

## REPORT TO CITY COUNCIL

**DATE:** FEBRARY 14, 2018

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** CANDICE K. LEE, CITY ATTORNEY *C.L.*

**BY:** NATHAN HAMBURGER, ASSISTANT CITY MANAGER *h2*  
DOUG HOOPER, PLANNING DIRECTOR *dh*

**SUBJECT:** INTRODUCE FOR FIRST READING ORDINANCE NO. 18-436, AMENDING SECTION 2017 (POWERS AND DUTIES) OF CHAPTER 1 (CITY MANAGER) OF ARTICLE II (ADMINISTRATION) OF THE AGOURA HILLS MUNICIPAL CODE REGARDING EXECUTION OF AGREEMENTS RELATED TO DEVELOPMENT PROJECT APPROVAL, INCLUSIONARY HOUSING, AND DENSITY BONUSES, AND EXECUTION OF CERTAIN CONTRACTS AND CONVEYANCES WITH PRIOR CITY COUNCIL APPROVAL, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01451-2018) (CITY OF AGOURA HILLS, APPLICANT)

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Staff is requesting the City Council introduce Ordinance No. 18-436 for first reading. The City is the applicant for this Ordinance, which amends the City Manager's powers and duties within Agoura Hills Municipal Code ("AHMC") Section 2017. Specifically, the ordinance proposes two changes to the AHMC regarding the City Manager's authority to execute agreements.

First, the ordinance would add a new subsection (p) to AHMC Section 2107 to authorize the City Manager to enter into a limited group of agreements related to conditions of approval imposed on land use entitlements and affordable/senior housing covenants for those projects *already approved by the City* (whether by the Planning Director, the Planning Commission or the City Council, depending on the procedure set forth in the Zoning Code). With this change, the City Manager would be authorized to execute these types of agreements without each individual agreement coming before the City Council for approval, thereby streamlining the City's process for approving land use applications that require this type of recorded covenant. This proposed new authority granted to the City Manager would state, as follows, in AHMC Section 2017:

"(p) To execute by signing on behalf of the City any agreement between the City and a property owner or applicant to be recorded against the applicable property, whereby the applicant or owner accepts conditions of approval imposed by the City on a land use entitlement or permit approved and issued by the City pursuant to the Article IX (Zoning) of this Code, or whereby the owner or applicant agree to provide and maintain

dwelling units as affordable housing or as dedicated senior housing in accordance with State, Federal, or local regulations.”

Second, the proposed ordinance would add a new subsection (q) to AHMC Section 2017, expressly authorizing the City Manager to sign agreements on behalf of the City whenever the City Council has authorized the City Manager to sign an agreement approved by the City Council. This proposed Municipal Code amendment merely clarifies that the City Manager may sign agreements when authorized to do so by the City Council, even if such authorization is not adopted by ordinance but by motion, minute order, or resolution. This proposed new authority granted to the City Manager would state, as follows, in AHMC Section 2017:

“(q) To execute by signing on behalf of the City any agreement, contract or conveyance to which the City is a party whenever the City Council, by ordinance, resolution, motion, minute order, contract, or other appropriate City Council action, has authorized the City Manager to execute such agreement, contract or conveyance.”

Staff has determined that the proposed ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to the General Rule (14 Cal. Code Regs. § 15061(b)(3)), because the ordinance merely updates administrative regulations regarding the City Manager’s powers and duties. The proposed text amendments authorizes the City Manager to enter into and execute a specific, limited group of agreements on behalf of the City - including agreements pursuant to which property owners and applicants accept certain conditions of approval and/or agree to provide and maintain certain dwelling units in accordance with the City’s inclusionary housing program, density bonus law, and other federal, state, or local laws restricting the uses of property. The proposed amendments clarify administrative regulations and will not result in any changes to the physical environment. As such, staff concluded that it can be seen, with certainty, that there is no possibility that the proposed Municipal Code text amendments may have a significant effect on the environment.

## **RECOMMENDATION**

Staff respectfully recommends the City Council introduce, read by title only, and waive further reading of Ordinance No. 18-436, amending Section 2017 (Powers and Duties) of Chapter 1 (City Manager) of Article II (Administration) of the Agoura Hills Municipal Code regarding the execution of agreements related to development project approval, inclusionary housing, and density bonuses, and execution of certain contracts and conveyances with prior City Council approval, and making a determination of exemption under the California Environmental Quality Act.

Attachments: Exhibit A: Ordinance No. 18-436  
Exhibit B: AHMC Section 2017

# EXHIBIT A

**ORDINANCE NO. 18-436**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 2107 (POWERS AND DUTIES) OF CHAPTER 1 (CITY MANAGER) OF ARTICLE II (ADMINISTRATION) OF THE AGOURA HILLS MUNICIPAL CODE REGARDING EXECUTION OF AGREEMENTS RELATED TO DEVELOPMENT PROJECT APPROVALS, INCLUSIONARY HOUSING, AND DENSITY BONUSES AND EXECUTION OF CERTAIN CONTRACTS AND CONVEYANCES WITH PRIOR CITY COUNCIL APPROVAL AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Findings and Intent.**

A. California Government Code Sections 40602(b) and (c) provide that the mayor of a city shall sign all written contracts and conveyances made or entered into by the city and all instruments requiring the city seal.

B. California Government Code Section 40602 further provides, however, that the legislative body of a city may provide, by ordinance, that contracts and conveyances be signed by an officer other than the mayor.

C. By adopting this Ordinance, the City Council hereby authorizes the City Manager to execute on behalf of the City: 1) a limited group of agreements to be recorded against private property to memorialize conditions of approval imposed on land use entitlements and permits approved and issued by the City pursuant to the City's Zoning Code, and to ensure that property owners maintain dwelling units as affordable or as dedicated senior housing pursuant to a State, Federal, or local program; and 2) specific agreements, contracts or conveyances whenever the City Council, by ordinance, resolution, motion, minute order, contract, or other appropriate City Council action, has expressly authorized the City Manager to execute such agreements, contracts or conveyances.

**Section 2. CEQA.** The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to the General Rule (14 Cal. Code Regs. § 15061(b)(3)), because this Ordinance merely updates administrative regulations regarding the City Manager's powers and duties. The text amendment herein authorizes the City Manager to enter into and execute a specific, limited group of agreements on behalf of the City - including agreements pursuant to which property owners and

applicants accept certain conditions of approval and/or agree to provide and maintain certain dwelling units in accordance with the City's inclusionary housing program, density bonus law, and other federal, state, or local laws restricting the uses of property. The amendments herein clarify administrative regulations and will not result in any changes to the physical environment. As such, the City Council finds, consistent with City staff's conclusion, that it can be seen with certainty that there is no possibility that the proposed Municipal Code text amendments may have a significant effect on the environment. Staff is hereby directed to prepare and file a notice of exemption pursuant to Guidelines Section 15062.

**Section 3. Code Amendment.** New subsections (p) and (q) are hereby added to Section 2107 (Powers and Duties) of Chapter 1 (City Manager) of Article II (Administration) of the Agoura Hills Municipal Code to read as follows, with all other subdivisions of Section 2107 to remain the same:

“(p) To execute by signing on behalf of the City any agreement between the City and a property owner or applicant to be recorded against the applicable property, whereby the applicant or owner accepts conditions of approval imposed by the City on a land use entitlement or permit approved and issued by the City pursuant to the Article IX (Zoning) of this Code, or whereby the owner or applicant agree to provide and maintain dwelling units as affordable housing or as dedicated senior housing in accordance with State, Federal, or local regulations.

(q) To execute by signing on behalf of the City any agreement, contract or conveyance to which the City is a party whenever the City Council, by ordinance, resolution, motion, minute order, contract, or other appropriate City Council action, has authorized the City Manager to execute such agreement, contract or conveyance.”

**Section 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 5. Certification and Publication.** The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and this Ordinance shall become effective thirty (30) days after its passage.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Agoura Hills, California, on this \_\_\_ day of \_\_\_\_\_, 2018.

AYES: (0)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

\_\_\_\_\_  
William D. Koehler, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Candice K. Lee, City Attorney

# EXHIBIT B

city council in such sum as may be approved by the city council, which shall be conditioned on the faithful performance of the duties imposed on the city manager, city clerk and city treasurer as herein prescribed.

(Ord. No. 09-368, § 2, 8-26-09)

**2107. Powers and duties.**

The city manager shall be the administrative head of the city government under the direction and control of the city council, except as otherwise provided in this chapter. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under the city manager's control. In addition to the general duties and powers as administrative head, and not as a limitation thereon, it shall be the city manager's duty and the city manager shall have the power:

- (a) To see that the laws of the State of California pertaining to the city and all laws and ordinances of the city are duly enforced and that all franchises, permits and privileges granted by the city are faithfully observed.
- (b) To exercise control over and to supervise in general all departments and divisions of the city government and all appointive officers and employees thereof except the city attorney.
- (c) To attend all meetings of the city council and its committees unless excused therefrom by the city council, except when the city manager's removal is under consideration by the city council.
- (d) To recommend to the city council for adoption such measures or ordinances as the city manager deems necessary or expedient.
- (e) To keep the city council at all times fully advised as to the financial condition and needs of the city.
- (f) To prepare and submit to the city council the annual budget and to administer it after adoption.
- (g) To purchase or cause to be purchased all supplies for all of the departments or

divisions of the city. No expenditure shall be submitted or recommended to the council except upon approval by or report prepared by the city manager.

- (h) To make investigations into the affairs of the city, and any department or division thereof, and any contract or the proper performance of any obligation running to the city.
- (i) To investigate all complaints in relation to matters concerning the administration of the government of the city and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits and privileges granted by the city are faithfully observed.
- (j) To exercise general supervision over all public buildings, public parks, streets, and other public property which are under the control and jurisdiction of the city council.
- (k) To devote his or her time as required by the duties and interest of the city.
- (l) To make reports and recommendations as may be desirable or as requested by the city council.
- (m) To serve in any appointed office or as head of a department within the city government to which the city manager may be qualified when appointed thereto by the city council and to hold and perform the duties thereof at the pleasure of the city council.
- (n) To perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution of the city council.
- (o) To appoint persons to fill the following appointive positions: (1) city clerk; and (2) city treasurer.

(Ord. No. 09-368, §§ 3, 4, 8-26-09)

**2108. Ex officio member of boards, commissions and committees.**

The city manager shall be an ex officio member of all boards, commissions and committees ap-