



HOUSING AUTHORITY REPORT

DATE ISSUED: July 24, 2008

REPORT NO: HAR 08-033

ATTENTION: Members of the Housing Authority
For the Agenda of July 29, 2008

SUBJECT: Employment of President/Chief Executive Officer of the San Diego Housing Commission and Executive Director of the Housing Authority of the City of San Diego (Citywide)

REQUESTED ACTION:

Actions Authorizing the San Diego Housing Commission and the Housing Authority of the City of San Diego to enter into an employment agreement to employ Richard C. Gentry as the President and Chief Executive Officer of the San Diego Housing Commission and as the Executive Director of Housing Authority of the City of San Diego.

STAFF RECOMMENDATION:

1. That the Housing Authority authorize the Chairs of the San Diego Housing Commission and the Housing Authority of the City of San Diego to execute an employment agreement between both public agencies and Richard C. Gentry,
2. Authorize the San Diego Housing Commission to take all necessary actions to implement the agreement; and
3. Request that the Housing Authority authorize the Interim President and Chief Executive Officer to amend the FY 09 Budget to provide for this employment agreement.

SUMMARY:

Elizabeth C. Morris the prior Chief Executive Officer and President of the San Diego Housing Commission resigned on January 15, 2008. Since that time, Carrol Vaughan has been acting as the Interim CEO and President of the Commission and Acting Executive Director of the Housing Authority. The President of the Council, Scott Peters established a Selection Committee to seek Ms. Morris' replacement.

A nationwide search for a replacement was performed after a needs assessment was prepared. Roberts Consulting Group was retained to perform the nationwide search. Responses were received and reviewed by Roberts Consulting Group. On July 17, 2008, the Selection Committee interviewed the top six candidates. As a result of those interviews, three (3) finalists were asked to be further interviewed in a joint closed session of the San Diego Housing Commission and the Housing Authority of the City of San Diego on July 18, 2008. That closed session took place as scheduled and as permitted by the Brown Act.

As a result of that closed session, direction was given to Roberts Consulting to finalize its work and to perform final reference checks. Further the Chair of the San Diego Housing Commission was directed to attempt to negotiate an employment agreement with one of the applicants and to bring that agreement back to the Housing Authority for action if the references checks were satisfactory. The reference checks were satisfactory and a proposed agreement has been negotiated. That agreement, with Richard C. Gentry is attached as Attachment 1 hereto.

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FISCAL CONSIDERATIONS:

The Authority is asked to allow the Interim Chief Executive Officer to amend the FY09 Budget to increase the base salary permitted for the CEO from \$225,000 plus benefits to \$240,000 per annum plus benefits and a relocation package as referenced with the proposed agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

There was a joint closed session of the San Diego Housing Commission and Housing Authority of the City of San Diego held on July 18, 2008 as referenced above.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

A nationwide search was undertaken and before that a needs assessment was also undertaken wherein all stakeholders were contacted and were asked to give input on the desired attributes of the new President and Chief Executive Officer. This input was utilized in the nationwide search.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

All extremely low, low and moderate income persons and households in the City of San Diego.

ENVIRONMENTAL REVIEW:

The hiring of a Chief Executive Officer and President of the San Diego Housing Commission and an Executive Director of the Housing Authority of the City of San Diego is not a "project" within the meaning of the California Environmental Quality Act of 1970, as amended. This action is exempt and/or excluded under the applicable provisions of NEPA.

Respectfully submitted,

Charles B. Christensen

Charles B. Christensen
General Counsel
San Diego Housing Commission

Attachment: Proposed Employment Agreement between Housing Authority and Housing Commission and Richard C. Gentry

Copies available for review during business hours at the Housing Commission offices at 1122 Broadway, San Diego, CA 92101, Main Lobby and at the Office of the City Clerk, 202 C Street, San Diego, CA 92101

EMPLOYMENT AGREEMENT

This Agreement is made as of the 1st day of October, 2008, by and between SAN DIEGO HOUSING COMMISSION, a public agency and the Housing Authority of the City of San Diego, a Public Agency (hereinafter jointly referred to as the "Employer") and Richard C. Gentry (the "Employee") on the following terms and conditions:

i) EMPLOYMENT.

The Employer agrees to employ the Employee and the Employee hereby accepts employment with the Employer, as the Chief Executive Officer/President of the San Diego Housing Commission and the Executive Director of the Housing Authority of the City of San Diego. This employment agreement is terminable at will and without cause by thirty (30) days written notice from the Employer to the Employee, provided however, Employee will be paid six (6) months of base salary and benefits upon termination of Employee's term of employment and this Agreement. The employment agreement is also terminable without cause by the Employee, on the terms and conditions set forth in this Agreement. In addition, this Employment Agreement is terminable by the Employer for cause upon delivery of written notice from Employer to Employee. While Employee is employed jointly by both the San Diego Housing Commission and the Housing Authority of the City of San Diego, the power to terminate is exclusively vested in the Housing Authority of the City of San Diego, as specified in San Diego Municipal Code Section 98.0301 and San Diego Housing Commission policy. As used herein, the phrase "Employment Term" refers to the entire period of employment of the Employee by the Employer hereunder.

ii) DUTIES.

2.1 General Duties. The Employee is hereby employed:

(i) To use his best judgment and skills to act as the President and Chief Executive Officer of the San Diego Housing Commission and the Executive Director of the Housing Authority of the City of San Diego;

(ii) To utilize the experience of the Employee to benefit the Employer in accordance with all applicable laws, policies, administrative regulations and applicable rules;

(iii) To utilize his unique and special knowledge, expertise and abilities to report to the Board of Commissioners of the San Diego Housing Commission and the Board of Commissioners of the Housing Authority of the City of San Diego;

(iv) In addition to the duties described above, the Employee shall use his management and leadership skills and to be accountable to both the San Diego Housing Commission and the Housing Authority of the City of San Diego for overseeing the development and implementation of short and long term plans, policies, budgets and strategies to accomplish the San Diego Housing Commission's mission and to address the Commission's and the Authority's priorities as directed by their respective boards and being responsible for coordinating housing policy among all housing entities within the City of San Diego; and,

(v) The Employee shall at all times be subject to the policies of the Commission's Board and the Housing Authority Board and those delegated to the CEO and President of the San Diego Housing Commission and the Executive Director of the Housing Authority of the City of San Diego, all administrative regulations of the Employer and all state, federal and local rules, laws and regulations, including but not limited to, conflict of interest laws rules and regulations.

2.2 Loyal and Conscientious Effort. The Employee agrees that, to the best of his abilities and experience, he will at all times loyally and conscientiously perform all of the duties and obligations required of him hereunder, either expressly or implicitly, for the benefit of the Employer and in accordance with all applicable laws and regulations. Further, Employee agrees that he will not engage in outside employment or consulting for pay while serving as an Employee for the Employer, unless expressly permitted by the Housing Authority, in writing, and provided further that such outside employment and/or consulting create no conflict(s) of interest and/or no issues of incompatible office under any and all state, federal and local laws.

2.3 Uniqueness of Employee's Services. The Employee hereby represents that the services to be performed by him under the terms of this contract are of a special, unique, unusual, extraordinary, and intellectual character which give them peculiar value, the loss of which cannot be reasonably or adequately compensation in damages in an action at law. The Employee therefore expressly agrees that the Employer, in addition to any other rights or remedies which the Employer may possess, shall be entitled to equitable relief as appropriate, in the event of a default by Employee and/or the failure of the Employee to adhere to the Employer's standards of conduct.

iii) COMPENSATION.

3.1 Base Compensation. As base annual compensation for services rendered under this Agreement, the Employee shall be entitled to receive from the Employer a base salary of TWO HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$240,000.00) per year, payable in biweekly installments during the period of employment, prorated for any partial employment period. The base salary shall include the Employee's car allowance. The salary set forth herein is subject to review by the

Board of Commissioners of the San Diego Housing Commission, annually. Such salary may be set by the Board of Commissioners of the San Diego Housing Commission, without further action by the Housing Authority of the City of San Diego, provided that such salary and bonuses, if any, have been included in the budget approved by the Housing Authority for the fiscal year for which the salary is being established. Nothing contained herein shall guarantee that after review the salary will be increased, in any year. The establishment of the compensation for the Employee shall be set in the sole reasonable discretion of the Board of Commissioners of the San Diego Housing Commission and by the Board of Commissioners of the Housing Authority of the City of San Diego, should it, in its discretion determine to review the determination made by the Board of Commissioners of the San Diego Housing Commission, pursuant to the provisions of San Diego Municipal Code Section 98.0301.

3.2 Withholding of Taxes. Employer shall have the duty to withhold from the compensation due the Employee hereunder, any and all sums required for withholding taxes for any other federal, state or local tax or charge which may now be in effect or hereafter enacted or as required as a charge on compensation of the Employee, as set forth in Section 3.1 of this Agreement.

3.3 Reimbursement of Travel Expenses. Employer shall reimburse Employee for all reasonable and necessary travel expenses incurred by Employee and Employee's spouse during the travel period beginning on August 1, 2008 and terminating upon his first day within the office, October 1, 2008. All travel expenses claimed shall be supported by written documentation, as required by the Employee to verify and document said expenses. Such travel expense reimbursement shall not exceed the sum of SEVEN THOUSAND AND NO/100 DOLLARS (\$7,000.00.), as

referenced in Sections 3.4 B. and D, below (\$2,000 in 3.4 B. and \$5000.00 in Section 3.4D).

3.4 Recruitment Package. In addition to the compensation referenced above Sections 3.1 through 3.3, Employer shall provide Employee with the following additional recruitment benefits:

A. Moving Allowance. Upon submittal of receipts verifying the cost of relocating Employee and his household from Chicago, Illinois to San Diego, the Employer shall reimburse Employee for expenses provided that such moving expenses and shipping shall be based upon the lower of two (2) moving and shipping company quotations and provided further that the payment for such expenses shall be directly by the Employer to the moving company chosen by Employee. The moving allowance shall not exceed the the lower the two (2) estimates from reputable companies.

B. Allowance for Temporary Housing in San Diego and One Way Relocation Plane Tickets to San Diego. Upon arrival in San Diego and upon occurrence of all of the conditions precedent to the hire of the Employee, the Employer shall pay Employee the sum of up to TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) as and for temporary housing expenses. Temporary rental housing includes but is not limited to, payments for first and last months rent, and rental payments for up to ninety (90) days. In addition, Employer will pay Employee, as and for one way plane tickets for Employee and Employee's wife, an additional sum, not to exceed TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00.) Should Employee be terminated for cause within one (1) year of the date of the commencement of employment, Employee shall be required to repay Employer the prorata amount of the temporary housing payments, and other recruitment benefits referenced in Section 3.3

and 3.4 of this Agreement that were reimbursed and paid by Employer to Employee measured as fraction whose denominator is 365 and whose numerator is the number of days the Employee has been employed as of the date of termination for cause subtracted from 365, which fraction shall then be multiplied by the amount of temporary housing payments and other recruitment benefits reimbursed to Employee by Employer. Such repayment shall be due from Employee to Employer upon the termination of the employment or as the parties may otherwise agree.

C. Closing costs on current residence. Upon submittal of receipts verifying the closing costs for the sale of Employee's current home, including broker's fees, located in Chicago, Illinois, Employer shall reimburse Employee for such expenses up to and including the amount of FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00). Such costs and expenses, shall include, but are not limited to payments, including escrow fees, title fees, etc. lawyer's fees, abstracting fees, incurred in connection with the sale of the current property by Employee.

D. Housing Hunting Trip for Employee and Employee's wife. In addition to the sums set forth above, in Sections 3.4 A. through C., Employer shall pay Employee, as a reimbursement for costs expended for a housing hunting trip to San Diego, including air fare to and from San Diego from Employee's current place of residence and for hotel and food provided while in San Diego, in an amount not to exceed the sum of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), based upon receipts of the Employee provided to the Employer.

4.2 Medical Coverage. The Employer agrees to maintain the group medical insurance coverage now available to all employees of the Employer through the Employment Term of this Agreement and to make the same available to the Employee

on the same terms and conditions which apply to all other Management employees of the Employer.

4.3 Flex Benefit Credits and Tuition Credits. Employee shall be entitled to Flexible Benefit Credits, currently in the amount of NINE THOUSAND TWO HUNDRED and no/100 DOLLARS (\$9,200.00) per year to be used in accordance with the terms and provisions of Employers policies concerning the same, as amended from time to time. In addition to the Flexible Benefit Credits, the Employee shall be entitled to Tuition Credits of TWO THOUSAND DOLLARS (\$2,000.00) per year, to be used in accordance with the terms and provisions of the Employer's policies concerning the same, as amended from time to time.

4.4. Retirement Plans. In addition to the benefits referenced above, Employee shall be entitled to the pension benefits provided under the Employer's retirement plan currently with Diversified Investment Advisors. This plan is a defined contribution plan, whereby the Employer currently makes the non elective contribution on the Employee's behalf in the amount of fourteen (14%) of base salary each year. There is no warranty that this Employer contribution will continue in perpetuity, however. The plan is subject to revision by the Board of Commissioner's of the San Diego Housing Commission and/or the Housing Authority of the City of San Diego, as they may from time to time determine, in their reasonable discretion. In addition, Employee shall be entitled to participate in the Employer's current 457 Plan, wherein the Employer contributes one percent (1.0%) of the Employee's base salary on a noncontributory basis, and the Employee may defer up to an additional one and one half percent (1.5%) of Employee's base salary, with the Employer matching the additional one and one half percent (1.5%) Employee contribution. Accordingly, the maximum contribution to the 457 Plan in any one year, during the 457 Plan's existence, according to the current

provisions, would be two and one half percent (2.5%) by the Employer and one and one half percent (1.5%) by the Employee, provided that the Employee made the maximum permitted matching contribution of one and on half percent (1.5%) of the base salary, for a total of four percent (4.0%) of base salary. In addition, the Employee may defer such additional compensation, but without Employer matching, as may be permitted, from time to time, under the terms of the Employer's 457 Plan.

4.5. Annual Leave: The Employee shall be entitled to annual leave of up to twenty-eight days per year of paid time off during the first through tenth year of employment with the Employer.

4.6. Core Benefits: In addition to the foregoing, Employee shall be entitled to such basic term life/accidental death and dismemberment and long term disability benefits as are provided to management employees by the Employer.

5. OBLIGATIONS OF EMPLOYER.

5.1 Employment of Employee Contingent. The Employment of the Employee by Employer is contingent upon the following occurring to the satisfaction of the Employer:

A. Employee successful completion of:

1. Verification and maintenance of an acceptable driving record;
2. Insurability under the Employer's and/or Employee's automobile liability insurance carrier's requirements;
3. Completion and filing of a Form 700;
4. Such other and further requirements of employment with the Employer as are referenced in the Personnel Policies of the Employer; and
5. The receipt of adequate references, acceptable to the Employer.

6. EARLY TERMINATION.

6.1 Default by Employee. If the Employee willfully breaches or habitually neglects the performance of any of its obligations hereunder, the Employer may, at his option, terminate this Agreement by giving written notice of such termination to the Employee without prejudicing any other remedy which the Employee and/or the Employer may have, either at law or in equity, against the other under this Agreement. Notice of such termination shall be as set forth in Paragraph 1 of this Agreement, to wit, actual delivery of written notice from Employer to Employee. Termination shall be effective upon the delivery of the notice. Nothing contained herein shall excuse the Employee's performance of his obligation(s) to repay any monies advanced to the Employee, as referenced in the Recruitment Benefits Provision of this Agreement.

6.2 Termination without cause. Employer may terminate the employment under the terms of this Agreement by giving thirty (30) days written notice to the Employee. Upon the termination of the agreement without cause, by Employer, the Employee shall be entitled to six months base salary and benefits as a severance package. Employee may also terminate his employment under the terms of this Agreement by giving thirty (30) days written notice to the Employer. Provided, however, if the Employee exercises this right to terminate his employment upon thirty (30) days written notice, less than one (1) year from the effective date of the employment, the Employee shall be required to and shall repay Employer that prorata percentage of that amount of the temporary housing payments and other recruitment benefits referenced in Section 3.3 and 3.4 of this Agreement that were paid and reimbursed to Employee. This prorata amount shall be measured as fraction whose denominator is 365 and whose numerator is, the number of days the Employee has been employed as of the effective date of termination subtracted from 365 ("the fraction"). The amount to be reimbursed

shall be the fraction multiplied by the amount of temporary housing payments and other recruitment benefits that were reimbursed and paid to Employee by Employer.

Upon termination of this Agreement and the employment of Employee, which termination is caused by the Employee's delivery of a thirty (30) day written notice to the Employer, the Employee shall be not be entitled to any severance package.

6.3 Death or Incapacity of the Employee. The death of the Employee shall terminate this Agreement and all of the obligations of the Employer hereunder, provided however, that the obligation to repay Temporary Housing Benefits, Moving Allowances and Costs shall be forgiven by the Employer.

If the Employee is unable to fulfill his obligations hereunder by reason of this incapacity or other physical condition, and such condition extends beyond sixty (60) days, the Employer shall have the option to terminate this Agreement. The duty to repay Moving Allowances may, in the discretion of the Employer, be forgiven. Nothing contained herein shall require the Employer to forgive such benefits, however..

7. GENERAL PROVISIONS.

7.1 Notices: Any notices to be given hereunder by either party to the other may be effected by either personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties as follows:

If to the Employer:

SAN DIEGO HOUSING COMMISSION
Attention: Human Resources
1222 Broadway, Suite 300
San Diego, CA 92101

If to the Employee:

Each party may change his or its address from time to time by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of five days after mailing upon finding a residence in California, Employee shall notify the Employer of his local address within five (5) days of the date of obtaining such residence.

7.2 Entire Agreement: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto, with respect to the employment of the Employee by the Employer and contains all of the covenants and agreements between the parties with respect to such employment in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, 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. Any modification of this Agreement shall be effective only if it is in writing and signed by the parties to be charged.

7.3 Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.4 Law Governing Agreement: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Executed at San Diego, California, on the day and year first above written.

EMPLOYER: SAN DIEGO HOUSING COMMISSION, A
public agency

By:
Sal Salas
Chair of the Housing Commission

HOUSING AUTHORITY OF THE CITY OF
SAN DIEGO

By:
Scott Peters
Chair of the Housing Authority

EMPLOYEE:

By:
An Individual

JOINDER OF SPOUSE

I, the undersigned, declare that I am the wife of _____, and agree to be bound by the terms, and conditions and provisions of the foregoing Agreement, and hereby consent to and approve all of the terms of the Agreement, and further agree to execute any and all documents reasonably necessary to carry out and consummate this transaction.

ACKNOWLEDGMENT

State of California)
)
County of San Diego)
_____)

On _____, 2008, before me, _____ personally
appeared,
personally known to me (or proved to me on the basis of satisfactory evidence) to be
the person(s) whose name(s) is/are subscribed to the within instrument **EMPLOYMENT**
AGREEMENT and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity on behalf of which the person(s) acted, executed
the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)
)
County of San Diego)
_____)

On _____, 2008, before me, _____ personally appeared,
_____ personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within instrument **EMPLOYMENT**

AGREEMENT and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity on behalf of which the person(s) acted, executed
the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)
)
County of San Diego)
_____)

On _____, 2008, before me, _____ personally appeared,
_____ personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within instrument **JOINDER OF SPOUSE** and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

APPROVED AS TO FORM
CHRISTENSEN SCHWERDTFEGER & SPATH LLP

By: _____
Charles B. Christensen, Esq.
General Counsel
San Diego Housing Commission

Date

APPROVED AS TO FORM
Michael J. Aguirre, GENERAL COUNSEL,
HOUSING AUTHORITY OF THE CITY OF SAN
DIEGO

By: _____
Alex W. Sachs
Deputy General Counsel
Housing Authority of the City of San Diego

Date