

19) **Resolutions Fixing of the Employer Contribution Under the Public Employees Medical and Hospital Care Act (PEMHCA) at an Equal Amount for Employees and Retirees**

1. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS (CalPERS); and
2. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS (NON CalPERS).



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Jason Simpson, City Manager

Prepared by: Shannon Buckley, Assistant City Manager

Date: October 24, 2023

Subject: Resolutions Fixing of the Employer Contribution Under the Public Employees Medical and Hospital Care Act (PEMHCA) at an Equal Amount for Employees and Retirees

Recommendation

1. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS (CalPERS); and
2. Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS (NON CalPERS).

Background

The City of Lake Elsinore has an existing agreement with the California Public Employees' Retirement System (CalPERS) to provide its health program to active Lake Elsinore employees and retirees. The CalPERS health program is governed by the Public Employees Medical and Hospital Care Act (PEMHCA) and the California Code of Regulations (CCR) of the California Public Employees Retirement Law (PERL). PEMHCA contains all the rules and regulations a contracting agency must adhere to, and the resolution is the mechanism by which an agency elects to become subject to PEMHCA.

One of the requirements of the PEMHCA is the "equal contribution rule." The equal contribution rule generally requires a PEMHCA employer to pay the same amount toward health insurance premiums for its retirees as for its active employees. The PEMHCA provides that the employer's equal contribution rate be at least as much as the "PEMHCA minimum," which is currently \$151 per month for 2023 and is subject to an annual adjustment.

One way for a PEMHCA employer to potentially save money is to lower its equal contribution commitment for both actives and retirees to the PEMHCA minimum and then separately subsidize actives' and retirees' health care premiums through the use of cafeteria plans or health

reimbursement arrangements (HRAs). In this way, an employer can differentiate between the treatment of active employees and retirees. It can also differentiate within its active employee and retiree groups by providing differing subsidies through cafeteria plans or HRAs. Per the Side Letter to the 2021-2026 LIUNA Memorandum of Understanding (Attachment 1) and Section 11.2.6 of the 2021-2026 LIUNA Memorandum of Understanding (Attachment 2), eligible active employees receive a cafeteria plan contribution of \$1,900 monthly minus the PEMHCA minimum. Per Section 11.3.1 of the 2021-2026 LIUNA Memorandum of Understanding (Attachment 3), retirees hired before January 1, 2015, receive an additional contribution equal to the difference between their medical insurance premium total minus the PEMHCA minimum. Employees hired after January 1, 2015, only receive the PEMHCA minimum contribution. No one hired after January 1, 2015, has retired from the City of Lake Elsinore.

The City has first established equal contributions to all active and retired employees through acknowledgment in the MOU. The next step is to formalize this change through resolution with CalPERS. This will not only place the City in compliance with the equal contribution rule but also allow for a reduction in the ongoing cost of medical health benefits, especially for future retirees. The City has two employee groups assigned within CalPERS: CalPERS and NON-CalPERS. City Council members fall under the NON-CalPERS group, while all other employees fall under the CalPERS group. This requires the City to have two resolutions (Attachment 4 and Attachment 5).

Discussion

The City is currently preparing for the administrative change that will take place once these resolutions are in effect. The active employees will not experience any change, but the retirees will. CalPERS invoices the City monthly for the entire premium for each active and retired employee. The resolution will remove the total retiree premium from the City's invoice and replace it with the PEMHCA minimum amount. For 2024, that new minimum will be \$157. The remaining portion of the retiree's monthly premium will be deducted from their monthly CalPERS pension check. If their premium is more than their pension check, they will be billed by CalPERS. If the retiree was hired before January 1, 2015, the City will send the retiree a reimbursement payment to cover the amount deducted (or billed) by CalPERS. This reimbursement is not taxable. If the retiree was hired after January 1, 2015, the City will not send a reimbursement payment and will only pay the PEMHCA minimum. The City will directly deposit the reimbursement payments on or around the 1st of each month to coordinate with the timing of the monthly pension check.

The City has contacted all 59 retirees to discuss this change and securely collect bank account information in preparation for the reimbursement payments. The direct deposits will be handled in-house by Human Resources each month.

The effective date for this change is February 1, 2024. Selecting February rather than January will allow Human Resources an entire month to calculate the reimbursement payments after the new 2024 medical rates go into effect. CalPERS regulations state that the contribution change will be effective the first day of the second month following receipt of a newly adopted resolution. A resolution adopted by the City Council and provided to CalPERS before December 31, 2023, will allow for the effective date of February 1, 2024.

Fiscal Impact

The adoption of the proposed resolutions will not have an impact on the adopted budget.

Attachments

Attachment 1 - 2021-2026 LIUNA MOU Side Letter
Attachment 2 - 2021-2026 LIUNA MOU Section 11.2.6
Attachment 3 - 2021-2026 LIUNA MOU Section 11.3.1
Attachment 4 - CalPERS Resolution
Attachment 5 - NON CalPERS Resolution

**SIDE LETTER TO
2021-2026 MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF LAKE ELSINORE AND LIUNA UNION LOCAL 777**

This side letter of agreement ("Agreement") memorializes an agreement entered into between the City of Lake Elsinore ("City") and LIUNA Union Local 777 ("Union") (collectively "Parties") with respect to the following:

WHEREAS, the Parties entered into a Memorandum of Understanding with a term of July 1, 2021 to June 30, 2026 ("2021-2026 MOU"); and

WHEREAS, the Parties agreed to re-open the 2021-2026 MOU, and

WHEREAS, the Parties have met and conferred in good faith pursuant to the Meyers-Milias-Brown Act and have completed the meet and confer process;

NOW THEREFORE, the Parties have agreed to the following:

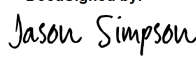
1. The Parties' 2021-2026 MOU shall remain in full force and effect according to its terms. This Agreement is the complete and final resolution of all matters related to contract reopener negotiations for the 2021-2026 MOU.
2. For the 2022-2023 fiscal year, all Union bargaining unit members who were active in 2022-2023 and are active as of the date of signing this Agreement shall receive a one-time pay adjustment per the new salary schedule attached. Employees will stay in their current step but move to their new range.
3. Effective December 1, 2022, all Union bargaining unit members shall receive \$1,900.00 per month for health benefits.
4. Effective immediately, all employees must participate in the Clifton Strengths Finding exercise and training.
5. The Parties agree to meet & confer regarding updating and amending the current salary step language to ensure the new pay scales are incorporated, and the structure remains fair and equitable for all classifications.

This Agreement is subject to final approval by the City Council of the City of Lake Elsinore.

Date of agreement: _____

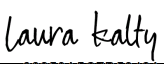
ON BEHALF OF THE CITY OF LAKE ELSINORE

Dated: 9/7/2022 | 9:54 AM PDT

DocuSigned by:

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Jason Simpson, City Manager


APPROVED AS TO LEGAL FORM

Dated: 10/3/2022 | 12:28 PM PDT

DocuSigned by:

98259A5C7D5942A...
Laura Drottz Kalty, LCW
City Labor Relations Counsel


ON BEHALF OF LIUNA, LOCAL 777

Dated: 9/21/2022 | 1:56 PM PDT

DocuSigned by:

437A70C59B234A7...
Hector Gonzales, LIUNA 777
Lake Elsinore Chapter President

and

Dated: 9/2/2022 | 9:03 AM PDT

DocuSigned by:

BF419C02F411453...
Jennifer Grondahl, LIUNA 777
Labor Relations Representative

11.2.1 Health Coverage

The City will remain in the medical coverage program offered by the Public Employees' Retirement System of the State of California (CalPERS). Each employee may choose any one of the plans offered by CalPERS.

11.2.2 Dental Coverage

Dental coverage will be provided as an option through the Section 125 Cafeteria Plan.

- a. Active coverage. The parties agree that issues such as administration of benefits, eligibility, and level of benefits are a matter of coverage between the insured and the carrier and are not subject to the dispute resolution machinery of the Grievance Procedure.
- b. Policies and benefits therein are subject to change by the carrier, by the marketplace, by CalPERS Regulations, or other intervening regulations or laws. In the event of such change, the City shall not be required to maintain any benefit or benefit level other than that contained in mutually agreed to carrier policies.

11.2.3 Vision Coverage

Vision coverage will be provided as an option through the Section 125 Cafeteria Plan.

11.2.4 Flexible Benefits Program

The City will continue to offer, as long as lawfully permitted, a Flexible Benefits Program during the term of this agreement per applicable IRS statutes to provide employees the greatest possible tax benefit.

Included in the Flexible Benefits Program are reimbursement accounts for medical, dental, and vision plan deductibles and co-payments; and other health care expenses not covered by existing medical, dental, and vision coverage. An additional element of the program includes reimbursement of child/dependent care.

11.2.5 Life Insurance Coverage

The first day of the month following the date of hire a regular employee, upon proper application and acceptance by the insurance carrier, employees shall be covered under a group life insurance plan for the amount of \$50,000.

Voluntary Life Insurance will be available to regular employees (outside the City's Section 125 Cafeteria Plan) at no cost to the City.

11.2.6 Cafeteria Contribution Amounts

Employees will receive the PEMCHA minimum defined as the statutory medical insurance contribution under Government Code Section 22892 (\$143 for 2021). The City will contribute an additional allowance towards the employee's monthly cafeteria allotment for the employee and their dependents.

- Effective July 1, 2020, the medical contribution will be \$1,350 per month.
- Effective January 1, 2022, the cafeteria contribution will be \$1,500 per month, less the PEMCHA minimum.

- Effective January 1, 2023, the cafeteria contribution will be \$1,600 per month, less the PEMCHA minimum.
- Effective January 1, 2024, the cafeteria contribution will be \$1,700 per month, less the PEMCHA minimum.
- Effective January 1, 2025, the cafeteria contribution will be \$1,800 per month, less the PEMCHA minimum.
- Effective January 1, 2026, the cafeteria contribution will be \$1,900 per month, less the PEMCHA minimum.

Any employee eligible for Medicare coverage shall designate Medicare as his/her primary insurance coverage.

If an employee elects not to participate in the City's health and cafeteria program, and upon meeting the Eligible Opt-Out Arrangement requirements below, the City will provide \$350 per month cash-back to the employee.

Pursuant to the Affordable Care Act (ACA) Employer Mandate "affordability" determination, an Eligible Opt-Out Arrangement requires the following for employees who opt-out of employer-provided health coverage and receive cash in lieu:

- A. Employee must provide reasonable evidence that the employee and each member of the employee's expected tax family (individuals the employee expects to claim personal exemption deduction) have or will have minimum essential coverage (other than coverage in the individual market, whether or not obtained through Covered California) during the period of coverage to which the opt-out arrangement applies;
- B. The opt-out payment may not be made if the employer knows or has reason to know that the employee or any other member of the employee's expected tax family does not have or will not have the alternative coverage;
- C. The evidence of alternative coverage must be provided every plan year to which the eligible opt-out arrangement applies; and
- D. The reasonable evidence will be an attestation signed by the employee, attesting to the above, and must be provided no earlier than a reasonable period of time before each plan year begins.

11.3 RETIREMENT

The City has established a multi-tiered retirement benefit.

The City shall pay the appropriate employer's contribution toward retirement benefits per the provisions of the contract between the City of Lake Elsinore and the Public Employee's Retirement System.

The City is recognized by the Social Security Administration as an eligible employer and as such the City and its employees must make appropriate contributions as determined by the Social Security Administration.

a) Tier 1

The City's first-tier PERS retirement formula of 2.5% @ age 55 applies to employees hired before July 1, 2011. The retirement formula provided by CalPERS is calculated at the single highest year of final compensation.

Employees shall pay their entire 8% PERS member contribution.

b) Tier 2

The City's second-tier PERS retirement formula of 2% @ age 60 applies to employees hired between July 1, 2011, and December 31, 2012. Tier two also applies to those employees hired after July 1, 2011, and from a Reciprocal Agency within a 6-month break in service. The retirement formula provided by CalPERS is a benefit based on the highest 36 months of employment. Employees shall pay their entire 8% PERS member contribution.

c) Tier 3

Under the Public Employment Pension Reform Act of 2013, (also known as "PEPRA", Assembly Bill 340), those who first become employed by the City on or after January 1, 2013, and who are "new members" as that term is defined in PEPRA, shall be subject to the tier three Public Employees Retirement System (PERS) formula of 2% @ age 62, and a benefit based on the highest 36 months of employment. New members shall pay 50% of normal cost. New members shall also be subject to all other applicable provisions of PEPRA. This retirement formula shall be known as Tier 3.

11.3.1 Retiree Medical and Dental Reimbursement

The City will provide medical and dental benefits, for eligible employees and their spouses, upon retirement from the City of Lake Elsinore, as follows:

- a) Employees will receive the PEMCHA minimum contribution. The PEMCHA minimum is the statutory medical insurance contribution according to Government Code Section 22892. Employees hired before January 1, 2015, shall receive an additional contribution equal to the difference between the medical insurance premium total minus the PEMCHA minimum. Eligible retired employees are those employees that were hired or rehired on or before January 1, 2015, and have, upon retirement under CalPERS standards. If a retired Lake Elsinore employee reinstates to a regular benefited position with any California PERS Agency, including the City of Lake Elsinore, this benefit will be discontinued and will not be reinstated.
- b) Employees hired after January 1, 2015, shall only receive the PEMCHA minimum contribution.
- c) Retirement from the City of Lake Elsinore shall be defined as a PERS service or industrial disability retirement, and the employee must be eligible for such retirement at the time of or within 120 days of separation from City service. The date of eligibility shall be the employee's official CalPERS retirement date.

11.3.2 LIUNA Pension

The City will deduct the current contribution amount from each employee who chooses to be enrolled in the LIUNA Pension Plan. This deduction will adjust based on the LIUNA Pension Rehabilitation fee agreement or any subsequent agreement between the City, the Union, and the LIUNA Pension.

RESOLUTION NO. 2023-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE,
CALIFORNIA, FIXING THE EMPLOYER CONTRIBUTION UNDER THE PUBLIC
EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT
FOR EMPLOYEES AND ANNUITANTS (CalPERS)**

Whereas, City of Lake Elsinore is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and text of history of project; and

Whereas, Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and,

Whereas, Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES
HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

Section 1. That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the PEMHCA Minimum per month, plus administrative fees and Contingency Reserve Fund assessments.

Section 2. City of Lake Elsinore has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above.

Section 3. That the participation of the employees and annuitants of City of Lake Elsinore shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that City of Lake Elsinore would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.

Section 4. That the executive body appoint and direct, and it does hereby appoint and direct, City Manager or Designee to file with the Board a verified copy of this resolution, and to perform on behalf of City of Lake Elsinore all functions required of it under the Act.

Section 5. That coverage under the Act be effective on February 1, 2024.

Section 6. This Resolution shall take effect immediately upon its adoption.

Section 7. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

Passed and Adopted at a regular meeting of the City Council of the City of Lake Elsinore, California, this 24th day of October 24, 2023.

Mayor's Name
Mayor

Attest:

Candice Alvarez, MMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAKE ELSINORE)

I, Candice Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2023-____ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of October 24, 2023 and that the same was adopted by the following vote:

AYES: Council Members Tisdale, Sheridan, and Magee; Mayor Pro Tem Manos; and Mayor Johnson

NOES: None

ABSENT: None

ABSTAIN: None

Candice Alvarez, MMC
City Clerk

RESOLUTION NO. 2023-___

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Section 2. City of Lake Elsinore has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above.

Section 3. That the participation of the employees and annuitants of City of Lake Elsinore shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that City of Lake Elsinore would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.

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Mayor's Name
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NOES: None

ABSENT: None

ABSTAIN: None

Candice Alvarez, MMC
City Clerk