RESOLUTION NO. 2013-12


WHEREAS, the City of Bell has contracted with the California Public Employees’ Retirement System (CalPERS) to provide a retirement benefits plan to all qualified City employees;

WHEREAS, Government Code Sections 20671 through 20694 require each employee member of CalPERS to pay a certain percentage of said employee’s reportable pre-tax compensation, as defined in Government Code Section 20630, as the employee’s contribution (Member Contributions) to CalPERS to fund the employee’s retirement benefits provided under the CalPERS retirement plan;

WHEREAS, the governing body of the City of Bell adopted Resolution 2012-79 on November 7, 2012 eliminating Employer Paid Member Contributions (EPMC) and requiring the Chief Administrative Officer (CAO) and all department heads who are members of CalPERS to pay their own Member Contributions;

WHEREAS, the City is currently negotiating, through the meet and confer process, with all other miscellaneous and local safety employees to reduce or eliminate their EPMC;

WHEREAS, Section 414(h)(2) of the United States Internal Revenue Code (IRC) provides a special rule allowing Member Contributions to qualify for pre-tax treatment, meaning that, although an affected employee will be paying Member Contributions from his or her own compensation, said Member Contributions will be deducted by the City from the affected employee’s compensation on a tax-deferred basis, thereby reducing the affected employee’s gross taxable income;

WHEREAS, to implement Section 414(h)(2) of the IRC, and as instructed by the CalPERS Public Agency Reference Guide, the City of Bell must take formal action to designate Member Contributions that the City will be deducting from an affected employee’s contribution as “pick up” contributions for tax purposes (Pick-Up Contributions);

WHEREAS, the governing body of the City of Bell has the authority to implement the provisions of Section 414(h)(2) of the IRC;

WHEREAS, the City of Bell has determined that even though the implementation of the provisions of Section 414(h)(2) of the IRC is not required by law, the tax benefit offered by Section 414(h)(2) should be provided to the CAO, all department heads, and, upon the conclusion of the meet and confer process, all miscellaneous and local safety employee groups who are members of CalPERS; and

WHEREAS, the governing body of the City of Bell desires to adopt a Resolution electing to tax defer Member Contributions and to designate the same as Pick-Up Contributions under Section 414(h)(2) of the IRC;
NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated by reference herein.

SECTION 2. The contribution amounts required to be deducted from the reportable compensation of the CAO and all department heads are hereby designated as Member Contributions.

SECTION 3. Upon the completion of the City of Bell's meet and confer process with all other miscellaneous and local safety employee groups to reduce or eliminate their EPMC, the contribution amounts that may be required to be deducted from the reportable compensation of all other miscellaneous and local safety employees shall then be designated as Member Contributions. Therefore, this Resolution shall not take effect, or have any impact, on any other miscellaneous and local safety employees until the parties complete the meet and confer process under the terms of the City's Employer-Employee Relations Resolution and applicable memorandum of understanding between the City of Bell and the employee associations/ unions.

SECTION 4. Although designated as Member Contributions and deducted from an affected employee's reportable compensation, the Member Contributions, for tax purposes, will be characterized as being "picked up" and paid by the City of Bell in lieu of contributions by the affected employee members of CalPERS.

SECTION 5. The affected employee members of CalPERS shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Bell to CalPERS.

SECTION 6. The City of Bell shall pay to CalPERS the contributions designated as Member Contributions from the same source of funds as used in paying employee salary.

SECTION 7. Member Contributions picked up under this Resolution shall be tax deferred to the extent provided under Section 414(h)(2) of the IRC, but shall be treated for all purposes, other than taxation, in the same way that Member Contributions are treated by CalPERS.

SECTION 8. The City Clerk shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED THIS 6TH DAY OF MARCH, 2013

Ali Saleh, Mayor

APPROVED AS TO FORM:

David J. Aleshore, City Attorney
CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Rebecca Valdez, City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 6th day of March, 2013, by the following vote:

AYES: Councilmembers Harber, Quintana, Valencia, Mayor Pro Tem Alvarez and Mayor Saleh

NOES: None

ABSENT: None

ABSTAIN: None

Rebecca Valdez, CMC, City Clerk