

**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATIONS**

CC: LC  
Amend No. \_\_\_\_\_

**Date Prepared: January 21, 2010**

**Council Meeting Date: February 2, 2010**

---

**TO:** Honorable Mayor and Council  
**FROM:** Steve Kemp, City Attorney  
**SUBJECT:** Section 401 (a) Employee Pension Plan

**RECOMMENDATION:** That the Mayor and Council adopt the proposed resolution on the employee retirement plan

**SUMMARY:**

The City adopted an employee retirement plan in 1996 pursuant to Section 401 (a) of the United States Internal Revenue Code of 1986, as amended (IRC). This plan was applicable to management employees of the City. Pursuant to the IRC, the plan could provide that employee contributions would be treated as employer contributions for tax purposes of the employee if the plan provided for a "pick up" of these contributions.

In reviewing the City's records of these actions, we have determined that the documentation of the City's approval of the plan containing the authorization of the "pick up" of the employee's contributions has been accidentally lost or discarded. As part of our recent internal review of our plans, we are updating our documentation.

Therefore in order to comply with the IRC, this resolution is proposed to document the approval of the plan on January 3, 1996 and its authorization of the pick up of employee contributions as employer contributions pursuant to Section 414(a)(2) of the IRC. It is my recommendation that the Mayor and Council adopt the proposed resolution.

**FISCAL NOTE:** (If Applicable)

**ATTACHMENT:**

1. Proposed Resolution

---

**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date:
- Approved
- Unfinished Business (Date heard previous)
- New Business
- Public Hearing: No Action Taken

ORD#  
LCON#  
Action Date:

RES# 2010-08  
LIC#

RESOLUTION NO. 2010-08

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA FINDING AND CONFIRMING THAT THE CITY OF PEORIA AUTHORIZED AND CREATED AN EMPLOYEE RETIREMENT PLAN PURSUANT TO SECTION 401(A) OF THE UNITED STATES INTERNAL REVENUE CODE ON OR ABOUT , 1994, AND PROVIDED IN SUCH PLAN FOR CERTAIN CONTRIBUTIONS MADE BY THE EMPLOYEE TO BE PAID BY THE EMPLOYER PURSUANT TO THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED STATES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Peoria, Arizona adopted a defined benefit plan under Section 401(a) of the Internal Revenue Code on or about January 3, 1996, and

WHEREAS, the City of Peoria, Arizona provided under the plan adopted pursuant to Section 401(a) of the Internal Revenue Code for a "pick up" of employee contributions as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code, and

WHEREAS, a review of the City of Peoria records indicate that the record of the city council action has been lost or accidentally discarded, and

WHEREAS, the City of Peoria, Arizona desires to find and confirm that the action authorizing such contributions occurred.

NOW, THEREFORE, IT IS RESOLVED by the Mayor and Council of the City of Peoria:

1. That the City of Peoria, Arizona on or about January 3, 1996 created an employee retirement plan pursuant to section 401(a) of the United States Internal Revenue Code with the intent that such plan be deemed a qualified plan
2. That the City of Peoria, Arizona on or about January 3, 1996 as part of the employee retirement plan created pursuant to section 401(a) of the United States Internal Revenue Code determined that the employee contributions made to such plan would be picked up as employer contributions pursuant to section 414(h)(2)
3. That the City of Peoria, Arizona finds and determines that due to the accidental loss or discarding of the original record of City Action, that

adoption of a resolution documenting such action is proper, necessary and appropriate.

4. That the City of Peoria, Arizona finds and determines that the date of adoption of such plan was January 3, 1996.
5. That this resolution shall be retroactive to the date of January 3, 1996.

This adoption of this Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 2<sup>nd</sup> day of February, 2010.

---

Bob Barrett, Mayor

ATTEST:

---

Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

---

Stephen M. Kemp, City Attorney