



## REPORT TO CITY COUNCIL

**DATE:** JUNE 12, 2019

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

**FROM:** GREG RAMIREZ, CITY MANAGER 

**BY:** NATHAN HAMBURGER, ASSISTANT CITY MANAGER 

**SUBJECT:** APPROVE RESOLUTION NO. 19-1897, AMENDING THE ICMA-RC EMPLOYER VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS) ADOPTION AGREEMENT NO. 801972

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In an effort to limit the long-term financial liability tied to retiree benefits, the City Council approved the establishment of a Retiree Health Savings (RHS) Plan in June 2008. Later that year, the City established through ICMA-RC, a VantageCare, Retirement Health Savings (RHS) Plan for retirees who meet eligibility requirements.

ICMA-RC actively monitors the 2010 Patient Protection and Affordable Care Act (ACA) on behalf of its member employers regarding provisions that may impact their RHS plans. The City recently received an ICMA-RC Informational Update outlining an ACA compliance requirement for "retiree only" RHS plans. In order for an RHS plan to function as a "retiree-only" plan, it must suspend benefit eligibility for retired employees who are rehired by the City. To remain compliant with the 2010 Patient Protection and Affordable Care Act, the City has amended its RHS Plan Adoption Agreement to include the appropriate compliant language.

### RECOMMENDATION

Staff respectfully recommends the City Council adopt Resolution No. 19-1897, amending the ICMA-RC Employer Vantagecare Retirement Health Savings (RHS) Adoption Agreement, No. 801972.

Attachments: (1) Resolution No. 19-1897  
(2) Amended ICMA-RC Employer VantageCare Retirement Health Savings (RHS) Adoption Agreement No. 801972

**RESOLUTION NO. 19-1897**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
AGOURA HILLS, CALIFORNIA, AMENDING THE ICMA-RC  
EMPLOYER VANTAGECARE RETIREMENT HEALTH  
SAVINGS ADOPTION AGREEMENT NO. 801972**

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Agoura Hills as follows:

SECTION 1. In order to remain compliant with the 2010 Patient Protection and Affordable Care Act and to qualify as a "retiree-only" plan;

SECTION 2. The ICMA-RC Employer VantageCare Retirement Health Savings Adoption Agreement No. 801972 is amended to include language that retired employees who are rehired by the City will have their eligibility for the City's retiree health benefit suspended.

**PASSED, APPROVED, AND ADOPTED** this 12th day of June 2019, by the following vote to wit:

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

\_\_\_\_\_  
Linda L. Northrup, Mayor

ATTEST:

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



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**EMPLOYER VANTAGECARE  
RETIREMENT HEALTH SAVINGS (RHS)  
ADOPTION AGREEMENT**

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**VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS)  
ADOPTION AGREEMENT**

Plan Number: 8 01972

Select as applicable:  Standalone RHS  Integrated RHS  Amendment to Existing Plan  New Plan

I. Employer Name: City of Agoura Hills State: CA

II. The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government.

III. Plan Dates:

A. Plan Effective Date August 1, 2008

B. Plan Year: Enter the annual accounting period for the RHS program. Calendar year

IV. The Employer intends to utilize the Trust to fund only welfare benefits pursuant to the following welfare benefit plan(s) established by the Employer: Model Plan

V. Eligible Groups, Participation and Participant Eligibility Requirements

A. Eligible Groups

The following group or groups of Employees are eligible to participate in the Employer's welfare benefits plan identified in Section IV. (check all applicable boxes):

- All Employees
- All Full-Time Employees
- Non-Union Employees
- Public Safety Employees – Police
- Public Safety Employees – Firefighters
- General Employees
- Collectively-Bargained Employees (Specify unit(s)) \_\_\_\_\_
- Other (specify group(s)) existing and future retirees

The Employee group(s) specified must correspond to a group(s) of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other documents or provisions in effect in the state or locality of the Employer.

B. Participation

**Mandatory Participation:** All Employees in the covered group(s) are required to participate in the Plan and shall receive contributions pursuant to Section VI.

If the Employer's underlying welfare benefit plan is in whole or part a non-collectively bargained plan that allows reimbursement for medical expenses other than insurance premiums, the nondiscrimination requirements of Internal Revenue Code (IRC) Section 105(h) will apply. These rules may impose taxation on the benefits received by highly compensated individuals if the Plan discriminates in favor of highly compensated individuals in terms of eligibility or benefits. The Employer should discuss these rules with appropriate counsel.

**C. Participant Eligibility Requirements**

- 1. Minimum service: The minimum period of service required for participation is n/a (write N/A if no minimum service is required).
- 2. Minimum age: The minimum age required for eligibility to participate is n/a (write N/A if no minimum age is required).

**VI. Contribution Sources and Amounts**

**A. Definition of Earnings**

The definition of Earnings will apply to all RHS Contribution Features that reference "Earnings", including Direct Employer Contributions (Section VI.B.1.) and Mandatory Employee Compensation Contributions (Section VI.B.2.).

Definition of earnings: n/a

**B. Direct Employer Contributions and Mandatory Contributions**

**1. Direct Employer Contributions**

The Employer shall contribute on behalf of each Participant

- \_\_\_\_\_ % of Earnings\*
- \$ \_\_\_\_\_ each Plan Year
- A discretionary amount to be determined each Plan Year
- Other (describe): see attached

**2. Mandatory Employee Compensation Contributions**

The Employer will make mandatory contributions of Employee compensation as follows:

- Reduction in Salary - n/a % of Earnings or \$ n/a will be contributed for the Plan Year.
- Decreased Merit or Pay Plan Adjustment - All or a portion of the Employees' annual merit or pay plan adjustment will be contributed as follows:

An Employee shall not have the right to discontinue or vary the rate of Mandatory Contributions of Employee Compensation.

**3. Mandatory Employee Leave Contributions**

The Employer will make mandatory contributions of accrued leave as follows (provide formula for determining Mandatory Employee Leave contributions):

- Accrued Sick Leave n/a
- Accrued Vacation Leave n/a
- Other (specify type of leave) Accrued n/a Leave

An Employee shall not have the right to discontinue or vary the rate of mandatory leave contributions.

*\* Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*

**ICMA VantageCare Retirement Health Savings (RHS) Plan Adoption Agreement  
(attachment)**

**VI. Contribution Sources and Amounts**

**B. Direct Employer Contributions and Mandatory Contributions**

1. Direct Employer Contributions

The Employer shall contribute on behalf of each Participant

Other (describe): Effective August 1, 2008 through December 31, 2008, the City will contribute to all eligible\* current and future retirees, in addition to the minimum contribution required under PEMHCA, an amount equal to the actual cost of the retiree's medical plan not to exceed the monthly maximum amount approved in Resolution 08-1483 or any succeeding resolution changing the monthly maximum for retirees. Benefit eligibility will be suspended for retired employees who are rehired by the City.

\*An eligible retiree is an employee who meets the CalPERS eligibility requirements for retirement, which specifically are: the employee must be at least 50 years of age and must have 5 years of CalPERS service credit. In addition, to be eligible for City contributions above the statutory minimum required under PEMHCA, a participant must accept a PERS retirement within 120 days of separating from City employment (with the City as the last PERS covered employer), elect to continue PEMHCA coverage and remain continuously retired with the city as the last PERS covered employer. A participant must also remain continuously eligible for and covered by PEMHCA. Once coverage is discontinued, a participant is no longer eligible for City contributions above the statutory minimum, even if coverage is later resumed or reinstated. The City reserves the right to change or discontinue its medical and retiree medical benefits at any time. Except for vested account balances, retiree medical (including, without limitation, City contributions) are not vested.

**C. Limits on Total Contributions** (check one box)

The total contribution by the Employer on behalf of each Participant (including Direct Employer and Mandatory Employee Contributions) for each Plan Year shall not exceed the following limit(s) below. Limits on individual contribution types are defined within the appropriate section above.

- There is no Plan-defined limit on the percentage or dollar amount of earnings that may be contributed.
- \_\_\_\_ % of earnings  
 Definition of earnings:     Same as Section VI.A.     Other
- \$ \_\_\_\_ for the Plan year.

**VII. Vesting for Direct Employer Contributions**

**A. Vesting Schedule** (check one box)

- The account is 100% vested at all times.
- The following vesting schedule shall apply to Direct Employer Contributions as outlined in Section VI.B.1.:

Years of Service Completed	Vesting Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**B. The account will become 100% vested upon the death, disability, retirement\*, or attainment of benefit eligibility (as outlined in Section IX) by a Participant.**

\*Definition of retirement includes a separation from service component and is further defined by (check one):

- The primary retirement plan of the Employer
- Separation from service
- Other \_\_\_\_\_

**C. Any period of service by a Participant prior to a rehire of the Participant by the Employer shall not count toward the vesting schedule outlined in A above.**

**VIII. Forfeiture Provisions**

If a Participant separates from service prior to full vesting, non-vested funds in the Participant's account shall be forfeited in accordance with the box checked under this section.

Upon the death of a participant, surviving spouse, and all surviving eligible dependents (as outlined in Section XI), funds remaining in the Participant's account shall be revert to the Trust in accordance with the box checked under this section.

If a Participant permanently opts out and waives future reimbursements, as allowed under IRS Notice 2013-54, all funds in the Participant's account at the time of waiver shall be forfeited in accordance with the box checked under this section.\*

- Remain in the Trust to be reallocated among all Plan Participants with a balance as Direct Employer Contributions for the next and succeeding contribution cycle(s).\*\*
- Remain in the Trust to be reallocated on an equal dollar basis among all Plan Participants with a balance.\*\*
- Remain in the Trust to be reallocated among all Plan Participants based upon Participant account balances.\*\*
- Revert to the Employer via check.

**IX. Eligibility Requirements to Receive Medical Benefit Payments from the VantageCare Retirement Health Savings Program**

**A. A Participant is eligible to receive benefits:**

- At retirement only (also complete Section B.)  
Definition of retirement:
  - Same as Section VII.B.
  - Other see attached VI.B.1.other: pg II:14(a)
- At separation from service with the following restrictions
  - No restrictions
  - Other \_\_\_\_\_

**B. Termination prior to general benefit eligibility:** In case where the general benefit eligibility as outlined in Section IX.A includes a retirement component, a Participant who separates from service of the Employer prior to retirement will be eligible to receive benefits:

- Immediately upon separation from service
- Other \_\_\_\_\_

**C. A Participant that becomes totally and permanently disabled**

- as defined by the Social Security Administration
- as defined by the Employer's primary retirement plan
- other \_\_\_\_\_

will become immediately eligible to receive medical benefit payments from his/her account under the Employer's welfare benefits plan.

**D. Upon the death of the Participant, benefits shall become payable as outlined in Section XI.**

*\* If the Employer's RHS Program does not limit eligibility to participants who have separated from service, the employer will be required to provide further direction to ICMA-RC regarding the treatment of possible contributions that are required to be made following the participant's waiver.*

*\*\* If the forfeited balance is small whereby the reallocation amount to each Plan Participant with a balance is minimal, the assets will revert to employer's forfeiture account for further direction from the employer. If there are participants without a balance who should receive forfeiture assets, please provide alternative instructions to ICMA-RC on the forfeiture reallocation notice.*



## X. Permissible Medical Benefit Payments

Benefits eligible for reimbursement consist of:

- All Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin).
- The following Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin). Select only the expenses you wish to cover under the Employer's welfare benefits plan:
  - Medical Insurance Premiums
  - Medical Out-of-Pocket Expenses\*
  - Medicare Part B Insurance Premiums
  - Medicare Part D Insurance Premiums
  - Medicare Supplemental Insurance Premiums
  - Prescription Drug Insurance Premiums
  - COBRA Insurance Premiums
  - Dental Insurance Premiums
  - Dental Out-of-Pocket Expenses\*
  - Vision Insurance Premiums
  - Vision Out-of-Pocket Expenses\*
  - Qualified Long-Term Care Insurance Premiums
  - Non-Prescription medications allowed under IRS guidance\*
  - Other qualifying medical expenses (describe)\*

\* *Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*

## XI. Benefits After the Death of the Participant

In the event of a Participant's death, the following shall apply:

### A. Surviving Spouse and/or Surviving Dependents

Upon the death of a participant, the surviving spouse and/or surviving eligible dependents (as defined in Section XII.D.) of the deceased Participant are immediately eligible to maintain the Participant's RHS account and utilizing the remaining balance to fund eligible medical benefits specified in Section X above.

Upon notification of a Participant's death, the Participant's account balance will be transferred into VT II Cash Management Fund\*\* (or another fund selected by the Employer). The account balance may be reallocated by the surviving spouse or dependents.

\*\* *Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust II Funds Disclosure Memorandum and fund fact sheet, which is available when you log in at [www.icmarc.org](http://www.icmarc.org) or upon request by calling 800-669-7400.*

*If the plan's default fund is not the VT II Cash Management Fund, please read the disclosure materials or prospectus applicable to the default fund.*

If a Participant's account balance has not been fully utilized upon the death of the eligible spouse, the account balance may continue to be utilized to pay benefits of eligible dependents. Upon the death of all eligible dependents, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RHS Adoption Agreement*.

**B. No Surviving Spouse or Surviving Dependents**

If there are no living spouse or dependents at the time of death of the Participant, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RHS Adoption Agreement*.

**XII. The Plan will operate according to the following provisions:**

**A. Employer Responsibilities**

1. The Employer will submit all VantageCare Retirement Health Savings Plan contribution data via electronic submission.
  2. The Employer will submit all VantageCare Retirement Health Savings Plan Participant status updates or personal information updates via electronic submission. This includes but is not limited to termination notification, benefit eligibility, and vesting notification.
- B.** Participant account administration and asset-based fees will be paid through the redemption of Participant account shares, unless agreed upon otherwise in the Administrative Services Agreement.
- C.** Assignment of benefits is not permitted. Benefits will be paid only to the Participant, his/her Survivors, the Employer, or an insurance provider (as allowed by the claims administrator). Payments to a third-party payee (e.g., medical service provider) are not permitted with the exception of reimbursement to the Employer or insurance provider (as allowed by the claims administrator).
- D.** An eligible dependent is (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.
- E.** The Employer will be responsible for withholding, reporting and remitting any applicable taxes for payments which are deemed to be discriminatory under IRC Section 105(h), as outlined in the *VantageCare Retirement Health Savings Employer Manual*.

**XIII. Employer Acknowledgements**

- A.** The Employer hereby acknowledges it understands that failure to properly fill out this *VantageCare Retirement Health Savings Adoption Agreement* may result in the loss of tax exemption of the Trust and/or loss of tax-deferred status for Employer contributions.
- B.**  Check this box if you are including supporting documents that include plan provisions.

**EMPLOYER SIGNATURE**

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Title:** Greg Ramirez, City Manager

**Attest:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Title:** Nathan Hamburger, Assistant City Manager