



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Counsel

DATE: September 25, 2006

BOARD MEETING DATE: October 17, 2006

SPECIAL NOTICE/HEARING: None

VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Thomas F. Casey III, County Counsel

SUBJECT: Internal Revenue Service Requirements for Employer Pick-Ups of Employee Contributions

RECOMMENDATION:

Adopt a Resolution Evidencing Compliance With Internal Revenue Service Ruling 2006-43 Relating To Employer Pick Up Of Contributions Within The Meaning Of Internal Revenue Code Section 414(h)(2).

VISION ALIGNMENT:

Commitment: Responsive, effective and collaborative government.

Goal(s): Government decisions are based on careful consideration of future impact, rather than temporary relief or immediate gain.

BACKGROUND:

Internal Revenue Ruling 2006-43 addresses certain requirements for contributions to the County's retirement system that are picked up by an employer within the meaning of § 414(h)(2). This revenue ruling establishes that the following criteria must be satisfied: (i) the employer must specify that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee; and (ii) the employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

DISCUSSION:

The County has already specified in its collective bargaining agreements with

recognized labor or professional organizations and in resolutions governing employment classifications not represented by recognized labor or professional organizations, that certain contributions to the retirement system, although designated as employee contributions, are being paid by the County in lieu of contributions by the employee. It is the existing practice, and the past practice that employees who are the subject of a pick up of all or portion of the employee contributions to the retirement system, do not have an option to receive the contributed amounts directly instead of having them paid by the County to the County's retirement system.

The resolution presented for your adoption memorializes this practice in order to be in compliance with the requirements of Internal Revenue Code §414(h)2.

FISCAL IMPACT:

None.

THOMAS F. CASEY III, COUNTY COUNSEL

TFC/BBC:mc

cc: John L. Maltbie, County Manager
Donna Vaillancourt, Employee and Public Services
Tom Huening, Controller