

Santa Clara County Open Space Authority

RESOLUTION 10-19

A RESOLUTION OF THE GOVERNING BOARD OF THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY TO TAX DEFER MEMBER PAID CONTRIBUTIONS – IRC 414(h)(2) EMPLOYER PICK-UP

WHEREAS, the Santa Clara County Open Space Authority has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the Board of Administration of the Public Employees' Retirement System adopted its resolution re IRC section 414(h)(2) on September 18, 1985, known as the Employer Pick-Up Provision; and

WHEREAS, the Internal Revenue Service has stated in December 1985, that the implementation of the provisions of IRC section 414(h)(2) pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of IRC section 414(h)(2); and

WHEREAS, the Santa Clara County Open Space Authority has determined that even though the implementation of the provisions of IRC section 414(h)(2) is not required by law, the tax benefit offered by IRC section 414(h)(2) shall be provided to its regular, permanent, eligible employees who are members of the Public Employees' Retirement System; and

WHEREAS, the Santa Clara County Open Space Authority has determined that the tax benefit offered by IRC section 414(h)(2) shall not be provided to temporary or seasonal employees scheduled to work less than 1,000 hours or 125 days in a fiscal year and who are otherwise eligible:

NOW, THEREFORE, BE IT RESOLVED:

- I. That the Santa Clara County Open Space Authority will implement the provisions of section 414(h)(2) of the Internal Revenue Code by making employee contributions pursuant to California Government Code section 20691 to the Public Employees' Retirement System on behalf of its employees who are members of the Public Employees Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.
- II. That the contributions made by the Santa Clara County Open Space Authority to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the Santa Clara County Open Space Authority in lieu of contributions by the employees who are members of the Public Employees' Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the Santa Clara County Open Space Authority to the Public Employees' Retirement System.
- IV. That the Santa Clara County Open Space Authority shall pay to the Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the Santa Clara County Open Space Authority to the Public Employees' Retirement

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System on behalf of an employee shall be the entire contribution required of the employee by the Public Employees' Retirement Law (California Government Code sections 20000, et seq.).

VI. That the contributions designated as employee contributions made by Santa Clara County Open Space Authority to the Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the Public Employees' Retirement System.

BE IT FUTHER RESOLVED, immediately upon adoption, the terms and conditions of this resolution supersede those in effect with Resolution 08-29.

ADOPTED as a resolution of the Board of the Santa Clara County Open Space Authority at an adjourned meeting duly held on the 24th day of June, 2010, by the following called vote:

AYES:

NOES:

ABSENT:

S. Hall, Chairperson
Santa Clara County Open Space Authority

APPROVED AS TO FORM:

ATTEST:

William P. Parkin, Legal Counsel

Lauren Monack, Clerk of the Board