

CITY OF MILLBRAE, COUNTY OF SAN MATEO
STATE OF CALIFORNIA

**RESOLUTION IMPLEMENTING SECTION 414 (h)(2)
OF THE INTERNAL REVENUE CODE**

WHEREAS, the City of Millbrae has the authority to implement the provisions of Section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the City of Millbrae adopted a Resolution implementing Section 414(h)(2) of the Internal Revenue Code with respect to statutorily required employee contributions on April 13, 2004; and

WHEREAS, the City of Millbrae elected to pay the CalPERS contribution (zero percent [0%] of the nine percent [9%] normal contributions) on behalf of safety members of the Millbrae Police Officers Association, and the Millbrae Firefighters Association; and

WHEREAS, the City has entered labor agreements with represented employees which require the employees to cost share pension obligations by contributing a percentage toward the employer cost of retirement; and

WHEREAS, it is in the interests of all parties for such employee contributions toward the employer cost of retirement to be made on a pre-tax basis in accordance with Section 414(h)(2) of the IRC; and

WHEREAS, in order to implement the provisions of Section 414(h)(2) to include these contributions, a resolution must be adopted to clearly reflect the proposed action; and


NOW, THEREFORE BE IT RESOLVED;

- I. The City of Millbrae has implemented the provisions of Section 414(h)(2) of the Internal Revenue Code with respect to the statutorily required employee contributions.
- II. The cost sharing contributions in the respective Memorandums of Understanding under Government Code §20516(f), as described in paragraph 4 below, shall be designated as pre-tax under Section 414(h)(2) of the Internal Revenue Code.
- III. Payments by employees that are contributed to CalPERS, including the payments toward the employer cost of retirement, are employee contributions for the purposes of Section 414(h)(2) of the Internal Revenue Code, but are not "member contributions" as defined by CalPERS.
- IV. The employee contributions toward the employer cost of retirement will occur as follows:
 - City of Millbrae Police Officers Association:
Effective July 10, 2011 each unit member will pay five percent (5%) toward the employer cost of retirement
 - City of Millbrae Firefighters Association:
Effective July 24, 2011 each unit member will pay five percent (5%) toward the employer cost of retirement
- V. The contributions defined above are mandatory and the employees do not have a cash, or deferred election right (or option) with respect to these designated employee contributions. Employees may not receive the contributed amounts directly instead of having them paid by the City of Millbrae to the Public Employees' Retirement System.
- VI. The City of Millbrae shall pay to the Public Employees' Retirement System the contributions designated above from the same source of funds as used in paying salary.

PASSED AND ADOPTED by the governing body of the City of Millbrae

this 15th day of November, 2011

BY



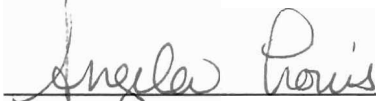
(Signature of Official)

Mayor

(Title of Official)

I do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Millbrae this 15th day of November 2011, by the following vote:

AYES:	COUNCILMEMBERS:	Quigg, Colapietro, Papan, Holober, and Seto
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None



CITY CLERK