

**Resolution of the Air Pollution Control District Board of Directors of  
the County of Santa Barbara, State of California**

In the Matter of:	)	Resolution No. 08- ____
Adopting a Retiree Medical Program	)	
For Eligible Retired District Participants	)	
in Accordance with Internal Revenue	)	
Code Section 401(h)	)	

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**RECITALS**

**WHEREAS**, it is in the best interest of employees and retirees of the County of Santa Barbara Air Pollution Control District ("District") and the beneficiaries of those employees and retirees that the Santa Barbara County Employees' Retirement System ("System") be maintained as a qualified pension plan under Internal Revenue Code ("Code") Section 401 (a);

**WHEREAS**, the District must report on its financial statements its liabilities for other post-employment benefits, such as medical care, pursuant to Governmental Accounting Standards Board Statement 45, which requires actuarial analysis to determine the District's liability and the annual required contribution for that liability;

**WHEREAS**, the District has determined that certain Eligible Retired Participants will receive a health plan subsidy from the System, which subsidy constitutes an "other post employment benefit;"

**WHEREAS**, the District has studied various options and has consulted with the System, legal counsel, actuaries, tax counsel, and others regarding the plan design and funding for that health plan subsidy;

**WHEREAS**, the System, as a qualified plan, may pay medical benefits on a tax preferred basis to retirees, and their spouses and dependents, through the establishment of a 401(h) account within the Trust Fund for the System;

**WHEREAS**, the District Board of Directors ("Board") has been authorized by state law to establish a health plan for retirees, and their spouses and dependents, and may provide for the funding of that health plan through a contribution of funds into a Post Employment Benefits Trust Account;

**WHEREAS**, the Board has not previously formally approved the provision of the current level of medical benefits to current retirees, and it now wishes to provide such benefits through the vehicle of a 401 (h) Account in the System;

**WHEREAS**, upon the action of the Board to provide for funding of a Post-Employment Benefits Trust Account, the Board of Retirement of the System may establish an account within the Santa Barbara County Retirement System under Internal Revenue Code Section 401 (h);

**WHEREAS**, the Board wishes to use the attached Section 401 (h) Regulations for the purposes specified in California Government Code Sections 31694 and 31694.1 of the County Employees Retirement Law of 1937 to establish the Post-Employment Benefits Trust Account as a "401 (h) Account", and to constitute the written agreement provided as Attachment A;

**WHEREAS**, the establishment of a 401 (h) Account is governed by the provisions of Code Section 401 (h) and Treasury Regulation Section 1.401-14 ("Applicable Treasury Regulations");

**WHEREAS**, the 401 (h) Account can only be funded by the District employer contributions, designated for this purpose; and

**WHEREAS**, the Board further has determined that, in connection with adoption of a 401 (h) Account, it is appropriate to entered into the Participating Employer Agreement (Attachment A).

**NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:**

A. Action Pursuant to California Government Code Section 31694(a)

The Board by this Resolution is acting pursuant to California Government Code section 31694(a). The Board intends to operate under County Employees Retirement Law of 1937, Government Code sections 31694 and 31694.1 in connection with the establishment of the 401 (h) Account.

The Board may amend or rescind this resolution at any time. Nothing in this resolution is intended to create, establish or confirm the existence of any vested rights or to take away or diminish any vested rights that may exist. Rather, in adopting this resolution, the Board intends simply to provide a tax-compliant means for the provision of supplemental retiree health benefits.

B Adoption of Regulations Establishing the 401 (h) Account

The Agreement and Regulations Governing Payment of Retiree Health Benefits from a 401 (h) Account ("Section 401 (h) Regulations") are hereby approved pursuant to Government Code Sections 31694 and 31694.1. The Section 401 (h) Regulations are part of the System's plan document for purposes of Internal Revenue Code Sections 401 (a) and 401 (h) and the Applicable Treasury Regulations. The Section 401 (h) Regulations also provide terms of the Board of Retirement's Administration of the 401 (h) Account, and shall constitute the Agreement of the District and the Board of Retirement.

C. District Contribution to the 401 (h) Account for FY 2008-09

1. In accordance with Code Section 401 (h) and Applicable Treasury Regulations, provided that the Board of Retirement timely agrees to the Section 401 (h) Regulations, the District shall contribute to the 401 (h) Account for the fiscal year FY 2008-09 in an amount determined by the District actuary that will:

- a. not be less than the annual required contribution for the health benefits for Eligible Retired Participants (as defined in the Section 401 (h) Regulations); and
  - b. not be more than 25 percent of the total contributions to the System, excluding past service costs as defined in the Section 401 (h) Regulations.
2. This contribution shall be made at the same time that County contributions are made to the System, or following agreement by the Board of Retirement to the Section 401 (h) Regulations, whichever is later.
3. At the time any contribution is made to the 401 (h) Account, the Control Officer shall designate in writing to the Board of Retirement of the System that such contribution is being made only to the 401 (h) Account.
4. This contribution is only for FY 2008-09. Future contributions shall be determined by the Board on an annual basis.

D. Execution of Agreement

The Board hereby authorizes the Chair to execute the agreement which is provided hereto as Attachment A, and made a part hereof by this reference.

**PASSED, APPROVED, AND ADOPTED** by the Santa Barbara County Air Pollution Control District Board, County of Santa Barbara, State of California, this 16th day of October 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Clerk of the Board

BY: \_\_\_\_\_

APPROVED AS TO FORM:

Dennis A. Marshall  
County Counsel

BY: \_\_\_\_\_  
Deputy County Counsel

\_\_\_\_\_  
Chair, Santa Barbara County  
Air Pollution Control District Board

APPROVED AS TO  
ACCOUNTING FORM  
Robert W. Geis, CPA  
Auditor-Controller

BY: \_\_\_\_\_  
Auditor-Controller