported to CalPERS which are deduction from the salary of employees and are credited to individual employee accounts for service credit purchase, thereby resulting in tax deferral of employee contributions.

2. That the Contributions made by the City of Sunnyvale to CalPERS, although designated employee contributions, are being paid by the City of Sunnyvale in lieu of contributions by the employees who are members of CalPERS.

3. That the employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Sunnyvale to CalPERS.

4. That the City of Sunnyvale shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.

5. That the effective date of comments of the pre-tax payroll deduction plan cannot be any earlier than the date the completed resolution is received and approved by CalPERS.

6. That the governing body of the City of Sunnyvale shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre-tax payroll deductions when authorized by CalPERS for those employees of the above-stated classifications who have elected to participate in this plan.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, 2010, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney

City of Sunnyvale  
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Sunnyvale, CA  
94088-37-07

<b>FOR CALPERS USE ONLY</b>	
Pre-tax payroll deduction plan date: _____	
Approved by: _____	Title: _____
Member Services Division, Service Credit Section – Unit 830	