

AGENDA: September 4, 2008

TO: Regional Transportation Commission

FROM: George Dondero, Executive Director
Yesenia Parra, Administrative Services Officer

RE: Payment of Social Security Funds and Accrued Interest to Employees Opting into Social Security and Departing Employees

RECOMMENDATION

Staff recommends that any interest accrued on funds held in the Social Security trust for both the employee and employers share for those employees opting-into Social Security and for those employees who depart from the RTC, be deposited into a deferred compensation plan once the Social Security divisional election is complete.

BACKGROUND

When the RTC separated from the County on November 4, 2006 and became an autonomous agency, in accordance with Federal Law, the RTC could not automatically enter into a relationship with the Social Security Administration (SSA) for Old-Age, Survivors, and Disability Insurance (OASDI), commonly referred to as "Social Security" benefits.

To determine whether to participate in Social Security, the RTC must hold an election among its employees and then, if the vote is affirmative for participation, enter into what is called a Section 218 Agreement with the Federal Government. Such an election is administered by CalPERS, the agency which administers the 218 Agreement on behalf of all public employers in the State of California. Staff is working with PERS to establish the date of the division election, which will likely occur in early fall 2008.

Since the date of RTC separation from the County, November 4, 2006, the employee and the RTC's employer contribution are being held in trust so that funds would be available should an employee elect retroactive participation in Social Security. In accordance with the RTC's original agreement with employees pertaining to Social Security, those funds are being maintained in an interest-bearing account.

During negotiations with the RTC's two bargaining units, Community of RTC Employees (CORE) and the RTC Association of Middle Managers (RAMM), the RTC approved a divisional election among the employees of the RTC to allow each employee an individual determination of whether to participate in Social Security.

DISCUSSION

The Social Security election date has been set for September 30, 2008. For those employees who opt-in to Social Security the funds for both the employee and employer share will be deposited into Social Security retroactive to November 4, 2006.

As previously negotiated in both of the RTC's two bargaining unit MOUs, for employees who opt-out of Social Security the amounts held in trust plus any accrued interest will be distributed to those employees once the election is complete. For employees who opt-in to Social Security, the MOUs state that any funds held in trust that are not deposited into Social Security plus the accrued interest on the employee and employer amounts would be distributed to those employees who opt-in to Social Security, should the effective date of Social Security participation be other than November 4, 2006. The MOUs inadvertently did not state what would happen if the effective date was November 4, 2006. Because the RTC has determined that the effective date will be November 4, 2006, the attached side letters (Attachments 1 and 2), clarify that interest accrued on both the employee and employer's share for those who opt-in to social security or leave the RTC prior to the election shall be distributed to those employees in the form of a deposit into a deferred compensation or alternate savings plan.

In order to be consistent with the actions that will be taken with the interest accrued for both the employee and the employers share for those employees opting-out of Social Security, **staff recommends that the RTC approve these side letter agreements** which authorize distribution of interest accrued on both the employee and employers share to those employees opting-in or who depart from the RTC prior to the Social Security election in the form of a deposit into a deferred compensation plan once the full election process has been complete.

Employees who leave the RTC prior to the Social Security election will not be participating in the election.

This authorization does not represent the expenditure of any additional RTC funds than those previously authorized by the RTC in conjunction with employee Social Security.

SUMMARY

Staff recommends that any interest accrued on funds held in the Social Security trust for both the employee and employers share for those employees opting-in to Social Security and for those employees who leave the RTC prior to the Social Security Election be deposited into a deferred compensation plan once the Social Security divisional election is complete.

Attachment 1: Community of RTC (CORE) Social Security Fund Distribution Side Letter

Attachment 2: RTC Association of Middle Management (RAMM) Social Security Fund Distribution Side Letter

Attachment 3: Excerpts from both MOU's Social Security Sections