

REPORT TO THE CITY COUNCIL

DATE: AUGUST 27, 2008

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: CRAIG STEELE, CITY ATTORNEY

SUBJECT: AMENDMENT NO. 5 TO THE CITY MANAGER'S EMPLOYMENT AGREEMENT AND APPROVAL OF REOLUTION NUMBER 08-1497; ADOPTING A 401(A) GOVERNMENTAL MONEY PURCHASE RETIREMENT PLAN AND THE VANTAGETRUST

Pursuant to the Employment Agreement between the City and City Manager Greg Ramirez, the City matches the City Manager's contributions to the City's Internal Revenue Code (IRC) Section 457 deferred compensation plan, not to exceed 5% of salary. As a result of the contribution limits for 457 plans, the City is no longer able to make the full matching contribution to which it agreed in the Employment Agreement. Staff has determined that this problem can be resolved by establishing a separate IRC Section 401(a) governmental money purchase retirement plan. The City Manager will make his 5% contribution to the 457 plan and the City will make its 5% matching contribution to the 401(a) plan.

The proposed amendment provides for creation of the 401(a) plan and for the allocation of contributions, as provided above. Except for these changes, the existing terms and conditions of the Employment Agreement remain in effect.

In addition, Resolution Number 08-1497 is being presented in order to establish the 401(a) plan and allow for the above mentioned adjustment to be implemented.

RECOMMENDATION

It is respectfully recommended the City Council consider the attached Amendment Number 5 to the City Manager's Employment Agreement, and if deemed appropriate, approve and authorize the Mayor to execute the same; and approve Resolution Number 08-1497; adopting a 401(a) governmental money purchase retirement plan and VantageTrust.

Attachments: (1) Amendment No. 5 to the City Manager's Employment Agreement
(2) Resolution No. 08-1497

AMENDMENT NO. 5 TO EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF AGOURA HILLS AND GREG RAMIREZ

That certain Employment Agreement dated February 24, 2004, as amended in February 2005, May 2006, August 2007 and July 2008 by and between the City of Agoura Hills (“City”) and Greg Ramirez (“City Manager”) (collectively the “Amended Agreement”) is hereby further amended as follows:

1. Section 5(A)(2) of the Amended Agreement is amended in its entirety to read as follows:

“(2) Retirement Savings Plans

“City has established a 457 deferred compensation plan in which City Manager is eligible to participate. City agrees to establish a 401(a) plan into which retirement contributions may be made for the benefit of City Manager. City will pay the cost, if any, to establish and administer the 401(a) plan. City Manager will continue his election making voluntary contributions of at least 5% of his salary to the 457 plan. City will match, dollar for dollar, City Manager’s 457 contribution with a contribution to the 401(a) plan, not to exceed 5% of City Manager’s salary. The parties acknowledge that the provisions of Section 5(A)(1)(c), addressing Internal Revenue Code compliance, apply to this Section 5(A)(2).”

2. The foregoing amendment, when approved by the City Council and duly executed by the Mayor and City Manager, shall be made a part of the Amended Agreement. Except as amended herein, the terms and conditions of the Amended Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Amendment No. 5 to the Agreement as of August 27, 2008.

CITY MANAGER

Greg Ramirez

CITY OF AGOURA HILLS

John Edelston, Mayor

ATTEST:

Kimberly Rodrigues, CMC, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

RESOLUTION 08-1497

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADOPTING A 401(A) GOVERNMENTAL MONEY PURCHASE RETIREMENT PLAN AND THE VANTAGETRUST.

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

SECTION 1. The establishment of a money purchase retirement plan serves the interests of the City by enabling it to provide funds for retirement and funds for employee beneficiaries in the event of death.

SECTION 2. The City hereby establishes the Plan in the form of the ICMA Retirement Corporation's Governmental Money Purchase Plan & Trust, pursuant to the specific provisions of the Adoption Agreement.

SECTION 3. The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries; and assets of the Plan shall be held in trust, with the City serving as Trustee.

SECTION 4. The City hereby executes the Declaration of Trust of VantageTrust made available by the ICMA Retirement Corporation, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the Employer, if the assets of the plan are to be invested in the VantageTrust.

SECTION 5. 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. City of Agoura Hills Director of Finance shall execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.

PASSED, APPROVED, AND ADOPTED this 27th day of August, 2008 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

John M. Edelston, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk