



**City of Rochester Hills
AGENDA SUMMARY
NON-FINANCIAL ITEMS**

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Legislative File No: 2006-0844

TO: Mayor and City Council Members
FROM: Julie Jenuwine, Finance Director 248.841.2535
DATE: November 22, 2006
SUBJECT: Amendment to City of Rochester Hills Pension Plan

REQUEST:

It is requested that the City Council adopt (adoption in accordance with Chapter 82 Article III, Section 82-64(b) of the Code of Ordinances) the City of Rochester Hills Group Pension Plan amendment, effective December 25, 2006, to provide that the employer contribution to the Pension Plan for the non-union employees increase to 14% of compensation and non-union employees have a mandatory employee contribution of 3% of compensation which will be contributed on a pre-tax basis in accordance with Internal Revenue Code Section 414(h)(2).

BACKGROUND:

The City of Rochester Hills Group Pension Plan ("Plan") is established and administered as a qualified governmental defined contribution pension plan under § 401 of the Internal Revenue Code, as amended and is a tax exempt organization under IRC § 501.

Currently, employee contributions to the Plan are made on a post-tax basis (i.e., employee contributions to the Plan are included in the employee's gross income in the year the contributions are made to the Plan). Employer contributions to the Plan are not considered taxable income to the employee until those amounts are distributed from the plan according to current Treasury Regulation.

To the employee there is a significant difference between "employer contribution" and "employee contribution", but nominal for the employer. The city's pension attorney, Mr. Tom Michaud, advises that current tax law allows for governmental bodies (not private employers) to select a third classification: "employer pick-up". Internal Revenue Code § 414(h)(2) provides that if a state or local government's contributions to a qualified plan "are designated as employee contributions, but the employing unit picks up the contributions, the contributions so picked-up shall be treated as employer contributions." However, the employer pick-up will be treated as employee contributions for all other purposes including calculating benefits, state taxes, FICA, bonuses, etc.

The establishment of an "employer pick-up" program requires proper amendment of the Plan in accordance with the provisions of the Plan and IRC § 414(h)(2) and Revenue Rulings 81-35, 1981-1 C.B. 255 and 81-36, 1981-1 C.B. 255, 77-462, 1977-2 C.B. 358, 87-10, 1987-1 C.B. 136. Mr. Michaud advises that the city's Plan satisfies these various provisions.

To help insulate the Plan against potential adverse tax consequences, the city will submit a request early next year (although not required by the Internal Revenue Code), for a letter ruling from the Internal

Revenue Service approving the operative plan language, due to the implementation of the employer pick-up program.

In accordance with Chapter 82 Article III, Section 82-64(c) of the Code of Ordinances, the trustee of the pension plan may adopt such additional provisions of the pension plan as are necessary to administer the Plan as a qualified pension plan under § 401 of the Internal Revenue Code. All Plan changes relating to coverage, vesting or contributions, shall be adopted by City Council in accordance with Chapter 82 Article III, Section 82-64(b) of the Code of Ordinances.

RECOMMENDATION:

It is recommended that the City Council adopt (adoption in accordance with Chapter 82 Article III, Section 82-64(b)) of the Code of Ordinances) the City of Rochester Hills Group Pension Plan amendment, effective December 25, 2006, to provide that the employer contribution to the Pension Plan for the non-union employees increase to 14% of compensation and non-union employees have a mandatory employee contribution of 3% of compensation which will be contributed on a pre-tax basis in accordance with Internal Revenue Code Section 414(h)(2).

RESOLUTION

NEXT AGENDA ITEM

RETURN TO AGENDA

APPROVALS:	SIGNATURE	DATE
Department Review		
Department Director		
Mayor		
City Council Liaison		