



AGENDA REPORT

Meeting Date: June 16, 2009
Item Number: F-8
To: Honorable Mayor & City Council
From: Laurence S. Wiener, City Attorney
Subject: **INTERIM CITY MANAGER EMPLOYMENT AGREEMENT
BETWEEN CITY OF BEVERLY HILLS AND RODERICK J.
WOOD**
Attachment: Agreement

INTRODUCTION

This Agreement will employ Rod Wood as Interim City Manager until a permanent replacement is engaged by the City Council.

DISCUSSION

As the City Council is aware, Rod Wood, the City's City Manager, will be retiring effective August 9, 2009. The City Council has begun the effort to recruit a new City Manager. This agreement would retain Mr. Wood as the Interim City Manager from August 10, 2009 until a new City Manager begins employment. The agreement provides that Mr. Wood would receive the same base salary as he is currently paid. However, as he will be a retired employee, he would not receive retirement contributions, medical benefits, or sick or vacation leave.

FISCAL IMPACT

The City Manager's compensation is included in the budget. Therefore, there will be no material budget impact associated with approving this Agreement. The total compensation for the Interim City Manager will be slightly less than budgeted due to the reduced benefits provided pursuant to the Agreement.

Approved By
Laurence S. Wiener

Attachment 1

Agreement

**EMPLOYMENT AGREEMENT BETWEEN
CITY OF BEVERLY HILLS AND RODERICK J. WOOD**

This Employment Agreement (“Agreement”) shall be effective as of August 10, 2009, by and between the City of Beverly Hills, a California municipal corporation, (“City”) and Roderick J. Wood, an individual (“Employee”).

RECITALS

- A. Employee has submitted an application for retirement to the Public Employees’ Retirement System and will be retired from City on August 10, 2009. Employee’s retirement will leave a vacancy in the office of City Manager.
- B. City desires to secure the specialized services of a suitably qualified person to serve as City Manager on a temporary, interim basis while City seeks to permanently fill the position of City Manager through a formal recruitment and selection process.
- C. The Interim City Manager appointment is an appointment to a position of a limited duration and one requiring specialized skills. It is a temporary, provisional appointment, pending recruitment, selection and appointment of a successor City Manager or earlier termination as determined by the City Council.
- D. The City Council desires to have Employee serve as Interim City Manager and Employee desires to accept employment as Interim City Manager.
- E. Employee will be a retired person under the California Public Employees’ Retirement System (“PERS”) and desires to retain his retirement status and benefits. The Public Employees’ Retirement Law (“PERL”), commencing at Government Code Section 20000, permits a retired person under PERS to serve in otherwise covered employment without reinstatement from retirement and without loss or interruption of retirement benefits, provided certain conditions exist and, with limited exceptions, all employment for the retired person does not exceed 960 hours in any fiscal year, or such other limit as PERS may approve by statute. City and Employee desire to structure the employment to take advantage of this provision.
- F. City and Employee wish to enter into an Employment Agreement that sets forth the rights and obligations of the parties and that will supercede all prior negotiations, discussions or agreements.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Employee agree as follows:

1. TERM. Unless sooner terminated, as provided in this Agreement, the term of this Agreement shall be from August 10, 2009, to the earlier of the date on which (a) a duly

appointed person assumes the office of City Manager or (b) Employee reaches 960 hours of service or such greater limit as may be authorized for service without reinstatement under the PERL.

2. DUTIES AND AUTHORITY. Employee shall, on an interim basis, exercise the full powers and perform the duties of the position of City Manager of the City of Beverly Hills, as set forth in the Beverly Hills Municipal Code; personnel and departmental rules, regulations and procedures; the City Manager job description (if any) and under state law, as each of them currently or may in the future exist. Employee shall exercise such other powers and perform such other duties as City, by the City Council, may from time to time assign. As determined by the City Council, Employee shall serve or continue to serve as representative to any agency or organization to which the City Council may make appointments. Except as otherwise determined by the City Council, Employee shall serve as Interim Executive Director to any agency, authority or similar entity staffed by City.

3. EMPLOYEE'S OBLIGATIONS. Employee shall devote his best efforts to the performance of this Agreement and to the promotion of City's interests. Employee shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to or which materially interferes with his duties and responsibilities to City or presents a reasonable likelihood that Employee will be required by State law to recuse himself from discussions or decisions regarding City business.

Within three business days after accepting any compensated engagement for any activity , consulting service or enterprise, Employee shall disclose in writing to the City Council the nature of such engagement, the person or entity for which work is being performed, and, if an entity, the principals of the entity and any members of the governing board.

4. SALARY AND BENEFITS.

A. Base Salary. City shall pay Employee a salary at an annual rate of \$286,451, subject to legally permissible or required withholding, prorated and paid on City's normal paydays. Employee's salary is compensation for all hours worked. Employee shall be exempt from the overtime pay provisions of California law (if any) and federal law.

B. Hours. The parties expect that employee will normally work a minimum of 40 hours per week (including holidays, as provided below). Employee will normally be expected to maintain office hours at City Hall at least three (3) days per week. Otherwise, work may be performed either at City Hall or any other location of Employee's choosing. With prior notice, Employee may, for personal reasons other than sickness or disability, absent himself from work for full workdays and agrees to perform no work of any kind for City on such days. Employee's compensation will be reduced at the rate of \$1,096 per day for such absences.

C. Employment Benefits. In addition to base salary, City shall provide fringe benefits to Employee, to the extent provided below. City and Employee acknowledge that the benefit waivers

provided below do not take effect until the actual date on which any benefit from Employee's prior, regular employment with City would terminate as a result of Employee's retirement.

(1) Holidays. Employee shall be entitled to the scheduled holidays generally available to other exempt employees of City. Employee's salary includes holiday pay. Accordingly, Employee shall not be entitled to any additional salary or compensation for working on a holiday.

(2) No Paid Leave. As an exempt employee, Employee's salary will not be subject to variation based on the quality or quantity of work except as otherwise permitted under the Fair Labor Standards Act. Consistent with his obligations under this Agreement and the requirements of the job, Employee may generally set his own schedule. Except as an incidental result of this flexibility in scheduling, Employee acknowledges that he will not be eligible for and hereby waives entitlement to any paid leave benefits, including, without limitation, vacation, sick leave, administrative leave, floating holidays, personal holidays, bereavement leave or any other paid leave time.

(3) Group Medical, Life and Dental Insurance. Employee acknowledges that he (including his dependents) will not be eligible for and hereby waives entitlement to health and welfare benefits and group insurance, including, without limitation, medical, life, dental, optical, and disability coverage. However, nothing in this Agreement is intended to waive or to otherwise interfere with retiree health insurance coverage available to Employee as a retiree of City, if any.

(4) Automobile. Employee will maintain a personal vehicle available for use on City business. City will reimburse Employee for such business use at City's standard mileage rate, as applicable to other City executive employees.

(5) Retirement Plan. Employee shall remain a retired person under PERS and shall not be eligible to participate under the PERS Plan applicable to other employees of City.

(6) Other Fringe Benefits. Employee acknowledges that he will not be eligible for and hereby waives any additional fringe benefit or payment not expressly provided in this Agreement. Employee further acknowledges that, except as provided under the applicable plan document or as required by law, Employee will not be eligible to participate in City's deferred compensation plan, flexible spending account, medical or childcare reimbursement accounts or retiree health savings plan. In the event Employee's participation is provided under terms of the plan documents or applicable law, Employee acknowledges that he is not eligible for and hereby waives any employer contribution that may otherwise be available and will participate only on the basis of employee contributions.

(7) Storage Space. City shall, at no expense to Employee, provide storage space for one recreational vehicle trailer not to exceed 22 feet in length at a City facility of City's choosing. Employee shall be responsible for insuring the trailer against damage or loss. Employee agrees to look exclusively to such insurance for recovery in the event of damage or loss to the trailer and

hereby agrees to release and hold City harmless against damage or loss, whether insured or uninsured. City retains the right to make changes in its facilities and operations and to dispose of municipal property, as it considers appropriate. City may discontinue the grant under this paragraph if storage is no longer feasible or will result in extra cost to City. City may also change the location of the storage space from time to time. City is only granting Employee permission for the specified storage and makes no other representations or commitments with regard to the space or its suitability.

(8) Expenses. City recognizes that Employee may incur certain expenses of a non-personal and job related nature. These expenses include, but are not limited to, professional memberships and meeting expenses that are typical for a City Manager, as provided in the City Budget. City agrees to reimburse or to pay such business expenses which are incurred and submitted according to City's normal expense reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements and must be submitted within time limits established by City. With respect to professional development activities, City will reimburse Employee for participation in the fall 2009 League of California Cities conference, the fall 2009 ICMA conference, Employees' participation on the Executive Board of the City Managers' Division of the League of California Cities and any other activities approved by the City Council.

(9) Bonding. City shall bear the full costs of any fidelity or other bonds required of Employee under any law or ordinance by virtue of his employment as Interim City Manager.

5. APPOINTMENT. As an interim appointment, employee's appointment is temporary and provisional, qualifying only for the compensation provided under this Agreement and ineligible for benefits applicable to regular executive appointments, except as otherwise provided in this Agreement.

6. INDEMNIFICATION. City will defend and indemnify Employee, using legal counsel of City's choosing, against legal liability for acts or omissions by Employee occurring in the course and scope of employment under this Agreement, in accord with California Government Code Sections 825, 995, and 995.2 – 995.8 and other applicable provisions of California law. In the event independent counsel is required for Employee, City may select and will pay the reasonable fees of such independent counsel.

7. AT-WILL EMPLOYMENT RELATIONSHIP. Consistent with Beverly Hills Municipal Code § 2-5-206, and California Government Code § 36506, the City Council shall be appointing authority for Employee and Employee is employed at the pleasure of the City Council. Either the City Council or Employee may terminate this Agreement and the employment relationship at any time without cause. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City to terminate the employment of Employee. Employee may terminate this Agreement and the employment relationship upon 30 calendar days written notice.

8. SEVERANCE. Except as otherwise expressly limited in this Agreement, City

shall pay Employee for all services through the effective date of termination and Employee shall receive no other compensation or payment or any severance. Since Employee is not eligible for paid leave, payment for unused leave time will not be applicable.

9. INTEGRATION OF AGREEMENT. This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Employee's employment as Interim City Manager with the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

10. METHOD OF AMENDMENT. No amendments to this Agreement may be made except by a writing signed and dated by the parties.

11. NOTICES. Any notice to City under this Agreement shall be given in writing to City, either by personal service or by registered or certified mail, postage prepaid, addressed to the Mayor and City Council at City's then principal place of business. A courtesy copy shall be given to the City Attorney in a like manner. Any such notice to Employee shall be given in a like manner and, if mailed, shall be addressed to Employee at his home address then shown in City's files. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, or (b) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section.

12. GENERAL PROVISIONS.

A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

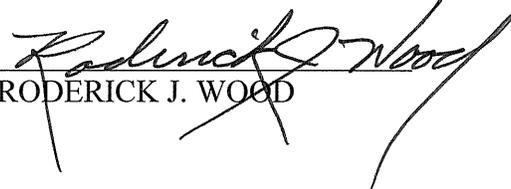
B. This Agreement sets forth the final, complete and exclusive agreement between City and Employee relating to the employment of Employee by City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, his employment is subject to City's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment and violence in the workplace.

C. This Agreement shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California and all applicable City Codes, Ordinances and Resolutions.

D. Employee acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that he has made an independent judgment upon the financial and legal effects of this Agreement and has not relied upon any representation of City, its officers, agents or employees other than those expressly set forth in this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally or on its behalf by its duly authorized representative.

EMPLOYEE


RODERICK J. WOOD

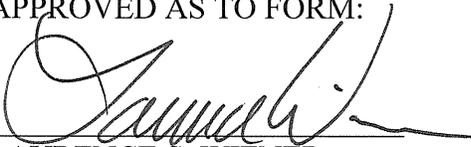
CITY
CITY OF BEVERLY HILLS,
A California Municipal Corporation

By: _____
NANCY KRASNE, Mayor
City of Beverly Hills, California

ATTEST:

_____(Seal)
BYRON POPE
City Clerk

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney