

# COTTONWOOD HEIGHTS

## RESOLUTION No. 2024-38

### A RESOLUTION AUTHORIZING CERTAIN RETIREMENT CONTRIBUTIONS AND BENEFITS

**WHEREAS**, the city of Cottonwood Heights (the “City”) provides certain retirement benefits to certain of its officers and employees through the City’s participation in the Utah Retirement Systems (the “URS”); and

**WHEREAS**, the URS recently requested the City to complete and submit to the URS a new “*Employer Election To Pick-Up Member Contributions*” form (the “*Pick-Up Form*”) designating the specific amount of the member contributions required to be paid under the New Public Safety and Firefighter Tier II Contributory Retirement System (the “*System*”) administered by the URS pursuant to UTAH CODE ANN. 49-23-301(2)(c) as enacted in S.B. 56, Public Safety and Firefighter Tier II Retirement Enhancements (2020 General Session), that the City desires to “pick-up” (i.e., pay) on behalf of the City’s public safety employees who are eligible for and participate in the System; and

**WHEREAS**, in accordance with federal and state law, including Section 414(h)(2) of the Internal Revenue Code, employers may take formal action to pick-up required employee contributions which will be paid by the employer in lieu of employee contributions; and

**WHEREAS**, the City’s city council (the “*Council*”) met in regular meeting on 21 May 2024 to consider, among other things, formally evidencing the City’s intent to pick-up a portion of the employee contributions under the System and approving completion and submission of the Pick-Up Form as shown on the attached exhibit; and

**WHEREAS**, the Council is authorized to so act on behalf of the City as a participating employer with the URS and, after careful consideration, has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to act as proposed;

**NOW THEREFORE, BE IT RESOLVED** by the city council of Cottonwood Heights that the City will formally “pick-up” the portion of the employee contributions required to be paid under UTAH CODE ANN. 49-23-301(2)(c) as follows:

1. Beginning 1 July 2024 the City shall prospectively pick-up and pay required employee contributions for all City employees who are members of the System, subject to a maximum of 4.73% of compensation for each employee;
2. The picked-up contributions paid by the City, even though designated as employee contributions for state law purposes, are being paid by the City in lieu of the required employee contributions;
3. The picked-up contributions will not be included in the employee’s gross income for federal or state income taxes (i.e., for tax withholding purposes) until distributed from the URS, so that the contributions shall be treated as employer contributions pursuant to Section 414(h)(2)

of the Internal Revenue Code;

4. The picked-up contributions are a supplement and not a salary reduction to the City employees who are eligible for and participating members in the System;

5. From and after the effective date of this pick-up, a City employee (a) does not have a cash or deferred election right with respect to the designated employee contributions, (b) may not opt out of the pick-up, or (c) may not choose to receive the contributed amounts directly instead of having them paid by the City to the URS on behalf of the employee.

The City’s manager or designee is authorized and directed to complete and file all necessary applications and forms with the URS to evidence such pick-up by the City, including, without limitation, the Pick-Up Form attached as an exhibit to this resolution (this “Resolution”).

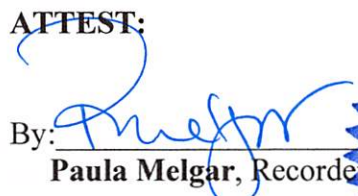
This Resolution, assigned no. 2024-38, shall take effect on 1 July 2024.

**PASSED AND APPROVED** this 21<sup>st</sup> day of May 2024.

ATTEST:

**COTTONWOOD HEIGHTS CITY COUNCIL**

By:

  
Paula Melgar, Recorder

By:

  
Michael T. Weichers, Mayor



**VOTING:**

Michael T. Weichers	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Matt Holton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Suzanne Hyland	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Shawn E. Newell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Ellen Birrell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**DEPOSITED** in the office of the City Recorder this 21<sup>st</sup> day of May 2024.

**RECORDED** this 22 day of May 2024.



Utah Retirement Systems  
 PO Box 1590  
 Salt Lake City, UT 84110-1590  
 801-366-7318 | 800-753-7318  
 www.urs.org

# Employer Election To Pick-Up Member Contributions Tier 2 Public Safety and Firefighter Contributory System

**Instructions:**

1. This form is designed to notify URS of an Employer's formal election to pick-up Member retirement contributions for Tier 2 Public Safety and Firefighter Employees.
2. This form and accompanying documentation must be returned to URS for processing.
3. A pick-up election is subject to federal law, resulting in tax and legal consequences, including limitations about the ability to modify or revoke the election. For information regarding employer pick-up contributions, please refer to federal law and guidance, including Internal Revenue Code Section 414 and IRS Revenue Ruling 2006-43. If you would like to update the *Employer Election to Pick-Up Member Contributions* form on file for your Tier 2 Public Safety and Firefighter employees, please input the total amount you are electing to pick-up. By submitting this information, it will amend your previous election, and it cannot be less than the previous pick-up amount.
4. An Employer should consult its legal, financial, and tax advisors if it has any questions concerning the consequences of Member contribution pick-ups and submitting this form.

<b>SECTION A » EMPLOYER INFORMATION</b>		
Employer Name <b>Cottonwood Heights</b>	Employer Number <b>327</b>	Date <b>4/23/2024</b>
Desired Effective Date: <b>7-1-2024</b> (The effective date must be after the date that the pick-up election was formally adopted as provided in the attached documentation.)		

**SECTION B » PICK-UP AMOUNT(S)**

The above-named Employer certifies that it has taken formal action to provide that the contributions on behalf of its covered employees in the following URS System, although designated as employee contributions, will be paid by the employer in lieu of employee contributions. (Check the box and fill in the portion of employee contributions picked-up for each class of employees below.)

Please also attach written documentation to this form that provides evidence that the Employer formally elected to prospectively pick-up specified employee contributions. (For example, ordinance, resolution, governing body meeting minutes, etc.)  
 Note: If you are picking-up contributions for public safety, and firefighter employees, check all the boxes

Tier 2 Public Safety and Firefighter Contributory Retirement System, with the following pick-up election that will be paid by the Employer in lieu of employee contributions for members serving as a **Public Safety Officer**:

- **4.73** % of salary. (\*e.g., 4.73% of salary)

**N/A** Tier 2 Public Safety and Firefighter Contributory Retirement System, with the following pick-up election that will be paid by the Employer in lieu of employee contributions for members serving as a **Firefighter**:

- \_\_\_\_\_ % of salary. (\*e.g., 4.73% of salary)

\*These amounts are the required Member Contribution Rates effective July 1, 2024. Employers are not required to pay the full Member Contribution rate and may pick up a percentage of salary. The percentages included by the Employer may not exceed the required Member Contribution rate and cannot be less than the amount previously picked-up by the Employer.

**SECTION C » CERTIFICATION AND SIGNATURE**

I acknowledge, certify and understand the following:

- » I represent and have the authority to sign and submit this form on behalf of the Employer;
- » The Employer has taken all appropriate and necessary actions to make a formal Employer pick-up regarding employee contributions on behalf of its employees;
- » The election to pay for the Employee contributions shall constitute an Employer pick-up of designated contributions pursuant to Internal Revenue Code Section 414(h);
- » From and after the date of the pick-up election, an Employee may not: 1) have a cash or deferred election right with respect to designated Employee contributions; 2) be permitted to opt out of the pick-up; or 3) have the option of choosing to receive or receiving the contributed amounts directly instead of having them paid by the Employer to the specified system/plan;
- » In order for contributions to be considered paid by the employer, and therefore not subject to Social Security and Medicare tax (FICA), the Employer contributions: 1) Must be mandatory for all Employees covered by the retirement system; and 2) Must be a salary supplement and not a salary reduction—In other words, the Employer must not reduce employee salary to offset the amount designated as employee contributions;
- » Future modifications to this Employer election may be disallowed or limited;
- » The election authorized to be taken by the foregoing is not contrary to any governing provisions of the Employer;
- » I understand that URS is not providing the Employer legal, financial, or tax advice relating to making a "pick-up" election or submitting this form;
- » The information provided on this form and attached documentation is correct and can be relied upon by URS; and
- » I agree that the Employer will indemnify URS from and against any claims or other liability including attorney fees based upon the Employer's failure to comply with pick-up election requirements.

Printed Name of Employer Representative (Binding Official) <b>Paula Melgar</b>	Signature of Binding Official 	Title <b>HR Director</b>
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