



SACRAMENTO AREA COUNCIL OF GOVERNMENTS

RESOLUTION NO. 44 - 2007

PICK UP CONTRIBUTIONS

WHEREAS, the Sacramento Area Council of Governments (SACOG) currently maintains the SACOG Special Pay Plan and FICA Alternative Plan ("Plan"), a profit sharing plan intended to be a qualified plan of deferred compensation pursuant to section 401(a) of the Internal Revenue Code (Code);

WHEREAS, the terms of the Plan require certain employee contributions to the Plan from eligible participants;

WHEREAS, Code section 414(h)(1) provides that a contribution shall not be treated as having been made by the employer if it is designated as an employee contribution;

WHEREAS, Code section 414(h)(2) provides that in the case of a governmental plan, such as SACOG's plan, where the contributions are designated as employee contributions but the employer "picks up" the contributions, the contributions that are picked up are treated as employer contributions on behalf of participants;

WHEREAS, SACOG's intent has been and continues to be that (i) the employee contributions under the plan, although designated as employee contributions, are being paid by SACOG in lieu of contributions by the employees, and (ii) the employees do not have an option of choosing to receive the contributed amounts directly or to have them paid by the employer to the Plan, and (iii) the employees do not have an option of choosing to have the contributed amounts paid to the Plan by the employer from the employers funds, and (iv) the employee may take a distribution of the funds from the Plan, subject to the terms and guidelines applicable to the Plan;

WHEREAS, SACOG has taken actions in the past evidencing this intent and has operated the Plan accordingly; and

WHEREAS, SACOG will continue to operate the Plan accordingly;

NOW, THEREFORE, BE IT RESOLVED, that SACOG hereby approves the "pick-up" of the employees' contributions to the plan, as permitted by Code section 414(h)(2), recognizing that (i) the contributions, although designated as employee contributions, are being paid by SACOG as the employer in lieu of contributions by the employees, (ii) the employees shall not have the option of choosing to receive the contributed amounts directly, and (iii) the contributions will be treated as employer contributions for income tax purposes and therefore non-taxable to the employee until withdrawal by the employee pursuant to the Plan and applicable IRS laws and regulations.

PASSED AND ADOPTED this 19th day of July 2007, by the following vote of the Board of Directors:

AYES:

NOES:

ABSTAIN:

ABSENT:

RUSTY DUPRAY
Chair

MIKE MCKEEVER
Executive Director