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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT

2009 JAN 15 PM 3:32

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Finance and Management Agency
DATE: January 27, 2009

RE: **Resolution Authorizing Implementation of the Provisions of Section 414(h)(2) of the Internal Revenue Code to Tax Defer Member Paid Contributions for Service Credit Purchased from California Public Employees' Retirement System (CalPERS)**

SUMMARY

A resolution has been prepared that will allow City of Oakland miscellaneous and safety employees to purchase service credit from CalPERS on a pre-tax basis. This resolution allows the City of Oakland to implement the provisions of Internal Revenue Code (IRC) Section 414(h)(2) by making employee contributions for service credit purchased pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan. The pre-tax payroll deduction benefit will be available to members in the miscellaneous, fire safety and police safety groups.

FISCAL IMPACT

The proposed resolution creates no fiscal impact or cost to the City of Oakland. Through our contract with CalPERS, current and future City employees are able to purchase service credit for military service (one to four years), previous service (no limit) and additional retirement service credit ("air time"—one to five years) from CalPERS. **Employees choosing to purchase service credit are responsible for all costs associated with this benefit.**

BACKGROUND

In April 1996, the Board of Administration of the California Public Employees' Retirement System (CalPERS) approved a pre-tax payroll deduction plan for service credit purchase under Internal Revenue Code (IRC) Section 414(h)(2).

As a result, the City of Oakland has the authority to implement the provisions of IRC Section 414(h)(2) and may determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS.

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KEY ISSUES AND IMPACTS

The implementation of IRC Section 414 (h)(2) will allow the City of Oakland to pick up the contributions of employees purchasing service credit from CalPERS and to treat those contributions as employer's contributions. This will exclude the employees' contributions for service credit from federal gross income and withholding requirements.

Additionally, it has been determined that the City's payroll system meets the requirements established by PERS to participate in the pre-tax payroll deduction for service credit. Eligible employees (miscellaneous, fire safety and police groups) will benefit from making service credit purchase contributions on a pre-tax basis.

The effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than the date the completed resolution is received and approved by CalPERS.

SUSTAINABLE OPPORTUNITIES

There are no economic, environmental, or social equity opportunities resulting from this action.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed action does not impact disability and senior citizen access.

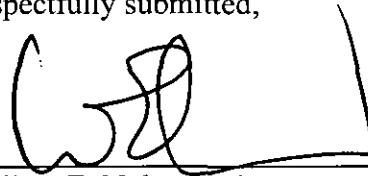
RECOMMENDATION(S) AND RATIONALE

The adoption of this resolution will allow City employees in the miscellaneous, fire safety and police safety groups to have payroll deductions for service credit purchase deducted on a pre-tax basis. This resolution deals with the tax treatment of employee contributions to CalPERS, authorizing them to be deducted on a pre-tax basis at no cost to the City.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council approve the Resolution authorizing implementation of the provisions of section 414(h)(2) of the Internal Revenue Code to tax defer member paid contributions for service credit purchased from California Public Employees' Retirement System (CalPERS).

Respectfully submitted,



William E. Noland, Director
Finance and Management Agency

Reviewed by:
Marcia Meyers
Director of Personnel
Office of Personnel Resource Management

Prepared by:
Yvonne S. Hudson, HR Manager
Retirement and Benefits

APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:



Office of the City Administrator

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January 27, 2009

Gracy Chris
City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2009 JAN 15 PM 3:33 RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

**EMPLOYER PICKUP RESOLUTION
PRE-TAX PAYROLL DEDUCTION PLAN
FOR SERVICE CREDIT PURCHASES
(CONTRIBUTION CODE 14)**

WHEREAS, the Board of Administration of the California Public employees' Retirement System (CalPERS) at the April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) section 414(h)(2); and

WHEREAS, City of Oakland has the authority to implement the provisions of IRC section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

WHEREAS, the City of Oakland elects to participate in the pre-tax payroll education plan for all employees in the following CalPERS employee groups or classifications

Miscellaneous
Fire Safety
Police Safety

NOW, THEREFORE, BE IT RESOLVED:

- I. That the City of Oakland will implement the provisions of IRC section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan. "Employee contributions" shall mean those contributions reported to CalPERS which are deducted from the salary of employees and are credited to individual employee accounts for service credit purchases, thereby resulting in tax deferral or employee contributions.
- II. That the contributions made by the City of Oakland to CalPERS, although designated as employee contributions, are being paid by the City of Oakland in lieu of contributions by the employees who are members of CalPERS.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Oakland to CalPERS.

- IV. That the City of Oakland shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.
- V. That the effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than the date the completed resolution is received and approved by CalPERS.
- VI. That the governing body of the City of Oakland shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre-tax deductions when authorized by CalPERS for those employees of the above stated employee groups or classifications who have elected to participate in this plan.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California