



# DRAFT

## THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY RESOLUTION NO. 11-10

### RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION CONFIRMING THE TAX-DEFERRED STATUS OF MEMBER PAID CONTRIBUTIONS

WHEREAS, since July 2005, the Local Agency Formation Commission of Monterey County has had the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the Board of Administration of the Public Employees' Retirement System adopted its resolution regarding section 414(h)(2) IRC on September 18, 1985; and

WHEREAS, the Internal Revenue Service stated in December 1985, that the implementation of the provisions of section 414(h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414(h)(2) IRC; and

WHEREAS, the Local Agency Formation Commission of Monterey County determined in 2005 that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to its employees who are members of the Public Employees' Retirement System; and

WHEREAS, as part of the process of LAFCO's transition to an independent agency, a CalPERS retirement contract was adopted by Resolution No. 05 on May 23, 2005, with an effective date of July 1, 2005, and said contract provides for the employer pick-up of the employee contributions to the Public Employees' Retirement System; and

WHEREAS, CalPERS has informed LAFCO that the tax-deferred aspect of the member paid contribution needs to be documented by resolution, for federal tax reporting purposes; and

WHEREAS, the LAFCO Budget and Finance Committee considered this matter on June 20, 2011 and recommends adoption of the resolution:

NOW, THEREFORE, BE IT RESOLVED:

- I. That the Local Agency Formation Commission of Monterey County confirms that it implements the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code section 20691 to the Public Employees' Retirement System on behalf of its employees who are members of the Public Employees' Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.

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- II. That the contributions made since July 1, 2005 by the Local Agency Formation Commission of Monterey County to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the Local Agency Formation Commission of Monterey County in lieu of contributions by the employees who are members of the Public Employees' Retirement System.
- III. That employees shall continue to not have the option of choosing to receive the contributed amounts directly, instead of having them paid by the Local Agency Formation Commission of Monterey County to the Public Employees' Retirement System.
- IV. That the Local Agency Formation Commission of Monterey County shall continue to pay to the Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the Local Agency Formation Commission of Monterey County to the Public Employees' Retirement System on behalf of an employee shall continue to be the entire contribution required of the employee by the Public Employees' Retirement Law (California Government Code sections 20000, et seq.).
- VI. That the contributions designated as employee contributions made by Local Agency Formation Commission of Monterey County to the Public Employees' Retirement System shall continue to be treated for all purposes, other than taxation, in the same way that member contributions are treated by the Public Employees' Retirement System.

UPON MOTION OF Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_  
the foregoing resolution is adopted this \_\_\_\_ day of June, 2011 by the following vote:

AYES:  
NOES:  
ABSENT:

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Vince DiMaggio, Chair  
Local Agency Formation Commission of Monterey County

ATTEST: I certify that this resolution is a true and complete record of said Commission's actions.

Witness my hand this \_\_\_\_ day of June 2011

By: \_\_\_\_\_  
Kate McKenna, AICP, Executive Officer