

RESOLUTION NO. _____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

RESOLUTION ADOPTING RECOMMENDATIONS
MADE BY THE BOARD OF RETIREMENT
PURSUANT TO GOVERNMENT CODE SECTIONS 31592.2 & 31592.4 & INTERNAL REVENUE CODE SECTION 401(H)

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Government Code §31453 mandates the periodic actuarial valuation of the Retirement Fund and requires that the Board...*shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the Board of Supervisors such changes in the rates of interest, in the rates of contributions of members, and in the county and district appropriations as are necessary...*; and

WHEREAS, the Board of Retirement has received, reviewed and approved the reports of its actuary, Mercer Human Resources Consulting and the Retirement Administrator/Chief Executive Officer setting forth recommendations to assure the actuarial soundness of the Retirement Fund; and

WHEREAS, the Board of Supervisors wishes to provide eligible retired County employees and beneficiaries with tax-free Medicare Part-B premium reimbursements for the fiscal year beginning July 1, 2003; and

WHEREAS, the Board of Retirement has adopted its Resolution 97-98-11, as amended, establishing and governing SamCERA's Medicare Part-B Premium Reimbursement Program; and

WHEREAS, the Board of Retirement has recommended that the Board of Supervisors contribute \$1,435,000 to SamCERA's 401(h) Reserve to fund the Fiscal Year 2003-2004 cost of the Medicare Part-B Premium Reimbursement Program; and

WHEREAS, the Board of Retirement and the Board of Supervisors have agreed that such contribution to SamCERA's 401(h) Reserve will not add to the County's cost of funding SamCERA benefits for this or any other fiscal year, pursuant to the terms and conditions set forth in Resolution 97-98-11, as amended; and

WHEREAS the Board has reviewed the recommendations and finds them to be in the best interest of the members, retirees and beneficiaries of the Retirement System:

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED, that

The County shall contribute \$1,435,000 to the 401(h) Reserve for the continuation of the Medicare Part-B Premium Reimbursement Program through Fiscal Year 2003-2004, as a one-time lump sum deduction from the first biweekly employer contribution paid in accordance with the contribution rates set forth above, in an amount equal to the difference between \$1,435,000 and the balance remaining in the 401(h) Reserve on July 1, 2003, as certified by the Retirement Administrator/Chief Executive Officer. The Controller shall specifically designate in writing at the time of contribution that such contribution is being made only to the 401(h) Reserve governed by Board of Retirement Resolution 97-98-11, as amended May 26, 1998.

RESOLUTION NO. 61970

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

RESOLUTION AUTHORIZING CONTRIBUTION TO SamCERA'S 401(H) RESERVE
FOR FISCAL YEAR COMMENCING JULY 1, 1998

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the Board wishes to provide all eligible retired County rank and file employees with tax-free Medicare Part-B premium reimbursements for the fiscal year beginning July 1, 1998; and

WHEREAS, the San Mateo County Employees' Retirement Association, ("SamCERA") has informed the County of its ability to provide Medicare Part-B premium reimbursements for such fiscal year; and

WHEREAS, SamCERA is not empowered to provide retiree health benefits on a tax-free basis unless the Board of Supervisors provides the funding for the Internal Revenue Code §401(h) authorized program; and

WHEREAS, SamCERA can provide such benefits on a tax-free basis only if the County designates a portion of its fiscal year contribution commencing July 1, 1998 to SamCERA as being only for such medical benefits; and

WHEREAS, the Board of Retirement and the Board of Supervisors have agreed that such designation will not add to the County's cost of funding SamCERA benefits for this or any other fiscal year, under the terms and conditions for such designation set out by SamCERA; and

WHEREAS, SamCERA has requested a specific amount of contributions for the fiscal year commencing July 1, 1998 to be designated for retiree medical benefits and has set out the terms and conditions for such contributions.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED:

1. The County shall contribute not less than \$900,000 during the fiscal year which commences on July 1, 1998, to SamCERA to be used only for paying retiree medical benefits.
2. The County's contribution shall be paid in biweekly installments as a percentage of the County's SamCERA-covered payroll, in the manner in which retirement contributions are paid.
3. Such contributions shall be designated, in writing by the Controller, as being only for SamCERA's 401(h) Reserve, and such designation shall be made at the time of each contribution.
4. Board of Retirement Resolution 97-98-11, as amended May 26, 1998, establishing SamCERA's Retiree Medical Benefits Program, shall govern the application of such contributions, and is an integral part of the agreement set forth herein.
5. To protect the integrity of the agreement that a contribution by the County to the 401(h) Reserve of SamCERA will not increase the County's contribution to SamCERA, the contribution made in accordance with this Resolution is conditioned on the following:
 - (a) SamCERA will vigorously defend, in cooperation with the County as is necessary or appropriate, against any action that might be taken to prohibit, reverse or modify the transfer of assets set forth above.
 - (b) In the case of a final court decision that orders the reversal of any transfer of assets as set forth above, SamCERA will, to the extent necessary and permissible under the County Employees' Retirement Law of 1937, pay for the Medicare Part-B reimbursements on a taxable basis from the Government Code §31592 Reserve and will transfer the 401(h) Reserve balance, if any, to County Advance Reserves as a credit against County contributions due and payable.
6. No existing or future County employee, retiree, spouse or dependent shall have any vested rights, contractual rights or other rights in or to any retiree medical benefits or payment or subsidy for any such benefits, nor shall any such person have any such rights to have the County contribute toward paying the cost of any retiree health benefits provided by SamCERA under a 401(h) Reserve or otherwise. For any

subsequent fiscal year, the Board of Supervisors may modify or terminate, at any time and without any limitation, its decision to contribute to SamCERA's 401(h) Reserve. This modification or termination may occur even if it may affect any employee first hired prior to the date of such modification, any person who retired prior to such date, and/or any person who became a spouse or dependent of an employee or retiree prior to such date.

7. The County can waive any of the conditions set forth in Board of Retirement Resolution 97-98-11 relative to its contribution to SamCERA's 401(h) Reserve only by notifying the Administrator of SamCERA in writing that it is waiving a condition and specifically identifying the condition being waived.

8. The County Manager, the County Treasurer and the Auditor-Controller are authorized and directed to take all action necessary and appropriate to carry out this resolution.

SAN MATEO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Establishing a Retiree Medical Benefits Program
RESOLUTION 97-98-11, as amended May 26, 1998

*This Resolution, adopted by the Board of Retirement (Board)
of the San Mateo County Employees' Retirement Association (SamCERA),
establishes the Board's Retiree Medical Benefits Program.*

- WHEREAS**, Government Code §31592.2 and §31592.4 authorize the Board to pay retiree medical benefits from earnings of the Retirement Fund in excess of the total interest credited to contributions and reserves; and
- WHEREAS**, SamCERA is an Internal Revenue Code (*Code*) §401(a) tax-qualified retirement system which may provide tax-free retiree medical benefits in accordance with §401(h) and applicable regulations (*Regulations*); and
- WHEREAS**, SamCERA is not empowered to provide tax-free retiree health benefits, unless the Board of Supervisors provides the funding for the §401(h) authorized program; and
- WHEREAS**, the Retirement Fund has made substantial progress toward achieving full funding as defined by the actuary. Therefore, be it
- RESOLVED** that the Board hereby finds and declares that it is in the best interests of the members that SamCERA provide tax-free retiree medical benefits. Be it further
- RESOLVED** that the Board hereby finds and declares that it is appropriate to allocate a portion of the retirement earnings for the payment of tax-free retiree medical benefits in the manner set forth below. Be it further
- RESOLVED** that the Board hereby declares this resolution to be an integral component of SamCERA's "plan document", as it governs the granting and payment of retiree medical benefits. Be it further
- RESOLVED** that the Board shall pay, on behalf of the County of San Mateo, the full reimbursable cost of Medicare Part-B premiums paid by individual retirees, beneficiaries and survivors, upon certification by the individual retiree, beneficiary or survivor that he or she is eligible for Medicare Part-B coverage and is responsible for bearing the cost of such Medicare Part-B premiums. The Board shall not pay any other retiree medical benefits to any other person. Be it further
- RESOLVED** that the Board hereby establishes a 401(h) Reserve upon the books of the Association which shall be established and maintained in conformance with the requirements of the Code and applicable Regulations. These requirements are known to include the following: (a) Funds held in the 401(h) Reserve shall only be used to provide medical benefits to eligible SamCERA retirees, beneficiaries and survivors. (b) No funds in the 401(h) Reserve shall be used for, or diverted to, any purpose other than providing retiree medical benefits. (c) If, and only if, all liabilities of SamCERA to provide retiree medical benefits are completely satisfied, then any remaining assets in the 401(h) Reserve shall be returned to the County. (d) The 401(h) Reserve is for record keeping purposes only and the funds held in that Reserve may be commingled for investment purposes. Be it further
- RESOLVED** that all retiree medical benefits shall be provided in accordance with the requirements of the Code and applicable Regulations. In addition to the provisions governing the establishment and maintenance of the 401(h) Reserve, these requirements are known to include the following: (a) All retiree medical benefits plus all death related medical benefits provided by SamCERA shall be subordinate, as provided in the Code and Regulations, to the retirement benefits provided by SamCERA. (b) All retiree medical benefits provided by SamCERA shall only be paid from the 401(h) Reserve. (c) If the County determines to contribute to the 401(h) Reserve, the contributions to that Reserve shall be made by the County of San Mateo as determined by the Board of Supervisors. (d) All contributions for benefits to be paid from the 401(h) Reserve shall be reasonable and ascertainable. (e) If the County contributes to the 401(h) Reserve, such action shall not create any vested or contractual rights in any party (including any retiree or SamCERA) to any future contribution to such Reserve. (f) The County shall designate in writing any such contributions as being only for the 401(h) Reserve. Such designation must be made at the time of contribution. (g) In the event that an individual's interest in the 401(h) Reserve is forfeited prior to

termination of SamCERA, an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the medical benefits provided by SamCERA. (h) No "key employees", as defined in the Code, shall be eligible to receive any retiree medical benefits from SamCERA. Be it further

RESOLVED that, if the Board of Retirement wishes to request that the Board of Supervisors make a contribution to the 401(h) Reserve for any year, the Board of Retirement shall do the following: (a) Prior to the beginning of each fiscal year, the Board of Retirement shall review the results of the prior year's actuarial valuation and either (1) if the actuarial funding ratio therein was less than 80%, the Board shall suspend funding for the 401(h) Reserve program at the end of the current fiscal year, or (2) if the actuarial funding ratio therein equaled or exceeded 80%, the Board shall determine the dollar amount of retiree health benefits that it reasonably anticipates providing in the coming fiscal year, and shall also determine any additional amount reasonably needed as a reserve to cover unanticipated increases in the cost of providing such benefits. (b) The Board of Retirement shall request that the Board of Supervisors contribute to the 401(h) Reserve the amount the Board of Retirement determines to be necessary to provide retiree medical benefits and reasonable reserves therefore for the coming fiscal year. The Board of Retirement shall request that the Board of Supervisors specifically designate, in writing, any such contribution as being for the 401(h) Reserve and that such designation occur at the time of the contribution. The Board of Retirement shall request that such contribution be made at such time as meets the requirements of Code §401(h). Be it further

RESOLVED that, in order to protect the integrity of the agreement that a contribution by the County to the 401(h) Reserve of SamCERA will not increase the County's contribution to SamCERA, the contribution made in accordance with this Resolution is conditioned on the following: (a) SamCERA will vigorously defend, in cooperation with the County as is necessary or appropriate, against any action that might be taken to prohibit, reverse or modify the transfer of assets set forth above. (b) In the case of a final court decision that orders the reversal of any transfer of assets as set forth above, SamCERA will, to the extent necessary and permissible under the County Employees' Retirement Law of 1937 (CERL), pay for the Medicare Part-B reimbursements on a taxable basis from the GC§31592 Reserve and will transfer the 401(h) Reserve balance to County Advance Reserves as a credit against County contributions due and payable. Be it further

RESOLVED that no existing or future employee, retiree, spouse or dependent shall have any vested rights, contractual rights or other rights in or to any retiree medical benefits or payment or subsidy for any such benefits. The Board of Retirement may modify or terminate, at any time and without any limitation, any retiree medical benefits provided by the Board of Retirement. Modification or termination may occur even if the retiree medical benefits have been provided without modification or termination on or after the date of hire of any employee, the date of retirement of any retiree, and/or the date of marriage or beginning of dependency of any spouse or dependent. In addition, neither SamCERA, the Board of Retirement, or any other party shall have any liability to pay any medical benefits (or contribution or subsidy for any such benefits) to the extent that such benefits (or contribution or subsidy) would exceed the assets allocated to the 401(h) Reserve. Be it further

RESOLVED that the County can waive any of the conditions set forth in this Resolution only by notifying the Administrator of SamCERA in writing that it is waiving a condition and specifically identifying the condition being waived. Be it further

RESOLVED that the Administrator is hereby authorized to take all actions necessary to implement the provisions of this resolution.

ADOPTED, by unanimous vote, February 24, 1998

AMENDED, by unanimous vote, May 26, 1998

Attest:

TOM E. BRYAN, Secretary