

RESOLUTION NO. 1163

A RESOLUTION RATIFYING AND EXPRESSLY AUTHORIZING CITY OF WILSONVILLE'S "PICK UP" OF REQUIRED EMPLOYEE CONTRIBUTIONS PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE CODE.

WHEREAS, the City of Wilsonville, by custom, practice and policy, has picked up all City employees' contributions to the Public Employees Retirement Plan (PERS) pursuant to Section 414(h) of the Internal Revenue Code in order for the employees' salaries for tax purposes to be reduced by the amount of the employee contribution; and

WHEREAS, the City's "pick up" under the IRS Code has not been expressly stated as the City's policy; and

WHEREAS, Section 414(h)(2) of the Internal Revenue Code allows an employer to "pick up" employees' contributions to a retirement plan sponsored by a government unit; and

WHEREAS, a Section 414(h) pick-up requires the employer to physically make the payment and that employees do not have the option of receiving the salary payment and paying the employee contribution; and

WHEREAS, except for pre-existing contractual obligation, Measure 8 precludes a governmental unit as employer assuming or paying the employees' 6% contribution to PERS; nevertheless, it does not disallow such an employer to exclude those contributions from taxable income under Section 414(h).

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

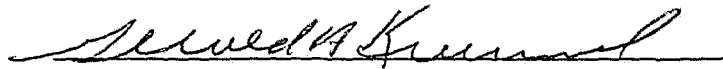
1. The Public Employees Retirement System (PERS) is a City sponsored retirement plan;
2. The employee PERS contribution of 6% of salary is "picked up" for purposes of the Internal Revenue Code Section 414(h)(2) and will be paid to PERS by the City;
3. Employees do not have the option of receiving the salary payment and

paying the PERS employee contribution directly;

4. The employee's reported salary in the W-2 form for tax purposes will be reduced by the amount of the employee contribution; and

5. The Internal Revenue Code, Section 414(h) pick-up is hereby ratified and authorized and shall apply to all employees and to any other City sponsored retirement plan wherein the employees do not have the option of receiving the salary payment and paying the retirement plan directly for the employees' contribution.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof on the 6th day of March, 1995.



GERALD A. KRUMMEL, Mayor

ATTEST:



VERA A. ROJAS, CMC/AE, City Recorder

SUMMARY OF VOTES:

Mayor Krummel	<u>AYE</u>
Councilor Hawkins	<u>AYE</u>
Councilor Leahy	<u>AYE</u>
Councilor Leo	<u>AYE</u>
Councilor Lehan	<u>AYE</u>



City of
WILSONVILLE
in OREGON

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MEMORANDUM

TO: Honorable Mayor and City Councilors
FROM: Michael E. Kohlhoff, City Attorney
DATE: February 28, 1995
RE: CB-R-855-95

With City Recorder Vera Rojas retiring, her replacement will be subject to Measure 8 and a 6% payroll contribution. However, by explicitly adopting the City's previous implicit policy outlined in my December 19, 1994, memorandum (attached) in the form of Resolution CB-R-855-95, the employee's contribution may be excluded under Section 414(h) of the Internal Revenue Code. This lessens the potential of an additional 2% - 3% loss differential for our employees. This may be subject to an individual dollar cap of contribution subject to exclusion. However, I don't believe any employee is in excess of the potential cap, but Finance should monitor this for the future.

mek:dp
enclosure

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MEMORANDUM

TO: Arlene Loble, City Manager
-and-
Gary Wallis, Finance Director

FROM: Michael E. Kohlhoff, City Attorney *MEK*

DATE: December 19, 1994

RE: Authorization of City of Wilsonville to "Pick Up" Required Employee
Contributions Pursuant to Section 414(h) of the Internal Revenue Code

Section 414(h)(2) of the Internal Revenue Code allows an employer to "pick up" employees' contributions to a retirement plan sponsored by a government unit. A Section 414(h) pick-up requires the employer to physically make the payment and that employees do not have the option of receiving the salary payment and paying the employee contribution. Except as otherwise permitted under law, Measure 8 precludes a governmental unit as employer assuming or paying the Employees' 6% contribution to PERS. However, it does not disallow such an employer to exclude those contributions from taxable income under Section 414(h).

The Public Employees Retirement System (PERS) is a City sponsored retirement plan and it has been the City's practice and custom, and therefore, its implicit policy that Employee PERS contribution of 6% of salary is paid to PERS by the City, and is "picked up" for purposes of the Internal Revenue Code Section 414(h)(2).

Employees do not have the option of receiving the salary payment and paying the PERS employee contribution directly. Therefore, the employee's reported salary in the W-2 form for tax purposes has been reduced by the amount of the employee contribution. This should continue through June 30, 1998, the end of the term of the extension to all employees' contracts. I think it would be wise to formally adopt a resolution in the event of any new employee who may be subject to Measure 8 is hired after December 31, 1994. Attached is a draft of such a resolution.

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enclosure