

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 6, 2024 AGENDA

| Subject: | Type: | Submitted By: |
|------------------------------|---|---|
| AMEND POLICE RETIREMENT PLAN | RESOLUTION ◆ ORDINANCE RECEIVE/FILE | KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES |

SYNOPSIS

An ordinance has been prepared to amend the retirement plan for police employees to update the vesting schedule for the Police Chief position.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

On December 20, 2022, City Council amended the City Administrator's retirement plan to be renamed the City of La Vista Management Exempt Employees Defined Contribution Plan and Trust. In doing so, executive level managers were named as recipients in the plan and are 100% vested immediately. This change was made to be more competitive in the recruitment of executive level positions. The amendment included the following positions: Director of Administrative Services, City Clerk, Finance Director, Director of Public Works, Community Development Director, City Engineer, Human Resources Director, Library Director and Recreation Director.

The Chief of Police was not included in the in the City of La Vista Management Exempt Employees Defined Contribution Plan and Trust due to statutory requirements that must be met for law enforcement officers and the Police Chief. Accordingly, staff is recommending an amendment to the Police Retirement Plan to be consistent with all executive level employees in the city.

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 ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan, as set forth in the amendment presented with this Ordinance titled "CITY OF LA VISTA POLICE OFFICERS RETIREMENT PLAN AND TRUST AMENDMENT" ("Amendment").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment.

SECTION 4. The Mayor is authorized to execute said Amendment 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 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 the Amendment 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 6TH DAY OF FEBRUARY 2024.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

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

AMENDMENT

**ARTICLE 1
GENERAL**

- 1.1 **Amendment.** Pursuant to Nebraska Statutes, Sections 16-1001 through and including 16-1019, the City of La Vista, Nebraska (“City” or “Employer”) 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”). The Mayor and City Council are authorized and desire to amend the Plan, and the Plan hereby is amended, as set forth in this Amendment.
- 1.2 **Superseding of inconsistent provisions.** Provisions of this Amendment apply notwithstanding any provisions of the Plan to the contrary. To further specify and not limit the foregoing sentence, this Amendment supersedes provisions of the Plan that are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any use of “Article”, “Section” or similar language in this Amendment is used for organizing the Amendment and not to reference particular articles, sections, or parts of the Plan.
- 1.4 **Intention; Construction.** All provisions of the Plan shall be deemed amended and modified consistent with the provisions of this Amendment.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the City restates the Plan, this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated and the restated plan document incorporates these provisions).

**ARTICLE 2
CONTRIBUTIONS**

- 2.1 **Subsection “C(1)” of the adoption agreement of the Plan is deleted and replaced in its entirety with the following:**

“C. MANDATORY EMPLOYEE CONTRIBUTIONS

[Section 3.1]

- (1) **Amount of Contribution.** The Employee contribution to the Trustee for each Plan Year shall be (select all that apply):
 - (a) Beginning October 1, 2015, a sum equal to seven percent (7%) of his or her Salary. (The required Employee contribution before October 1, 2015 was a sum equal to six and one-half percent (6 ½ %) of Salary from October 1, 2013 through September 30, 2015; and before October 1, 2013 was a sum equal to six percent (6%) of Salary.) (*Police*)
 - (b) Six and one-half percent (6 1/2%) of his or her Salary. (*Fire*)
 - (c) Other: In addition to amounts pursuant to subsection “a” above, additional Employee contributions and additional Employer contributions shall be contributed to the Plan pursuant to the Amended Agreement Between the La Vista Fraternal Order of Police Lodge No. 28 and the City of La Vista, Nebraska, FYE

2024 through 2026, or any successor of such Amended Agreement that provides for Additional Employee Contributions and Additional Employer Contributions described in this subsection (c) (such Amended Agreement and any such successor agreement being referred to herein as “FOP Agreement” and incorporated herein by this reference). Specifically, each Employee covered by the FOP Agreement shall be required to contribute an additional Employee contribution equal to 2% of the Employee’s Salary (“Additional Employee Contribution”) to his or her Employee Account under the Plan by regular payroll deduction from the Employee’s periodic Salary, and the City will make an additional City contribution of an equal amount (“Additional Employer Contribution”) to the Employer Account of the Employee under the Plan in accordance with subsection E(1)(a) of this Adoption Agreement; provided, however, if at any time Nebraska law is amended or otherwise enacted to require any additional employee contribution or any additional employer contribution to the Plan or to any other retirement plan in amounts in excess of the 7% mandatory employee contribution or 7% city contribution required by the Police Officers Retirement Act, then the Additional Employee Contribution and the Additional Employer Contribution described in this subsection (c) shall be reduced by the amount of any such increases.”

ARTICLE 3 VESTING

3.1 Subsections “I(2)(a)” and “I(2)(b)” of the adoption agreement of the Plan are deleted and replaced in their entirety with the following:

“(2) **Employer Accounts:** Each Participant's Employer Account shall become Vested as follows (*place “X” next to all that apply and complete appropriate blanks*):

X (a) **Full and Immediate Vesting.** The Employer Account of a police chief commencing Recognized Employment with ten or more years experience as a sworn law enforcement officer shall be fully Vested at all times.

X (b) **Graded Vesting.** Except as provided in subsection I(2)(a), each Participant's Employer Account shall be vested in accordance with the following schedule (*Choose One*):“

This Amendment is hereby executed this _____ day of _____ 2024.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Douglas Kindig, Mayor