

DISCUSSION ITEM

Agenda Item # 13

AGENDA REPORT SUMMARY

Meeting Date: June 22, 2021

Subject: Amendment No. 1 to the Retired Annuitant Agreement, by and between the City of Los Altos, a California general law municipal corporation, and Brad Kilger.

Prepared by: Jolie Houston, City Attorney

Attachment(s):

1. Amendment No. 1 to the Retired Annuitant Agreement, by and between the City of Los Altos, a California general law municipal corporation, and Brad Kilger.

Initiated by:

City Council

Fiscal Impact:

Funds for the salary associated with this position are included in the budget.

Environmental Review:

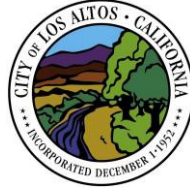
Not applicable

Policy Question(s) for Council Consideration:

Does Council wish to amend the Retired Annuitant Agreement, by and between the City of Los Altos, a California general law municipal corporation, and Brad Kilger?

Recommendation:

Move to approve the Retired Annuitant Agreement, by and between the City of Los Altos, a California general law municipal corporation, and Brad Kilger.



Subject: Amendment No. 1 to the Retired Annuitant Agreement

Purpose

Consideration of Amendment No. 1 to the Retired Annuitant Agreement.

Background

The City Council is responsible for appointing an Interim City Manager to serve as the chief executive officer for the City. On January 12, 2021, the City Council appointed Brad Kilger to serve as Interim City Manager while City Manager recruitment was conducted.

Discussion/Analysis

The City Council now desires to amend the Retired Annuitant Agreement (“Amendment”) to allow Mr. Kilger the flexibility to accept other employment, or serve as a consultant, for another public or private organization for the period July 1, 2021 – July 18, 2021. Any duties performed by Kilger as part of this other employment shall not conflict with Kilger’s duties and obligations under the Retired Annuitant Agreement (“Agreement”). Except as expressly modified by the Amendment, all remaining sections and provisions of the Agreement remain in full force and effect.

AMENDMENT NO. 1 TO THE RETIRED ANNUITANT AGREEMENT

This Amendment No. 1 (“Amendment”) to the Retired Annuitant Agreement (“Agreement”) is entered into as of 22nd day of June 2021, by and between the City of Los Altos, a California general law municipal corporation, hereafter referred to as “City” and Brad Kilger, hereafter referred to as “Kilger” or jointly, “Parties.”

RECITALS

WHEREAS, on January 13, 2021, City and Kilger entered into an agreement entitled “Retired Annuitant Agreement” (“Agreement”); and

WHEREAS, pursuant to the Agreement, Section 2, “Kilger shall not accept any other employment for or serve as a consultant for any other public or private organization without the prior written consent of the City Council.”

WHEREAS, pursuant to the Section 14 “Amendments” of the Agreement, the Agreement may not be amended or modified except in a written document signed by Kilger, approved by the City Council and signed by City’s Mayor or authorized designee.

WHEREAS, the City Council desires to amend the Agreement (“Amendment”) Section 2 as set forth below; and

WHEREAS, this Amendment will allow Kilger to accept other employment with another organization as specified herein.

NOW THEREFORE, in consideration of the covenants, conditions and promises hereinafter contained, to be kept and performed by the Parties hereto, City and Kilger hereby agree that the following section of the Agreement is repealed in its entirety and replaced with a new Section 2 to read as follows:

“2. Duties. Kilger shall serve as the Interim City Manager and shall be for the term of this Agreement vested with the powers, duties and responsibilities of the City Manager as specified in Los Altos Municipal Code, Chapter 2.01 and ordinances and resolutions of City Council, and to perform other legally permissible and proper duties and functions as City Council may from time to time assign. It is the intent of City Council for the Interim City Manager to function as the chief executive officer of City. Without additional compensation, Kilger shall provide such other services as are customary and appropriate to the position of Interim City Manager. Kilger shall devote his best efforts and full-time attention to the performance of these duties. During the period of his employment, Kilger shall not accept any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity, whether or not to pecuniary advantage, that is or may be competitive with City, that might cause a conflict of interest with City, or that otherwise might interfere with the business or operation of City or the satisfactory performance of Kilger’s duties as Interim City Manager. Except as specifically noted herein, during the period of his employment, Kilger shall not accept any other

employment, or serve as a consultant, for any other public or private organization without the prior written consent of City Council. Such written consent shall be done in the form of an amendment to the Agreement signed by both Parties. Kilger is permitted to accept other employment, or serve as a consultant, for another public or private organization for the period July 1, 2021 – July 18, 2021. Any duties performed by Kilger as part of this other employment shall not conflict with Kilger’s duties and obligations under this Agreement. Nothing in this Agreement limits Kilger’s ability to continue serving as an ICMA Senior Advisor, provided that those activities do not create a conflict of interest.”

Except as expressly modified by this Amendment, all remaining sections and provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed and is made effective as of the date set forth above.

Brad Kilger, Interim City Manager

City of Los Altos

By: Neysa Fligor, Mayor

ATTEST:

Andrea Chelemengos, City Clerk

APPROVED AS TO FORM:

Jolie Houston, City Attorney