

**RESOLUTION REGARDING PICK-UP OF
EMPLOYEE RETIREMENT CONTRIBUTIONS PURSUANT TO
SECTION 414(h)(2) OF THE INTERNAL REVENUE CODE**

Introduced by Mayor Merkes

WHEREAS, Internal Revenue Code (“Code”) § 414(h)(2) permits public employers to “pick up” contributions to a governmental pension plan that are designated as employee contributions so that they may be taken from employees’ pay on a pre-tax basis and thereby be excluded from an employee’s taxable income, provided the contributions are paid by the employer in lieu of contributions by the employee, and the employee may not elect, directly or indirectly, to receive the amounts in cash instead of having them paid by the employer; and,

WHEREAS, the Common Council (“Council”) of the City of Menasha (“City”) has determined that taking action to adopt a “pick-up” as described in this resolution does not increase the City’s cost of funding the retirement benefits owed to the Wisconsin Retirement System (The “WRS”) and the City chooses to take this action in order to allow covered employees to exclude such amounts from their taxable income pursuant to Code § 414(h)(2); and,

WHEREAS, the City desires to “pick up” WRS contributions for its employees who become required by law, pursuant to a collective bargaining agreement or by action of the Council to pay one-half or any other portion of the required contributions to the WRS.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Pursuant to Code § 414(h)(2), Internal Revenue Service (“IRS”) Revenue Ruling 2006-43 and the terms of this resolution, the City hereby elects to pick up all contributions designated as employee contributions that its covered employees owe to the WRS by paying such amounts in lieu of employee contributions.
2. All contributions that are designated as employee contributions to the WRS will be paid by the City in accordance with the rules of Code § 414(h)(2). These pick-up contributions will be withheld from employee wages as a condition of employment with no individual discretion by employees to have some other amount withheld or to opt out of having such amounts withheld.
3. Amounts picked up the City shall be paid from the same source of funds as used in paying the wages of the affected employees.
4. Amounts picked up by the City shall be treated for all purposes, other than taxation on gross income, in the same manner and to the same extent as employee contributions made prior to the effective date of this resolution.
5. The terms of this resolution shall be operative only so long as public employer pick-ups of employee retirement contributions continue to be excludable from employee gross income under the Internal Revenue Code and related guidance from the IRS.
6. The City makes no representations or guarantees regarding the tax or financial consequences of employer pick-ups to any particular employee contributing to the WRS and hereby notifies all such employees to seek, at their own expense, appropriate financial, legal or tax advice with respect to their particular financial questions or situation.

7. The terms of this resolution shall become effective on the effective date and publication by the Secretary of State of the State of Wisconsin 2011 Wisconsin Act 10 or on the date on which any collective bargaining agreement or action of the Council requires employees to pay any portion of the required contribution to the WRS, whichever is earliest, but in no event any earlier than the date the Council adopts this resolution and contributions to WRS made prior to the terms of this resolution becoming effective shall not be subject to these provisions.

Passed and approved this day of , 2011.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk