



# MOUNTAINS RECREATION & CONSERVATION AUTHORITY

Los Angeles River Center and Gardens

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## MEMORANDUM

TO: The Governing Board

FROM:  Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: April 1, 2009

SUBJECT: **Agenda Item VII : Consideration of resolution implementing the provisions of section 414(h)(2) 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.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing the Mountains Recreation and Conservation Authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code.

Background: MRCA has been a member of the California Public Employees' Retirement System (PERS) since the board authorized Resolution 98-20 on March 16, 1998 which approved a contract between MRCA and PERS.

On October 3, 2008, MRCA received a letter from PERS indicating that board action was now required in order to meet certain Internal Revenue Service provisions which would solidify the tax benefit to MRCA employees on employer paid contributions to PERS.

The letter states, in part: (see attachment 4 for the entire letter)

### REVENUE RULING 2006-43

Revenue Ruling 2006-43 provides, in general, that an employee contribution will not be treated as "picked-up" under IRC 414(h)(2) unless:

(1) The employer specifies that the contributions, although designated as employee contributions, are being paid by the employer (this action must be memorialized in writing), and

(2) The employer does not permit participating employees to opt out of the pickup or to receive the contributed amounts directly instead of having them paid by the employer to the plan. Revenue Ruling 2006-43 allows employers who do not have written evidence of a pickup, but their actions show that they intended to establish and carry out a pick-up, to be treated as meeting the requirements of 414(h)(2) for past pre-tax contributions if the employer takes formal action in writing prior to December 31, 2008 with respect to future picked-up contributions. If formal action is not taken prior to December 31, 2008, only contributions taken after the written documentation is in place may be treated as picked-up

The attached resolution implements the provisions of Revenue Ruling 2006-43.

Financial Implications to the MRCA: None. This resolution is a ministerial action which allows MRCA to continue the tax treatment of the employee portion of PERS contributions made by the MRCA on behalf on its employees who are members of the Public Employees' Retirement System.

Jeff Jones, Assistant Financial Officer, will be in attendance at the meeting to answer any questions Board members may have on this issue.