

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 18, 2018 AGENDA

Subject:	Type:	Submitted By:
AMEND MUNICIPAL RETIREMENT PLANS	RESOLUTION ◆ ORDINANCE(S) RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

Ordinances have been prepared to amend the retirement plans for firefighters and police due to recent statutory changes.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

The IRS issued Notice 2016-80 requiring employers to amend plan documents; specifically, to incorporate recent amendments to 26 U.S. Code § 436(d) regarding limitations on accelerated benefit distributions (Highway and Transportation Funding Act of 2014, P.L. 113-159, §2003). The revisions are redlined in the Amendments attached to these ordinances.

In addition, LB415 was passed by the Nebraska Legislature and signed by the Governor on May 23, 2017. The amendments to the plan reflect additional duties and/or responsibilities of the retirement committee. The revisions are redlined in the Amendments attached to these ordinances.

Staff is working to terminate the firefighters retirement plan in early 2019, however in order to comply with IRS requirements we must make these amendments to the plan prior to December 31, 2018.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA FIREFIGHTERS' RETIREMENT PLAN AND TRUST; TO AUTHORIZE FURTHER ACTIONS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1020 through and including 16-1042, the City of La Vista maintains the City of La Vista Firefighters' Retirement Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan; specifically, to incorporate recent statutory changes, which amendment is presented with this Ordinance ("Amendment No. 2").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment No. 2, effective on the date(s) set forth therein.

SECTION 4. The Mayor is authorized to execute Amendment No. 2 on behalf of the City, and the City Administrator is authorized and directed to provide the same to the Trustee (for its written acceptance, if determined necessary or appropriate), and if directed in this Ordinance or otherwise determined necessary or advisable, to cause said Amendment No. 2 to be submitted, together with such supporting data as may be necessary or advisable and applicable application fee, to the Internal Revenue Service for ruling as to whether the same complies with the pertinent provisions of the Internal Revenue Code of the United States and, in particular, Sections 401(a) and 501(a) thereof, with authority to make any changes in or to Amendment No. 2 and other Plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or maintain the qualified status of the Plan.

SECTION 5. All ordinances and parts of ordinances as previously enacted to the extent in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact

that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 2018.

CITY OF LA VISTA, NEBRASKA

_____, Mayor

ATTEST:

City Clerk

**CITY OF LA VISTA, NEBRASKA
FIREFIGHTERS' RETIREMENT PLAN AND TRUST**

Amendment No. 2

The City of La Vista, Nebraska Firefighters' Retirement Plan and Trust is hereby amended as follows:

I. Section 3.7.2 (Part I) (Section 3) of the Basic Plan Document is hereby deleted and replaced in its entirety with the following (effective as of January 1, 2016):

“Section 3. Limitations Applicable If the Plan Sponsor Is In Bankruptcy. Notwithstanding any other provisions of the Plan, a Member or beneficiary is not permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date that occurs during any period in which the Plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, except for payments made within a Plan Year with an annuity starting date that occurs on or after the date on which the Plan's enrolled actuary certifies that the ~~Plan's~~-adjusted funding target attainment percentage for that of such-Plan (determined by not taking into account any adjustment of segment rates under Internal Revenue Code section 430(h)(2)(C)(iv))~~Year~~ is not less than 100 percent. In addition, during such period in which the Plan sponsor is a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the ~~Plan's~~-adjusted funding target attainment percentage for that of suchPlan (determined by not taking into account any adjustment of segment rates under Internal Revenue Code section 430(h)(2)(C)(iv))~~Year~~ is not less than 100 percent. The limitation set forth in this Section 3 does not apply to any payment of a benefit which under § 411(a)(11) of the Internal Revenue Code may be immediately distributed without the consent of the Member.”

II. Section 12.13(b) of the Basic Plan Document is hereby deleted and replaced in its entirety with the following:

(b) Police, Fire and Neb. Rev. Stat. Section 19-3501 Municipal Plans-
Annual Report

(1) Annual Report~~Pre-2018 Requirements. Beginning December 31, 1998 through December 31, 2017:~~

(a) In addition to immediately preceding provisions of this Section 12.13, ~~commencing in 1999~~, an annual report shall be filed as required for each Police Plan, Fire Plan or other municipal Plan established pursuant to Neb. Rev. Stat. Section 19-3501. The

report shall be filed with the Public Employees Retirement Board and the Auditor of Public Accounts and include:

- (i) The number of persons participating in the retirement Plan;
- (ii) The contribution rates of Participants in the Plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the Plan;
- (v) The names and positions of persons investing Plan assets;
- (vi) The form and nature of investments;
- (vii) A full description of investment policies and options available to Plan participants;
- (viii) For the defined benefit component of the Plan, if any, the levels of benefits of Participants, the number of Participants eligible for benefits and the total present value of such Participants' benefits, as well as the funding source to pay for such benefits; and-

(b) Quadrennial Report. In addition to immediately preceding provisions of this Section 12.13, an annual report shall be prepared with respect to the defined benefit component of the Plan, if any, if said component was open to new members on January 1, 2004. Said report, if applicable, shall be filed with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature, with a copy submitted to the Auditor of Public Accounts, in accordance with applicable Nebraska statutes. Such report shall consist of a full actuarial analysis of the Plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the Plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(2) Beginning 2018. Beginning December 31, 2018, and each December 31 thereafter, an annual report with respect to the defined benefit component of the Plan, if any, shall be prepared and electronically filed with the Auditor of Public Accounts and the Nebraska

Retirement Systems Committee of the Legislature. If said component was open to new members on January 1, 2004, the report shall be in addition to the reports required by Neb. Rev. Stat. § 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include:

- (i.) The levels of benefits of Participants in the Plan, the number of Participants who are eligible for a benefit, the total present value of such Participants' benefits, and the funding sources which will pay for such benefits; and
- (ii.) A copy of a full actuarial analysis of the defined benefit component of such Plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the Plan.

- (3) The Auditor of Public Accounts may, but is not required to, prepare a review of the reports described in this Section 12.13 in accordance with Nebraska Statutes.

III. All provisions of the Plan shall be deemed revised to be consistent with the revisions made by this Amendment No. 2.

IV. This Amendment No. 2 supersedes any provisions of the Plan to the extent inconsistent with the provisions of this Amendment.

This amendment is hereby executed this _____ day of _____, 2018.

CITY OF LA VISTA, a Nebraska municipality

By: _____, Mayor

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA POLICE OFFICERS' RETIREMENT PLAN AND TRUST; TO AUTHORIZE FURTHER ACTIONS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1001 through and including 16-1019, the City of La Vista maintains the City of La Vista Police Officers' Retirement Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan; specifically, to incorporate recent statutory changes, which amendment is presented with this Ordinance ("Amendment No. 3").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment No. 3, effective on the date(s) set forth therein.

SECTION 4. The Mayor is authorized to execute Amendment No. 3 on behalf of the City, and the City Administrator is authorized and directed to provide the same to the Trustee (for its written acceptance, if determined necessary or appropriate), and if directed in this Ordinance or otherwise determined necessary or advisable, to cause said Amendment No. 3 to be submitted, together with such supporting data as may be necessary or advisable and applicable application fee, to the Internal Revenue Service for ruling as to whether the same complies with the pertinent provisions of the Internal Revenue Code of the United States and, in particular, Sections 401(a) and 501(a) thereof, with authority to make any changes in or to Amendment No. 3 and other Plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or maintain the qualified status of the Plan.

SECTION 5. All ordinances and parts of ordinances as previously enacted to the extent in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact

that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 2018.

CITY OF LA VISTA, NEBRASKA

_____, Mayor

ATTEST:

City Clerk

**CITY OF LA VISTA
POLICE OFFICERS' RETIREMENT PLAN AND TRUST**

Amendment No. 3

The City of La Vista, Nebraska Police Officers' Retirement Plan and Trust is hereby amended as follows:

I. Section 3.7.2 (Part I) (Section 3) of the Basic Plan Document is hereby deleted and replaced in its entirety with the following (effective as of January 1, 2016):

"Section 3. Limitations Applicable If the Plan Sponsor Is In Bankruptcy. Notwithstanding any other provisions of the Plan, a Member or beneficiary is not permitted to elect, and the Plan shall not pay, a single sum payment or other optional form of benefit that includes a prohibited payment with an annuity starting date that occurs during any period in which the Plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, except for payments made within a Plan Year with an annuity starting date that occurs on or after the date on which the Plan's enrolled actuary certifies that the ~~Plan's~~-adjusted funding target attainment percentage for that of such-Plan (determined by not taking into account any adjustment of segment rates under Internal Revenue Code section 430(h)(2)(C)(iv))~~Year~~ is not less than 100 percent. In addition, during such period in which the Plan sponsor is a debtor, the Plan shall not make any payment for the purchase of an irrevocable commitment from an insurer to pay benefits or any other payment or transfer that is a prohibited payment, except for payments that occur on a date within a Plan Year that is on or after the date on which the Plan's enrolled actuary certifies that the ~~Plan's~~-adjusted funding target attainment percentage for that of suchPlan (determined by not taking into account any adjustment of segment rates under Internal Revenue Code section 430(h)(2)(C)(iv))~~Year~~ is not less than 100 percent. The limitation set forth in this Section 3 does not apply to any payment of a benefit which under § 411(a)(11) of the Internal Revenue Code may be immediately distributed without the consent of the Member."

II. Section 12.13(b) of the Basic Plan Document is hereby deleted and replaced in its entirety with the following:

(b) Police, Fire and Neb. Rev. Stat. Section 19-3501 Municipal Plans-
Annual Report

(1) Annual Report~~Pre-2018 Requirements. Beginning December 31, 1998 through December 31, 2017:~~

(a) In addition to immediately preceding provisions of this Section 12.13, ~~commencing in 1999~~, an annual report shall be filed as required for each Police Plan, Fire Plan or other municipal Plan established pursuant to Neb. Rev. Stat. Section 19-3501. The

report shall be filed with the Public Employees Retirement Board and the Auditor of Public Accounts and include:

- (i) The number of persons participating in the retirement Plan;
- (ii) The contribution rates of Participants in the Plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the Plan;
- (v) The names and positions of persons investing Plan assets;
- (vi) The form and nature of investments;
- (vii) A full description of investment policies and options available to Plan participants;
- (viii) For the defined benefit component of the Plan, if any, the levels of benefits of Participants, the number of Participants eligible for benefits and the total present value of such Participants' benefits, as well as the funding source to pay for such benefits; and-

(b) Quadrennial Report. In addition to immediately preceding provisions of this Section 12.13, an annual report shall be prepared with respect to the defined benefit component of the Plan, if any, if said component was open to new members on January 1, 2004. Said report, if applicable, shall be filed with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature, with a copy submitted to the Auditor of Public Accounts, in accordance with applicable Nebraska statutes. Such report shall consist of a full actuarial analysis of the Plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the Plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(2) Beginning 2018. Beginning December 31, 2018, and each December 31 thereafter, an annual report with respect to the defined benefit component of the Plan, if any, shall be prepared and electronically filed with the Auditor of Public Accounts and the Nebraska

Retirement Systems Committee of the Legislature. If said component was open to new members on January 1, 2004, the report shall be in addition to the reports required by Neb. Rev. Stat. § 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include:

- (i.) The levels of benefits of Participants in the Plan, the number of Participants who are eligible for a benefit, the total present value of such Participants' benefits, and the funding sources which will pay for such benefits; and
- (ii.) A copy of a full actuarial analysis of the defined benefit component of such Plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the Plan.

- (3) The Auditor of Public Accounts may, but is not required to, prepare a review of the reports described in this Section 12.13 in accordance with Nebraska Statutes.

III. All provisions of the Plan shall be deemed revised to be consistent with the revisions made by this Amendment No. 3.

IV. This Amendment No. 3 supersedes any provisions of the Plan to the extent inconsistent with the provisions of this Amendment.

This amendment is hereby executed this _____ day of _____, 2018.

CITY OF LA VISTA, a Nebraska municipality

By: _____, Mayor