

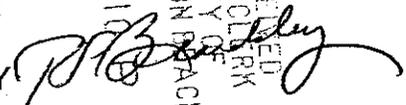
MEETING DATE: 2/22/2005

DEPARTMENT ID NUMBER: AS05-008

Council/Agency Meeting Held: _____	_____ City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date:                      2/22/2005	Department ID Number:              AS05-008

**CITY OF HUNTINGTON BEACH  
REQUEST FOR CITY COUNCIL ACTION**

RECEIVED  
 CITY CLERK  
 CITY OF  
 HUNTINGTON BEACH, CA  
 2005 FEB 10 4:5



**SUBMITTED TO:** HONORABLE MAYOR/CITY COUNCIL MEMBERS

**SUBMITTED BY:** ROBERT BEARDSLEY, ACTING ASSISTANT CITY ADMINISTRATOR

**PREPARED BY:** CHARLES THOMAS, ACTING DIRECTOR OF ADMINISTRATIVE SERVICES

**SUBJECT:** APPROVE AMENDMENTS TO AGREEMENTS FOR DEFERRED COMPENSATION PLANS

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

**Statement of Issue:** The City contracts with ICMA Retirement Corporation (ICMA-RC) and Nationwide Retirement Solutions for IRS 457 Deferred Compensation Plans. The City also has an agreement with ICMA-RC for three 401a Money Purchase Retirement Plans. Both companies have provided the City with amendments to the Administrative Services Agreements to reduce the Administrative fees paid by employees. In addition, one 401a plan, for the City Administrator is inactive.

**Funding Source:** Not applicable

**Recommended Action:** Approve the amendments to the Administrative Services Agreements with the ICMA Retirement Corporation for Plans Numbered 107578 (401a for City Administrator), 107694 (401a for appointed Department Directors), 107695 (401a for elected Department Directors) and 301516 (457 Deferred Compensation Plan).

Approve the Amendment to the 457 Deferred Compensation Plan Administration Agreement with Nationwide Retirement Solutions to reduce plan administration fees by fund, as identified.

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## REQUEST FOR ACTION

MEETING DATE: 2/22/2005

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**Alternative Action(s):** Do not amend the contracts, The ICMA-RC contract currently allows for termination without penalty by either party on a 60-day notice and includes administrative fees averaging approximately \$150 per employee participant annually. The only modification to the Nationwide Retirement Solutions contract is the reduction of administrative fees paid by employees; all other provisions remain the same.

**Analysis:** The City adopted an IRS Section 457 Deferred Compensation Plan in 1973 and added a 401A Money Purchase Retirement Plan in 2000. The City currently contracts with two organizations to provide administrative services and investments for the plans (ICMA-RC and Nationwide Retirement Solutions.) The program is supported through a combination of administrative fees paid by participating employees and fees received from proprietary mutual fund accounts offered in the plans. One of the providers, the ICMA-RC has offered to reduce employee-paid administrative fees for all plans to 0% (currently at .29%), if the City amends the contract with the following provisions:

1. Agree to a term of five years, followed by successive 2-year terms that can only be cancelled with written notice provided no less than 60 days before the end of each term. This is a non-exclusive contract, allowing the City to continue to provide choice to employees in deferred compensation plan service providers. Currently, the agreement allows for termination without penalty by either party on a 60-day notice.
2. The City will utilize the ICMA-RC EZLink software for transmitting contributions and reports. Through this software, the City is able to electronically transfer contributions out of each bi-weekly payroll.

This fee reduction affects both the 457 and 401a plans. Based on current assets, the reduction to 0% of participant-paid administrative fees represents a savings of approximately \$53,398 annually or about \$150 for the average participant each year.

The Nationwide Retirement Solutions has also agreed to fee reductions, including reducing the employee-paid administrative fees from .45% to .40% for some funds and from .20% to .15% for others (see attachment 3 for an outline of administrative fees by fund). There are no conditions requested from Nationwide for reducing the administrative fees.

Additionally, staff is recommending modifications to the inactive 401a Money Purchase Plan for the City Administrator. This plan was originally set up as an employer contribution plan and has not been in use for a number of years. This amendment will change the plan into an employee contribution plan and activate it.

Staff believes the provisions to the ICMA-RC agreement are reasonable.

**Environmental Status:** Not Applicable

# REQUEST FOR ACTION

MEETING DATE: 2/22/2005

DEPARTMENT ID NUMBER:AS05-008

## Attachment(s):

City Clerk's Page Number	No.	Description
4	1.	Contract amendment to the Administrative Service Agreement with the ICMA-RC
7	2.	Contract amendment to the Governmental Money Purchase Plan & Trust Adoption Agreement with ICMA-RC
16	3.	Contract amendment to the Deferred Compensation Plan Administration agreement with Nationwide Retirement Solutions

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**ATTACHMENT #1**

**AMENDMENT  
TO THE  
Administrative Services Agreement  
for Plans Numbered 107578, 107694, 107695 and 301516**

This Amendment to the Administrative Services Agreements (“Agreements”) for Plans numbered 107578, 107694, 107695 and 301516 (the “Plans”) is entered by and between the City of Huntington Beach, CA (“Employer”) and ICMA Retirement Corporation (“RC”), effective as of the date of execution by the Employer below (“Execution Date”).

**WHEREAS**, the Employer sponsors the Plans on behalf of its eligible employees and retirees; and

**WHEREAS**, the Employer entered the Agreements to engage RC to provide administrative services and investments for the Plans under the terms specified in the Agreements; and

**WHEREAS**, the parties wish to amend the Agreements to provide for an elimination of the Plan Administration fee and Mutual Funds Fee under the Agreements for the Plans over the term of the Agreements contingent on the Employer’s use of EZLink for enrollment and contribution processing over the term of the Agreements; and

**WHEREAS**, Section 10(a) of the Agreements provides that the Agreements may be amended pursuant to a written instrument signed by the parties;

**NOW, THEREFORE**, the Agreements are hereby amended as follows:

**FIRST**

Section 6 of the Agreements, titled “Compensation and Payment” is amended by replacing subsections (a) and (d) with the following:

(a) Plan Administration Fee. The amount to be paid for plan administration services under this Agreement shall be 0.0% of the amount of Plan assets invested in the Trust.

(d) Mutual Fund Services Fee. There is an annual charge of 0.0% assessed against average daily net Plan assets invested in the Trust’s Mutual Fund Series.

The compensation and payment set forth in this Section 6 is contingent upon Employer’s use of EZLink for enrollment and contribution processing over the term of the Agreement. Notwithstanding anything to the contrary in the Agreement, there shall be no increase in fees during the term of the Agreement provided that the Employer uses EZLink for enrollment and contribution processing over the term of the Agreement.

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**SECOND**

Section 9 of the Agreements, titled "Term" is amended to provide as follows:

This Agreement shall be in effect for an initial term beginning on the Execution Date and ending 5 years after the Execution Date. This Agreement will be renewed automatically for succeeding 2-year terms unless the Employer provides written notice of termination to RC the other no less than 60 days before the end of such the initial or any succeeding term.

The fee amendment specified in section 6 of the Agreement will take effect in the calendar quarter following RC's receipt of one fully executed copy of this Amendment based upon the following schedule:

- Received by February 20: Effective April
- Received by May 20: Effective July
- Received by August 20: Effective October
- Received by November 20: Effective January

In all other respects, the Agreements are hereby ratified and affirmed.

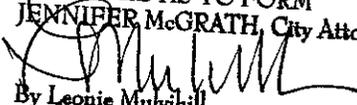
IN WITNESS WHEREOF, Employer has caused this Amendment to be executed by its duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

EMPLOYER

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

Print Name: \_\_\_\_\_

Title: Mayor

APPROVED AS TO FORM  
JENNIFER McGRATH, City Attorney  
  
By Leonie Mulvihill  
Deputy City Attorney

ICMA RETIREMENT CORPORATION

by:

Paul F. Gallagher  
Paul Gallagher  
Corporate Secretary

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# ATTACHMENT #2

**MONEY PURCHASE PLAN ADOPTION AGREEMENT**  
**Amendment for plan 107578 - February 2005**



**ICMA RETIREMENT CORPORATION**

The Public service Vantagepoint since 1972

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ICMA RETIREMENT CORPORATION  
GOVERNMENTAL MONEY PURCHASE PLAN & TRUST  
ADOPTION AGREEMENT

Account Number : 107578

The Employer hereby establishes a Money Purchase Plan and Trust to be known as the "Plan") in the form of the ICMA Retirement Corporation Prototype Money Purchase Plan and Trust.

CITY OF HUNTINGTON BEACH

This Plan is an amendment and restatement of an existing defined contribution money purchase plan.

Yes       No

If yes, please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates:

401(A) DEFERRED COMPENSATION PLAN

**Summary of Changes:**

**Effective Date of These Changes:**

- I. Employer: CITY OF HUNTINGTON BEACH
- II. The Effective Date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate Effective Date is hereby specified: 02/01/2005
- III. Plan Year will mean:
  - The twelve (12) consecutive month period which coincides with the limitation year. (See Section 5.04(i) of the Plan.)
  - The twelve (12) consecutive month period commencing on 04/01 and each anniversary thereof.
- IV. Normal Retirement Age shall be age 59.5 (not to exceed age 65).

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V. ELIGIBILITY REQUIREMENTS:

1. The following group or groups of Employees are eligible to participate in the Plan:

- All Employees
- All Full Employees
- Salaried Employees
- Non-Union Employees
- Management Employees
- Public Safety Employees
- General Employees
- Other (specify below)  
CITY ADMINISTRATOR

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

2. The Employer hereby waives or reduces the requirement of a twelve (12) month Period of Service for participation. The required Period of Service shall be N/A (write N/A if an Employee is eligible to participate upon employment).

If this waiver or reduction is elected, it shall apply to all Employees within the Covered Employment Classification.

3. A minimum age requirement is hereby specified for eligibility to participate. The minimum age requirement is N/A (not to exceed age 21. Write N/A if no minimum age is declared.)

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (choose one):

- Fixed Employer Contributions With Or Without Mandatory Participant Contributions.**

The Employer shall contribute on behalf of each Participant \_\_\_\_\_ % of Earnings or \$ 26.00 for the Plan Year (subject to the limitations of Article V of the Plan). Each Participant is required to contribute \_\_\_\_\_ % of Earnings or \$ 26,000.00 for the Plan Year as a condition of participation in the Plan. (Write "0" if no contribution is required.) If Participant Contributions are required under this option, a Participant shall not have the

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right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory/Required Participant Contribution.

Yes       No

[Note to Employer: A determination letter issued to an adopting Employer is not a ruling by the Internal Revenue Service that Participant contributions that are picked up by the Employer are not includable in the Participant's gross income for federal income tax purposes. The Employer may seek such a ruling.

Picked up contributions are excludable from the Participant's gross income under section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 811981C.B. 255. Those requirements are (1) that the Employer must specify that the contributions, although designated as employee contributions, are being paid by the Employer in lieu of contributions by the employee; and (2) the employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the plan.]

**Fixed Employer Match of Participant Contributions.**

The Employer shall contribute on behalf of each Participant \_\_\_\_\_ % of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_. Under this option, there is a single, fixed rate of Employer contributions, but a Participant may decline to make the required Participant contributions in any Plan Year, in which case no Employer contribution will be made on the Participant's behalf in that Plan Year.

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**Variable Employer Match Of Participant Contributions.**

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

\_\_\_\_\_ % of the contributions made by the Participant for the Plan Year (not including Participant contributions exceeding \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_ );

PLUS \_\_\_\_\_ % of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Participant contributions exceeding in the aggregate \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_ ).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed \$ \_\_\_\_\_ or \_\_\_\_\_ % of Earnings, whichever is \_ more or \_ less.

2. Each Participant may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 4.05 and Article V of the Plan.

\_\_\_\_\_ Yes                        x   No

3. Employer contributions and Participant contributions shall be contributed to the Trust in accordance with the following payment schedule:

\_\_\_\_\_

**VII. EARNINGS**

Earnings, as defined under Section 2.09 of the Plan, shall include:

- (a) Overtime

\_\_\_\_\_ Yes                        x   No

- (b) Bonuses

\_\_\_\_\_ Yes                        x   No

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VIII. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Sections 5.02 and 5.03 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (f) of the Plan will apply unless another method has been indicated below.

Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any excess amounts, in a manner that precludes Employer discretion.)

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2. If the Participant is or has ever been a participant in a defined benefit plan maintained by the Employer, and if the limitation in Section 5.03 of the Plan would be exceeded, then the Participant's Projected Annual Benefit under the defined benefit plan shall be reduced in accordance with the terms thereof to the extent necessary to satisfy such limitation. If such plan does not provide for such reduction, or if the limitation is still exceeded after the reduction, annual additions shall be reduced to the extent necessary in the manner described in Sections 5.02 and 5.02. The methods of avoiding the limitation described in this paragraph will not apply if the Employer indicates another method below.

Other Method. (Note to Employer: Provide below language which will satisfy the 1.0 limitation of section 415(e) of the Code. Such language must preclude Employer discretion. See section 1.415 of the Regulations for guidance.)

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3. The limitation year is the following 12 month period: \_\_\_\_\_

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IX. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the minimum vesting requirements as noted and (2) the concurrence of the Plan Administrator.

<u>Years of Service Completed</u>	<u>Percent Vesting</u>
Zero	<u>100.00</u> %
One	_____ %
Two	_____ %
Three	_____ %
Four	_____ %
Five	_____ %
Six	_____ %
Seven	_____ %
Eight	_____ %
Nine	_____ %
Ten	_____ %

X. Loans are permitted under the Plan, as provided in Article XIII:

x Yes                      \_ No

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

XII. The Plan Administrator hereby agrees to inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan.

XIII. The Employer hereby appoints the ICMA Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the ICMA RETIREMENT CORPORATION GOVERNMENTAL MONEY PURCHASE PLAN & TRUST.

The Employer hereby agrees to the provisions of the Plan and Trust.

XIV. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

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XV. An adopting Employer may not rely on a determination letter issued by the National or District Office of the Internal Revenue Service as evidence that the Plan is qualified under section 401 of the Internal Revenue Code. In order to obtain reliance with respect to plan qualification, the Employer must apply to the appropriate key district office for a determination letter.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Accepted: **EMPLOYER**

Accepted: **ICMA RETIREMENT CORPORATION**

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

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

Title: Mayor

Title: Corporate Secretary

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

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

ICMA RETIREMENT CORPORATION  
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**ATTACHMENT #3**

## Amended Exhibit A to the Deferred Compensation Plan Administration Agreement

This Amended Exhibit A sets forth the mutual fund options incorporated by reference to become part of the Deferred Compensation Plan Administration Agreement and all amendments thereto to be effective January 28, 2005.

FUND NAME	PRICING
AIM Dynamics Fund (Investor Class)	0.15%
American Century Growth Fund (Investor Class)	0.40%
American Century International Discovery Fund (Investor Class)	0.15%
American Century Ultra (Investor Class)	0.15%
American Century Value (Investor Class)	0.15%
Brown Capital Management Small Company Fund (Investor Class)	0.15%
Dreyfus Appreciation Fund, Inc.	0.15%
Dreyfus Premier Mid Cap Stock (Class A)	0.15%
Dreyfus S&P 500 Index Fund	0.40%
Federated US Government SC FND 2-5 Years (Institutional Shares)	0.40%
Fidelity Asset Manager	0.40%
Fidelity Contrafund	0.40%
Fidelity Equity Income Fund	0.40%
Fidelity Magellan Fund	0.40%
Franklin Balance Sheet INV Fund (Class A)	0.15%
Gartmore Bond Market Index (Class A)	0.15%
Gartmore International Index Fund (Class A)	0.15%
Gartmore Investor Destinations Aggressive Fund (Service Class)	0.15%
Gartmore Investor Destinations Conservative Fund (Service Class)	0.15%
Gartmore Investor Destinations Moderate Aggressive Fund (Service Class)	0.15%
Gartmore Investor Destinations Moderate Conservative Fund (Service Class)	0.15%
Gartmore Investor Destinations Moderate Fund (Service Class)	0.15%
Gartmore Mid Cap Market Index Fund (Class A)	0.15%
Gartmore Money Market Fund (Prime Shares)	0.15%
Gartmore Nationwide Fund (Class D)	0.15%
Gartmore S&P 500 Index ISC	0.15%
Gartmore Small Cap Index (Class A)	0.15%
Growth Fund of America (Class A)	0.40%
GVIT Small Company Fund (Class I)	0.15%
Income Fund of America INC*	0.40%
Janus Fund	0.15%
JP Morgan Fleming International Equity Fund (Select Class)	0.15%
JP Morgan Mid Cap Value (Class A)	0.15%
MASS Investors Growth Stock Fund (Class A)	0.15%
MSIF Equity Growth Portfolio (Class B)	0.15%
MSIF Fixed Income Fund (Class A)	0.40%
Neuberger Berman Genesis Fund (Trust Class)	0.15%
Neuberger Berman Socially Responsive Fund (Investor Class)	0.15%

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FUND NAME	PRICING
One Group Mid Cap Growth Fund (Class A)	0.15%
One Group Mid Cap Value Fund (Class A)	0.15%
Oppenheimer Global (Class A)	0.15%
PIMCO Total Return Fund (Class A)	0.15%
Putnam Voyager Fund (Class A)	0.15%
Templeton Foreign Fund (Class A)	0.15%
Van Kampen Growth & Income Fund (Class A)	0.15%
Waddell & Reed Advisor High Income (Class Y)	0.15%

IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed by their authorized representatives on the date first written herein above.

CITY OF HUNTINGTON BEACH,  
CALIFORNIA

NATIONWIDE RETIREMENT  
SOLUTIONS, INC.

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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