

## REPORT TO THE CITY COUNCIL

**DATE:** AUGUST 13, 2008

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

**FROM:** GREG RAMIREZ, CITY MANAGER

**BY:** NATHAN HAMBURGER, ASSISTANT CITY MANAGER  
CELESTE BIRD, ADMINISTRATIVE ANALYST

**SUBJECT:** RESOLUTION NO. 08-1489 ADOPTING THE RETIREE WELFARE BENEFITS PLAN NO. 801972 AND THE DECLARATION OF TRUST OF THE CITY OF AGOURA HILLS RETIREE HEALTHCARE INTEGRAL PART TRUST FOR EXISTING AND FUTURE RETIREES.

---

On June 25, 2008 the City Council approved the establishment of a Medical Reimbursement Plan for current and future retirees to manage retiree health care benefits. This resolution is the final step to complete that process. Resolution No. 08-1489 establishes a retiree healthcare trust by adopting two documents. The first is the Retiree Welfare Benefits Plan No. 801972 and the second is the Declaration of Trust of the City of Agoura Hills Retiree Healthcare Integral Part Trust. The establishment of this retiree healthcare trust enables the City to make longevity contributions on behalf of its retirees to offset their healthcare costs during retirement. These contributions will pass through the trust and be disbursed to the retirees through a third party administrator. Retirees can either choose to have these contributions direct deposited into their personal account or keep the contributions in their individual trust account.

The establishment of the retiree healthcare trust does not affect the dollar amount that the City contributes towards retiree health care benefits, but changes the operational method in which the contributions are disbursed to retirees while still remaining compliant with Internal Revenue Service regulations. The City will not incur any costs in the establishment of the retiree healthcare trust, since the City contracts with ICMA Retirement Corporation for our 457 Deferred Compensation Program.

It is recommended that the Director of Finance serve as the plan coordinator and contact for the retiree healthcare trust and shall be authorized to receive necessary reports, notices, etc. Staff also recommends that the City Manager be authorized to take such further actions as are required for the proper operation of the retiree healthcare trust, including the adoption of changes or amendments that are necessary or convenient for proper functioning or for compliance with IRS requirements, provided such changes or amendments do not result in additional costs or expenses to the City.

The proposed plan and trust documents have been reviewed by the City Attorney and approved as to form.

## **RECOMMENDATION**

It is respectfully recommended the City Council adopts the Retiree Welfare Benefits Plan No. 801972 and the Declaration of Trust City of Agoura Hills Retiree Healthcare Integral Part Trust.

Attachments:     Resolution No. 08-1489  
                      Retiree Welfare Benefits Plan No. 801972  
                      Declaration of Trust of the City of Agoura Hills Retiree Healthcare Integral Part Trust

**RESOLUTION 08-1489**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADOPTING THE RETIREE WELFARE BENEFITS PLAN NO. 801972 AND THE DECLARATION OF TRUST OF THE CITY OF AGOURA HILLS RETIREE HEALTHCARE INTEGRAL PART TRUST FOR EXISTING AND FUTURE RETIREES**

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

**SECTION 1.** The establishment of a retiree healthcare trust enables the City to make longevity payments on behalf of its retirees to offset employees' health needs during retirement.

**SECTION 2.** The City hereby adopts the Plan in the form of the ICMA Retirement Corporation's VantageCare Retirement Health Savings Program, otherwise known as the Retiree Welfare Benefits Plan No. 801972.

**SECTION 3.** The assets of the Plan shall be held in trust, with the City, or whomever the City appoints to serve as Trustee.

**SECTION 4.** The Trust shall be for the exclusive benefit of retirees of the City of Agoura Hills (Participants) and their qualified survivors. The assets of the Trust shall not be diverted to any other purpose prior to the satisfaction of all liabilities of the Trust. The City has hereby adopted the Declaration of Trust of the City of Agoura Hills Retiree Healthcare Integral Part Trust in the form of the model trust made available by the ICMA Retirement Corporation.

**SECTION 5.** The City of Agoura Hills Director of Finance shall be the coordinator and contact for the Plan and shall receive necessary reports, notices, etc.

**SECTION 6.** The City Manager is authorized to take such further actions as are required for the proper operation of the Retiree Healthcare Trust, including the adoption of changes or amendments that are necessary or convenient for proper functioning or for compliance with Internal Revenue Service requirements, provided such changes or amendments do not result in additional costs or expenses to the City.

**PASSED, APPROVED, AND ADOPTED** this 13<sup>th</sup> day of August, 2008 by the following vote to wit:

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

---

John M. Edelston, Mayor

ATTEST:

---

Kimberly M. Rodrigues, City Clerk



**RETIREE WELFARE BENEFITS PLAN NO. 801972**



## Table of Contents

### **Article I Preamble**

- 1.01 Establishment of Plan
- 1.02 Purpose of Plan

### **Article II Definitions**

- 2.01 "Benefits"
- 2.02 "Code"
- 2.03 "Dependent"
- 2.04 "Eligible Medical Expenses"
- 2.05 "Employer"
- 2.06 "Entry Date"
- 2.07 "Participant"
- 2.08 "Plan Administrator"
- 2.09 "Plan Year"
- 2.10 "Retiree"
- 2.11 "Spouse"

### **Article III Eligibility**

- 3.01 General Requirements

### **Article IV Amount of Benefits**

- 4.01 Annual Benefits Provided by the Plan
- 4.02 Cost of Coverage

### **Article V Payment of Benefits**

- 5.01 Eligibility for Benefits
- 5.02 Claims for Benefits

### **Article VI Plan Administration**

- 6.01 Allocation of Authority
- 6.02 Provision for Third-Party Plan Service Providers
- 6.03 Several Fiduciary Liability
- 6.04 Compensation of Plan Administrator
- 6.05 Bonding
- 6.06 Payment of Administrative Expenses
- 6.07 Timeliness of Payments
- 6.08 Annual Statements

#### **Article VII Claims Procedures**

- 7.01 Procedure if Benefits are Denied Under the Plan
- 7.02 Requirement for Written Notice of Claim Denial
- 7.03 Right to Request Hearing on Benefit Denial
- 7.04 Disposition of Disputed Claims
- 7.05 Preservation of Other Benefits

#### **Article VIII Amendment or Termination of Plan**

- 8.01 Permanency
- 8.02 Employer's Right to Amend
- 8.03 Employer's Right to Terminate

#### **Article IX General Provisions**

- 9.01 No Employment Rights Conferred
- 9.02 Payments After Death of Participant
- 9.03 Nonalienation of Benefits
- 9.04 Mental or Physical Incompetency
- 9.05 Inability to Locate Payee
- 9.06 Requirement of Proper Forms
- 9.07 Source of Payments
- 9.08 Tax Effects
- 9.09 Multiple Functions
- 9.10 Gender and Number
- 9.11 Headings
- 9.12 Applicable Laws
- 9.13 Severability



## **RETIREE WELFARE BENEFITS PLAN NO. 801972**

### **ARTICLE 1**

#### **Preamble**

THIS INSTRUMENT made and published by the City of Agoura Hills (hereinafter called "Employer") on the 13<sup>th</sup> day of August, 2008, creates the City of Agoura Retiree Welfare Benefits Plan as follows:

#### **1.01 Establishment of Plan**

The Employer named above hereby establishes a Retiree Welfare Benefits Plan as of the 1<sup>st</sup> day of August, 2008.

#### **1.02 Purpose of Plan**

This Plan has been established to reimburse the eligible Retirees of the Employer for medical expenses incurred by them, their Spouses and Dependents pursuant to the Employer's VantageCare Retirement Health Savings (RHS) Plan.

### **ARTICLE II**

#### **Definitions**

The following words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context.

**2.01 "Benefits"** means any amounts paid to a Participant, Spouse or Dependents in the plan as reimbursement for Eligible Medical Expenses incurred by the Participant during the Plan Year by him, his Spouse or his Dependents.

**2.02 "Code"** means Internal Revenue code of 1986, as amended.

**2.03 "Dependent"** means any individual who is a dependent of the Participant within the meaning of Code Sec. 152, as amplified by Internal Revenue Service Notice 2004-79, 2004-49 I.R.B.898.



**2.04 “Eligible Medical Expenses”** means those expenses designated by the Employer as eligible for reimbursement in the VantageCare Retirement Health Savings Plan Adoption Agreement.

**2.05 “Employer”** means the unit of state or local government creating this Plan, or any affiliate or successor thereof that likewise adopts this Plan.

**2.06 “Entry Date”** means the first day the Participant meets the eligibility requirements of Article III as of such Date.

**2.07 “Participant”** means any Retiree who has met the eligibility requirements set forth in Article III.

**2.08 “Plan Administrator”** means the Employer or other person appointed by the Employer who has the authority and responsibility to manage and direct the operation and administration of the Plan.

**2.09 “Plan Year”** means the annual accounting period of the Plan, which begins on the 1<sup>st</sup> day of August, 2008 and ends on the 30<sup>th</sup> day of June, 2009 with respect to the first Plan Year, and thereafter as long as this Plan remains in effect, the period that begins on July 1<sup>st</sup> and ends on June 30<sup>th</sup> of the following year.

**2.10 “Retiree”** means any individual who, while in the service of the Employer, was considered to be in a legal employer-employee relationship with the Employer for federal withholding tax purposes, and who was part of the classification of employees designated as covered by the Employer’s VantageCare Retirement Health Savings Plan.

**2.11 “Spouse”** means the Participant’s lawful spouse as determined under the laws of the state in which the Participant has his primary place of residence. All other defined terms in this Plan shall have the meanings specified in the various Articles of the plan in which they appear.

## **ARTICLE III**

### **Eligibility**

#### **3.01 General Requirements**

Each Retiree who meets the eligibility requirements outlined in the Employer’s VantageCare Retirement Health Savings Plan shall be eligible to participate in this Plan.

## **ARTICLE IV**

### **Amount of Benefits**

#### **4.01 Annual Benefits Provided by the Plan**

Each Participant shall be entitled to reimbursement for his documented, Eligible Medical Expenses incurred during the Plan Year in a monthly amount not to exceed the account balance of the Participant in the Employer's VantageCare Retirement Health Savings Plan

#### **4.02 Cost of Coverage**

The expense of providing the benefits set out in Section 4.01 shall be contributed as outlined in the Employer's VantageCare Retirement Health Savings Plan.

### **ARTICLE V**

#### **Payment of Benefits**

##### **5.01 Eligibility for Benefits**

- a) Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Medical Expenses incurred by the Participant on or after the Entry Date of his or her participation (and after the effective date of the Plan), subject to the limitations contained in this Article V, regardless of whether the mental or physical condition for which the Participant makes application for benefits under this plan was detected, diagnosed, or treated before the Participant became covered by the Plan.
- b) In order to be eligible for benefits, the participant must meet the benefit eligibility criteria outlined in the Employer's VantageCare Retirement Health Savings Plan Adoption Agreement.
- c) A Participant who becomes totally and permanently disabled (as defined by the Social Security Administration) will become immediately eligible to receive medical benefit payments from the Plan. Pursuant to Section 9.02 and Employer's VantageCare Retirement Health Savings Plan Adoption Agreement, the surviving Spouse and Dependents shall become immediately eligible to receive or to continue receiving medical benefit payments from the Plan upon the death of the Participant.

##### **5.02 Claims for Benefits**

No benefit shall be paid hereunder unless a Participant, his Spouse or Dependents has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in Article VI, below. Upon receipt of a properly documented claim, the Plan Administrator shall pay the Participant, his Spouse or Dependents the benefits provided under this Plan as soon as is administratively feasible.

## **ARTICLE VI**

### **Plan Administration**

#### **6.01 Allocation of Authority**

The Employer shall control and manage the operation and administration of the Plan. The Employer shall have the exclusive right to interpret the Plan and to decide all matters arising thereunder, including the right to remedy possible ambiguities, inconsistencies, or omissions. All determinations of the Employer with respect to any matter hereunder shall be conclusive and binding on all persons.

Without limiting the generality of the foregoing, the Employer shall have the following powers and duties:

- a) To decide on questions concerning the Plan and the eligibility of any Employee to participate in the Plan, in accordance with the provisions of the Plan;
- b) To determine the amount of benefits that shall be payable to any person in accordance with the provisions of the Plan; to inform the Plan Administrator, as appropriate, of the amount of such Benefits; and to provide a full and fair review to any Participant whose claim for benefits has been denied in whole or in part; and
- c) To designate other persons to carry out any duty or power which would otherwise be a fiduciary responsibility of the Plan Administrator, under the terms of the Plan.
- d) To require any person to furnish such reasonable information as it may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;
- e) To make and enforce such rules and regulations and prescribe the use of such forms as he shall deem necessary for the efficient administration of the Plan.

#### **6.02 Provision for Third-Party Plan Service Providers**

The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as he may deem necessary or desirable in connection with operation of the Plan. The Plan Administrator, the Employer (and any person to whom it may delegate any duty or power in connection with the administration of the Plan), and all persons connected therewith may rely upon all tables, valuations, certificates, reports and opinions furnished by any duly appointed actuary, accountant, (including Employees who are actuaries or accountants), consultant, third party administration service provider, legal counsel, or other specialist, and they shall be fully protected in respect to any action taken or permitted in good faith in reliance thereon. All actions so taken or permitted shall be conclusive and binding as to all persons.

### **6.03 Several Fiduciary Liability**

To the extent permitted by law, neither the plan Administrator nor any other person shall incur any liability for any acts or for failure to act except for his own willful misconduct or willful breach of this Plan.

### **6.04 Compensation of Plan Administrator**

Unless otherwise agreed to by the Employer, the Plan Administrator shall serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of his duties shall be paid by the Employer.

### **6.05 Bonding**

Unless otherwise determined by the Employer, or unless required by any federal or state law, the Plan Administrator shall not be required to give any bond or other security in any jurisdiction in connection with the administration of this Plan.

### **6.06 Payment of Administrative Expenses**

All reasonable expenses incurred in administering the Plan, including, but not limited to, administrative fees and expenses owing to any third party administrative service provider, actuary, consultant, accountant, attorney, specialist, or other person or organization that may be employed by the Plan Administrator in connection with the administration thereof, shall be paid by the Employer, provided, however, that each Participant shall bear the monthly cost (if any) charged by a third party administrator for maintenance of his Benefit Account, unless otherwise paid by the Employer.

### **6.07 Timeliness of Payment for Benefits**

Payment for Benefits shall be made, as soon as administratively feasible, after the required forms and documentation have been received by the Plan Administrator.

### **6.08 Annual Statements**

The Plan Administrator shall furnish each Participant with an annual statement of his medical expense reimbursement account within ninety (90) days after the close of each Plan Year.

## **ARTICLE VII**

### **Claims Procedure**

### **7.01 Procedure if Benefits are Denied Under the Plan**

Any participant, Spouse, Dependents, or his duly authorized representative may file a claim for a plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a form provided by the Plan Administrator and delivered to the Plan Administrator, in person or by mail, postage paid. Within thirty (30) days after receipt of such claim, the Plan Administrator shall send to the claimant, by mail, postage prepaid, notice of granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed forty-five (45) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial 30-day period. If such extension is necessary due to a failure of the Participant, Spouse or Dependent to submit the information necessary to decide the claim, the notice of extension shall describe the required information and the claimant shall be afforded at least forty-five (45) days from receipt of the notice within which to provide such information. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to review pursuant to Sections 7.03 and 7.04.

### **7.02 Requirement for Written Notice of Claim Denial**

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- a) The specific reason or reasons for the denial;
- b) Specific reference to pertinent Plan provisions on which the denial is based;
- c) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material is necessary, and
- d) An explanation of the Plan's claim review procedure.

### **7.03 Right to Request Review on Benefit Denial**

Within one-hundred eighty (180) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing.

### **7.04 Disposition of Disputed Claims**

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt decision on the review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific

references to the pertinent plan provisions on which the decision is based. The decision on review shall be made not later than sixty (60) days after the Plan Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this Section, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to legal remedy pursuant to Section 7.05.

#### **7.05 Preservation of Other Remedies**

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

### **ARTICLE VIII**

#### **Amendment or Termination of Plan**

##### **8.01 Permanency**

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in Sections 8.02 and 8.03, below.

##### **8.02 Employer's Right to Amend**

The Employer reserves the right to amend the Plan at any time and from time-to-time, and retroactively, if deemed necessary or appropriate to meet the requirements of the Code, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan.

##### **8.03 Employer's Right to Terminate**

The Employer reserves the right to discontinue or terminate the plan at any time without prejudice.

### **ARTICLE IX**

#### **General Provisions**

##### **9.01 No Employment Rights Conferred**

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the Employer.

### **9.02 Payment After Death of Participant**

Any benefits otherwise payable to a Participant following the date of death of such Participant shall be paid as outlined in the Employer's VantageCare Retirement Health Savings Plan Adoption Agreement.

### **9.03 Nonalienation of Benefits**

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements or torts of the person entitled to any such benefit, except as specifically provided in the plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent of such person, in such manner and proportion as he may deem proper.

### **9.04 Mental or Physical Incompetency**

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, he may cause all payments thereafter becoming due to such person to be made to any other person or his benefit, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the Employer.

### **9.05 Inability to Locate Payee**

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be escheated under the laws of the State of the last known address of the Participant or other persons eligible for benefits.

### **9.06 Requirement of Proper Forms**

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

### **9.07 Source of Payments**

The Employer shall be the sole source of benefits under the Plan. No Employee, Spouse or Dependents shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee, Spouse or Dependents.

### **9.08 Tax Effects**

Neither the Employer nor the Plan Administrator makes any warranty or other representation as to whether any payments received by a Participant, his Spouse or Dependents hereunder will be treated as includible in gross income for federal or state income tax purposes.

### **9.09 Multiple Functions**

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

### **9.10 Gender and Number**

Masculine pronouns include the feminine as well as the neuter gender, and the singular shall include the plural, unless indicated otherwise by context.

### **9.11 Headings**

The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.

### **9.12 Applicable Laws**

The provisions of the Plan shall be construed, administered, and enforced according to the laws of the State of California.

### **9.13 Severability**

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, we have executed this Plan Agreement the date and year first written above.



CITY OF AGOURA HILLS

By: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Authorized Official

ATTEST (if applicable)

By: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Attestor

