

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 21, 2008**

Subject:	Type:	Submitted By:
RESTATEMENT OF MUNICIPAL RETIREMENT PLANS	◆ RESOLUTION ◆ ORDINANCE RECEIVE/FILE	RITA M. RAMIREZ ASSISTANT CITY ADMINISTRATOR

SYNOPSIS

An ordinance has been prepared to amend and restate the retirement plans for public safety employees (police officers and firefighters) and a resolution has been prepared to rename, amend and restate the retirement plans for general employees and the city administrators.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

IRS guidelines require that governmental pension plans must be restated to incorporate all amendments and changes in the tax laws and related guidance by January 31, 2009. The appropriate adoption agreements and the Basic Plan Document have been prepared by the City Attorney for your consideration. Following is a synopsis of the primary changes made to the restated Basic Plan Document and the accompanying Adoption Agreements.

1. Incorporated periodic changes to tax laws made since 2001; the most significant being the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). Changes included increasing dollar limits on benefits and contributions under Code section 415, increasing compensation for plan purposes under Code section 401(a)(17) from \$150,000 to \$200,000, subject to periodic cost of living adjustment, and permitting expanded rollovers between plans, including greater flexibility for rollovers involving different plans, contributions and distributees.
2. Integrated into the plan document required and discretionary amendments adopted by the employer since the plan was last restated. Required amendments included changes to reflect new minimum required distribution regulations adopted in 2002 and to provide for automatic rollover of cash out distributions in excess of \$1,000 to IRAs, or lowering of cash out amount, effective March 28, 2005.
3. Incorporated extensive new Treasury Regulations under Code section 415 adopted in 2007 and effective for limitation years beginning on or after July 1, 2007.

4. Other revisions to incorporate desired plan provisions published by the IRS and integrate the foregoing changes and applicable state law.

Copies of the adoption agreements are included in the packet. The Plan and Trust Agreement (85 pages) is available for review in the office of the City Clerk.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND AND RESTATE PUBLIC SAFETY EMPLOYEES RETIREMENT PLANS, THE CITY OF LA VISTA POLICE OFFICERS RETIREMENT PLAN AND TRUST AND CITY OF LA VISTA FIREFIGHTERS RETIREMENT PLAN AND TRUST; TO AUTHORIZE FURTHER ACTIONS AND REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND TO PROVIDE FOR SEVERABILITY AND AN 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 16-1042, the Mayor and Council of the City of La Vista maintain the City of La Vista Police Officers Retirement Plan and Trust and City of La Vista Firefighters Retirement Plan and Trust ("Plans") for its paid police officers and firefighters, embodied in plan documents including adoption agreements and basic plan documents attached thereto and constituting integral parts thereof, as well as various amendments required by applicable law.

SECTION 2. Applicable tax law requires that the Plans be amended and restated, and for this purpose, there has been presented to the City proposed retirement plans and trusts embodied in instruments entitled "Adoption Agreement" and "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Document"; and together the Adoption Agreements and Basic Plan Documents sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as the amendment and restatement of the Plans, and makes the designations and elections with respect to the Plans as indicated in the Adoption Agreements, to be effective on the date(s) specified in the Adoption Agreements or Basic Plan Documents.

SECTION 4. The Mayor is authorized to execute said Adoption Agreements and Basic Plan Documents 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 herein or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreements or Basic Plan Documents and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

SECTION 5. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

SECTION 6. Severability Clause. 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. Effective Date. 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 _____ 2008.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO RENAME, AMEND AND RESTATE THE CITY OF LA VISTA, NEBRASKA DEFINED CONTRIBUTION PENSION PLAN AND TRUST AND AMEND AND RESTATE THE CITY OF LA VISTA CITY ADMINISTRATORS' DEFINED CONTRIBUTION PENSION PLAN AND TRUST, AND TO AUTHORIZE FURTHER ACTIONS.

BE IT RESOLVED:

SECTION 1. Pursuant to Nebraska Statutes, Section 19-3501, the Mayor and Council of the City of La Vista maintain the City of La Vista, Nebraska Defined Contribution Pension Plan and Trust and the City of La Vista City Administrators' Defined Contribution Pension Plan and Trust, embodied in plan documents including adoption agreements and basic plan documents attached thereto and constituting integral parts thereof, as well as various amendments required by applicable law ("Plans").

SECTION 2. The City desires to and does hereby change the name of the City of La Vista, Nebraska Defined Contribution Pension Plan and Trust to the City of La Vista General Employees Defined Contribution Pension Plan and Trust. Furthermore, applicable tax law requires that the Plans be amended and restated. For these purposes, there has been presented to the City proposed retirement plans and trusts embodied in instruments entitled "Adoption Agreement" together with a "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Documents"; and together the Adoption Agreements and Basic Plan Documents sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as the amendment and restatement of the Plans, and hereby makes the designations and elections with respect to the Plans as indicated in the Adoption Agreements, to be effective on the date(s) specified in the Adoption Agreements or Basic Plan Documents.

SECTION 4. That the Mayor is authorized to execute said Adoption Agreements and Basic Plan Documents 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 resolution or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreements or Basic Plan Documents and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

PASSED AND APPROVED THIS ____ DAY OF _____, 2008.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ADOPTION AGREEMENT

CITY OF LA VISTA

GENERAL EMPLOYEES DEFINED CONTRIBUTION PENSION

PLAN AND TRUST

**TO BE USED WITH
BASIC MUNICIPAL EMPLOYEES PLAN AND TRUST AGREEMENT**

THIS IS TO CERTIFY THAT:

The following resolution was adopted by resolution by the City of La Vista, Nebraska, by its City Council, at a meeting thereof duly called and held on _____, 20__:

RESOLVED,

SECTION 1. Pursuant to Nebraska Statutes, Section 19-3501, the Mayor and Council of the City of La Vista maintain the City of La Vista, Nebraska Defined Contribution Pension Plan and Trust, embodied in plan documents including an adoption agreement and basic plan document attached thereto and constituting an integral part thereof, as well as various amendments required by applicable law.

SECTION 2. The City desires to change the name of the Plan to the City of La Vista General Employees Defined Contribution Pension Plan and Trust. Furthermore, applicable tax law requires that the Plan be amended and restated. For these purposes, there has been presented to the City a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" together with the "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Document"; and together the Adoption Agreement and Basic Plan Document sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as an amendment and restatement of the Plan, and hereby makes the designations and elections with respect to the Plan as indicated in the Adoption Agreement, to be effective on the date(s) specified in the Adoption Agreement or Basic Plan Document.

SECTION 4. That the Mayor is authorized to execute said Adoption Agreement and Basic Plan Document 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 said resolution or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreement or Basic Plan Document and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

This Adoption Agreement is the Adoption Agreement referred to in the foregoing resolution, and the designations and elections hereinafter set forth are those made by the City in accordance with said resolution, to-wit:

A. ESTABLISHMENT, EFFECTIVE DATE, AND CITY DATA:

- (1) _____ establishes on _____, _____, a Retirement Plan and Trust to be known as _____

Plan and Trust ("Plan") effective _____, _____ (Effective Date).

OR

- (2) X amends, restates and continues the City of La Vista, Nebraska Defined Contribution Pension Plan and Trust, herein renamed the City of La Vista General Employees Defined Contribution Pension Plan and Trust ("Plan"), originally established on August 1, 1974. This amendment and restatement is effective January 1, 2002, unless otherwise specified herein or in the Basic Plan Document or required under applicable law or regulations or guidance thereunder. (Supplemental Effective Date).

- (3) City's Address:
Street: 8116 Park View Boulevard
City, State, Zip Code: La Vista, Nebraska 68128
Attention: Pam Buethe, City Clerk
Telephone: (402) 331-4343
- (4) Retirement Committee: As may be designated from time to time pursuant to Section 12.3 of the Basic Plan Document.
- (5) Plan Administrator: the City of La Vista, with the exception of any administrative functions expressly delegated from time to time to the Retirement Committee herein or in or under the Basic Plan Document or otherwise by direction of the Mayor and City Council.
- (6) City's Taxpayer Identification No.: 47-6050031
- (7) City's Fiscal Year: October 1 – September 30

- (8) The Plan serial number ("PN") assigned to this Plan by the City for reporting and disclosure purposes is: 002
- (9) The last day of the Plan Year shall be December 31 and the Annual Valuation Date shall be December 31 [Sections 1.1.26 and 1.1.4]
- (10) The last day of the Plan's Limitation Year shall be December 31 [Section 1.1.20] *(All qualified retirement plans maintained by the City shall have the same Limitation Year.)*

B. ELIGIBILITY REQUIREMENTS

- (1) **Age Requirement.** The minimum age which each Employee must attain before becoming a Participant in the Plan is age N/A.
- (2) **Service Requirement.** To become a Participant in the Plan, each Employee must complete at least N/A year(s) of Eligibility Service. *(Not Applicable for Police and Fire Plans. Not more than five (5) years for other Plans.)* If year(s) of service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year.
- (3) The computation period for Eligibility Service will be *(Not Applicable for Fire and Police Plans)* Check One: N/A

_____ as set forth in Section 1.1.9(a)(i), the year beginning with the date the Employee first performs an Hour of Service and then Plan Years.

_____ as set forth in Section 1.1.9(a)(ii), based upon years commencing on the date the Employee first performs an Hour of Service and anniversaries thereof.

Upon reemployment, former Participants shall again participate in the Plan under the immediate reentry rule of Section 2.2.

- (4) Plan Entry Date shall be *(check one)*:
 - X (a) the first day of service in Recognized Employment with the City *(Police and Fire Plans)*.
 - _____ (b) the first day _____ *(e.g., the Plan Year, the month, etc.)* following the Employee's satisfaction of the Eligibility Requirements [Section 2.1(d)]

- ☐ (c) the first day of the Plan Year in which the Employee first satisfies the Eligibility Requirements. [Section 2.1(c)]
- ☐ (d) the first day of the first month or the first day of the seventh month of the Plan Year, whichever occurs first, following the Employee's satisfaction of the Eligibility Requirements. [Section 2.1(b)]
- ☐ (e) Other _____

(5) **Recognized Employment.** Recognized Employment is service in the employment of the City in those job classifications indicated below (*place "X" on blank(s) indicating selection*): [Section 1.1.30]

- ☐ (a) All Employees of the City employed as police officers.
- ☐ (b) All Employees of the City employed as fire fighters.
- ☐ (c) All Employees of the City as that term is defined in Section 1.1.10.
- ☐ (d) All common law Employees of the City.
- ☐ (e) Salaried Employees of the City.
- ☐ (f) Hourly Employees of the City.
- ☐ (g) Employees who are not covered by any retirement plan established by the City.
- ☒ (h) Other (*specify*): Employees whose employment classifications with the City are as full-time Employees and who do not participate in any other retirement plan of the City that is intended to be qualified under Internal Revenue Code Section 401(a).

(6) **Participation Election:** (*check one*)

Employees and Participants

☐ have

☒ do not have (*Police and Fire*)

a participation election provided in Section 3.3(b).

C. MANDATORY EMPLOYEE CONTRIBUTIONS

[Section 3.1]

- (1) **Amount of Contribution.** The Employee contribution to the Trustee for each Plan Year shall be:

- ___ (a) Six percent (6%) of his or her Salary. *(Police)*
- ___ (b) Six and one-half percent (6 1/2%) of his or her Salary. *(Fire)*
- X (c) Other: 6% of each Participant's Recognized Compensation

- (2) **Employee Contributions:**

- X shall *(Police and Fire)*
- ___ shall not

be picked up by the City and treated as Employer contributions as permitted under Section 414(h) of the Code.

D. VOLUNTARY EMPLOYEE CONTRIBUTIONS

- X shall *(Police and Fire)*
- ___ shall not

be permitted in any amount equal to a whole percentage from 2% to 5% of monthly compensation, not to exceed the maximum amount allowed under the Internal Revenue Code.

E. ALLOCATION OF CITY CONTRIBUTIONS AND FORFEITURES

[Sections 3.2 and 6.4]

- (1) **Amount of Contribution.** Subject to the limitations of Section 3, the City's contribution to the Trustee for each Plan Year shall be: *(Select one option only. Complete blanks as applicable.)*

- ___ (a) Six percent (6%) of each Participant's Salary. *(Police)*
- ___ (b) Thirteen percent (13%) of each Participant's Salary. *(Fire)*

X (c) Other: 6% of each Participant's Recognized Compensation

Treatment of Forfeitures: *(Select one unless Item I(2)(a) is elected in which case this provision does not apply.) [Sections 6.4.1 and 6.4.2]*

 X (a) Forfeitures shall first be used to pay administration costs of the Plan and then used to reduce City contributions. *(Police)*

 (b) Forfeitures shall be allocated to the Unallocated Employer Account, and if the Unallocated Employer Account is sufficient to meet Plan liabilities, then forfeitures shall first be used to pay expenses of administration and then to reduce City contributions. *(Fire)*

 (c) Forfeitures will be added to the City contribution for allocation.

 (d) Forfeitures will reduce City contributions.

(2) Is the Plan integrated with Social Security?

 Yes X No *(Police and Fire)*

(If yes, complete items E, 3-6 and 11; if no, complete items E, 7-11).

NOTE: Items E, 3-6 and 11 relate to an integrated plan. Contributions are allocated pursuant to Section 3.3 of the Plan.

(3) "Recognized Compensation" shall be defined to mean all of each Participant's: *(place "X" to indicate selection)*

 (a) W-2 earnings; or,

 (b) Wages as defined in Code Section 3401(a); or

 (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;

 (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below *(select all that apply):*

 (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*

- (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*):
- _____ (a) For nonhighly compensated Employees only; or
- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*); and/or
- (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Other _____

which is actually paid to the Participant during

- _____ the Plan Year
- _____ the taxable year ending with or within the Plan Year
- _____ the Limitation Year ending with or within the Plan Year.
- _____ a consecutive 12-month period ending with or within the Plan Year beginning with the _____ day of _____ (*enter month*).

Recognized Compensation

- _____ shall include
- _____ shall not include

Employee contributions picked up by the City under Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (4) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]:
- _____ shall
- _____ shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (5) "Integration Level" is defined as *(place "X" next to definition selected and complete appropriate blanks)*

___ (a) For any Plan Year, an amount equal to \$_____*(insert stated dollar amount not to exceed the Taxable Wage Base in effect at the beginning of the Plan Year)*.

___ (b) For any Plan Year, an amount equal to ____% *(not more than 100%)* of the Taxable Wage Base in effect at the beginning of the Plan Year.

___ (c) For any Plan Year, an amount equal to the lesser of: (i) \$_____*(insert stated dollar amount)*; or (ii) the Taxable Wage Base in effect beginning at the Plan Year.

- (6) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year (check one) :

___ shall

___ shall not

share in the City contribution and reallocation of the forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after Normal Retirement Date

___ disability.

NOTE: Items E, 7-11 relate to a nonintegrated plan. Contributions are allocated directly on Recognized Compensation. (Section 3.3(b)).

- (7) Subject to an exclusion in Item (8), "Recognized Compensation" shall be defined to mean all of each Participant's *(place "X" to indicate selection, check only one)*

___ (a) W-2 earnings;

___ (b) Wages as defined in Code Section 3401(a); or

- X (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;
- _____ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as “default provisions” unless otherwise elected below *(select all that apply)*:
- _____ (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*
- _____ (2) Include military continuation payments *(Section 3.6.9(b)-3(c))*
- _____ (3) Include disability continuation payments *(Section 3.6.9(b)-3(d))*:
- _____ (a) For nonhighly compensated Employees only; or
- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay (“first few weeks”) rule *(Section 3.6.9(b)-4)*; and/or
- _____ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Salary as that term is defined in Section 1.1.36(a) of the Plan *(Police)*;
- _____ (f) Salary as that term is defined in Section 1.1.36(b) of the Plan *(Fire)*; or
- _____ (f) Other
- _____
- _____

which is actually paid to the Participant during

 X the Plan Year.

_____ the taxable year ending with or within the Plan year.

_____ the Limitation Year ending with or within the Plan year.

Recognized compensation *(Police and Fire Plans see definition of “Salary” in Section 1.1.36 of the Basic Plan Document)*

X shall include

 shall not include

Employee contributions picked up by the City pursuant to Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (8) "Recognized Compensation" shall not include: (*place "X" to indicate exclusion(s) and complete blank, if applicable*) *N/A*

 (a) overtime, shift, holiday and vacation pay

 X (b) fringe benefits

 (c) bonuses

 (d) commissions, but not more than the first \$_____ thereof
(*insert dollar limitation desired, if any*)

 (e) overtime, callback pay, clothing allowances and other such benefits reported on Employee federal withholding statement (*Fire*).

- (9) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]: *N/A*

 shall

 shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (10) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year. (*Check one*):

 X shall (*Police and Fire*)

 shall not

share in the City contribution and reallocation of forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

 death

☐ retirement at or after their Normal Retirement Date

☐ disability

(11) Forfeitures will be reallocated *[Sections 6.4.2 and 6.4.3]*

☒ as of the following Valuation Date

☐ after a Participant incurs 5 consecutive One Year Breaks in Service or his Account is no longer subject to restoration.

F. INTEREST N/A

☐ shall

☐ shall not

be paid on Employer Contributions pursuant to Section 3.2(a)(ii) of the Plan.

G. WITHDRAWAL OF PRIOR VOLUNTARY CONTRIBUTIONS

If this Plan or a predecessor plan previously permitted Voluntary Contributions, Participants:

☒ are

☐ are not

permitted to withdraw their voluntary contributions before an Event of Maturity.
[Section 7.9]

H. ROLLOVERS

(1) Rollover contributions by Participants *[Section 3.5]*

☒ are permitted as specified in Section 3.5. In addition to the plans specified in Section 3.5, rollover contributions and direct rollovers may be made from the following types of plans as of the specified effective date(s) *(specify all that apply)*:

☒ (a) annuity contract described in Code section 403(b), effective for distributions after _____ (December 31, 2001 if no date specified)

X (b) eligible plan under Code section 457(b) which is maintained by a state or political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state, effective for distributions after _____ (December 31, 2001 if no date specified)

_____ are not permitted

(2) Eligible rollover distribution [Section 7.12]

_____ must

X need not

be distributions that are reasonably expected to total \$200 or more during a year.

I. VESTING OF REGULAR ACCOUNTS

[Section 5]

(1) **Employee Accounts:** Each Employee is fully vested in his or her Employee Account at all times.

(2) **Employer Accounts:** Each Participant's Employer Account shall become Vested in him as follows (*place "X" next to formula selected and complete appropriate blanks*):

_____ (a) **Full and Immediate Vesting.** Each Employer Account shall be fully Vested in him at all times.

X (b) **Graded Vesting.** Each Participant's Employer Account shall be vested in him in accordance with the following schedule (*Choose One*):

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:*

X (i) Four Year Vesting (effective January 1, 2005)*:

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:

Less than 4 years	<u>0%</u>
4 years but less than 5 years	<u>40%</u>
5 years but less than 6 years	<u>50%</u>
6 years but less than 7 years	<u>75%</u>
7 years or more	100%

* Before January 1, 2005, the vesting schedule was Ten Year Vesting below.

___ (ii) Five Year Vesting:

Less than 1 year	___ %
1 year but less than 2 years	___ %
2 years but less than 3 years	___ %
3 years but less than 4 years	___ %
4 years but less than 5 years	___ %
5 years or more	100 %

___ (iii) Seven Year Vesting:

Less than 1 year	___ %	(0%)
1 year but less than 2 years	___ %	(0%)
2 years but less than 3 years	___ %	(0%)
3 years but less than 4 years	___ %	(20%)
4 years but less than 5 years	___ %	(40%)
5 years but less than 6 years	___ %	(60%)
6 years but less than 7 years	___ %	(80%)
7 years or more	100 %	

___ (iv) Seven Year Special Vesting (Fire):

Less than 4 years	___ %
4 years but less than 5 years	___ %
5 years but less than 6 years	___ %
6 years but less than 7 years	___ %
7 years or more	___ %

___ (v) Ten Year Vesting (Police):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	50 %
6 years but less than 7 years	60 %

7 years but less than 8 years	70 %
8 years but less than 9 years	80 %
9 years but less than 10 years	90 %
10 years or more	100 %

- (3) In determining a Participant's Plan Years of Service, the following periods shall be disregarded: *[Section 1.1.44] (Not Applicable for Police and Fire Plans).*

☐ Yes ☒ No Plan Years prior to the Effective Date of this Plan or a predecessor Plan. *[Yes, 1.1.44(c); No, Section 1.1.44(c)]*

☐ Yes ☒ No Plan Years completed prior to the date upon which the Participant attained age ____ years. *(Insert age, but not greater than age 18.) [Section 1.1.44(e)]*

- (4) Notwithstanding any of the foregoing, each Participant's Employer Account shall be 100% Vested in him upon his attainment of:

☐ (a) 60 (*Police*)

☒ (b) 55 (*Fire*)

☐ (c) Other _____

years of age while in the employment of the City. *(If no age is entered, it will be assumed Normal Retirement Date was intended.)*

[Section 5.1.2]

- (5) Normal Retirement Date is: *(place "X" next to choice selected)*

[Section 1.1.22]

☒ (a) The Participant's 65th birthday.

☐ (b) The Participant's 65th birthday or, if later, the 5th anniversary of the date the Participant first becomes a Participant.

☐ (c) Age ____ years *(60 for Police; 55 for Fire; Otherwise not greater than the Participant's 65th birthday and not less than age 55.*

- (6) Early Retirement Date is age 55 years. *(Specify age. Not applicable for Police/Fire Plans – see Section 1.1.34 of Basic Plan for definition of Early Retirement Date for Police or Fire Plan.)*

- (7) An Employee who returns to employment of the City in Covered Employment after terminating service

 X shall

 shall not

be permitted to restore his or her Employer Account to the amount on the date of distribution. *(Section 5.1.3 or 6.4.4)*

J. INVESTMENT DIRECTIONS

- (1) Participants:

 are

 X are not

permitted to direct the investment of a portion of their accounts into life insurance.

[Section 10.10]

- (2) Participant Account Investment Direction *[Section 10.11.2]*

- (a) Participants:

 X are

 are not

permitted to direct the investment of their:

 X Employee Accounts *(Required of Police and Fire Plans)*

 X Employer Accounts *(Permitted for all types of plans, with the exception of pre-1984 contributions under Police and Fire Plans, and the Employer Account of pre-1984 hires under Fire Plans.)*

The City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such direction. *(Sections 1.1.35, 4.3 and 10.11)*

- (b) Separate Investment Accounts *(Police)*

The City

___ may

___ may not

direct the establishment of separate investment accounts for each Participant to allow each Participant to direct the investment of all or a portion of his or her Employee or Employer Account

If in the affirmative, enter name or title of person (or committee) authorized to communicate such directions to the Trustee: City Administrator, Assistant City Administrator or City Clerk. Such directions shall be in writing and the City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such directions.

(3) Investment Direction *[Sections 4.3, 10 and 12]*

(a) The

X City

X may

___ may not

___ Retirement Committee *(Police and Fire)*

___ may

___ may not

direct the Trustee in the investment management of Plan assets.

(4) Participant Loans: *[Section 10.13]*

___ are permitted

X are not permitted

K. INTERNAL REVENUE CODE SECTION 415 LIMITATIONS

[Section 3.6]

If the City maintains or ever has maintained another qualified plan in which any Participant in this Plan is (or was) a Participant or could possibly become a Participant,

the City must complete this Section. City must also complete this Section if it maintains a welfare benefit fund, as defined in Code section 419(e), an individual medical account, as defined in Code section 415(1)(2), or simplified employer pension, as defined in Code section 408(k) under which amounts are treated as annual additions with respect to any Participant in this Plan. *(Designate whether (1) or (2) applies, and complete as appropriate.)*

If a Participant is covered by another qualified plan maintained by the City:

 X (1) the provisions of Sections 3.6.4 through 3.6.9 will apply;

OR

 (2) set forth the method under which the Plans will limit total annual additions or distributions to the maximum permissible amount or benefit, as applicable, and will properly reduce any excess amounts or benefits, in a manner that precludes City discretion.

(Use additional continuation pages if alternative limitation rules are to be specified.)

415 Compensation. The definition of Compensation for Code section 415 purposes shall be 415 Safe Harbor Compensation defined in section 3.6.9(b)i of the Plan, unless an alternative definition of compensation is elected below pursuant to section 3.6.9(b)ii of the Plan *(select desired alternative definition)*:

 (1) W-2 Wages; or

 (2) Section 3401(a) Wages

Modifications to 415 Compensation – Compensation for 415 purposes shall include amounts described in Sections 3.6.9(b)-2 and 3.6.9(b)(vi) as “default provisions” unless otherwise elected below *(select all that apply)*. **N/A**

 (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*

 (2) Include military continuation payments *(Section 3.6.9(b)-3(c))*

 (3) Include disability continuation payments *(Section 3.6.9(b)-3(d))*

 (a) For nonhighly compensated Employees only

 (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.

 (4) Apply the administrative delay (“first few weeks”) rule *(Section 3.6.9(b)-4)*

 (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.

L. CREDITING SERVICE *(Complete (1) and (2), as appropriate.)*

 X (1) **Hours of Service Method.** *[Section 1.1.18]* Except as provided in (2) below, for the purpose of determining an Employee's One-Year Breaks in Service *[Section 1.1.23]*, Vesting Service *[Section 1.1.44]*, Eligibility Service *[Section 1.1.9]* and minimum annual service requirement to share in the City contribution made for a Plan Year *[Section 3.3]*, service will be determined by reference to Hours of Service according to the following: *(check one)*

 X (a) On the basis of the actual recorded hours for which an Employee is paid or entitled to payment.

____ (b) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 10 Hours of Service for a day if under Section 1.1.18 such Employee would be certified with at least one hour of service during that day.

____ (c) On the basis that, without regard to his actual recorded hours, an Employee shall be credited under 45 Hours of Service for a calendar week if under Section 1.1.18 such Employee would be credited with at least One Hour of Service during that calendar week.

____ (d) On the basis of semimonthly payroll periods, an Employee shall be credited with 95 Hours of Service for a semi-monthly payroll period if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that semimonthly payroll period.

____ (e) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 190 Hours of Service for a calendar month if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that calendar month.

 X (2) **Elapsed Time Method.** *[Section 1.2]* Notwithstanding (1) above, service will be credited based upon elapsed time for the following purposes: *(check as appropriate)*

 X (a) None

____ (b) All

____ (c) Eligibility (and Eligibility Breaks in Service)

- ___ (d) Vesting (and Vesting Breaks in Service)(*Police and Fire*)
- ___ (e) Minimum Service for benefit accrual for a Plan Year

M. INVESTMENTS

[Section 10.14(p)]

- (1) All funds of a Plan for police officers or fire fighters must be invested pursuant to the policies established by the Nebraska Investment Council.
- (2) The Trustee's collective investment fund or funds incorporated by reference into this Agreement as indicated in Appendix "C" of the Basic Municipal Employees Plan and Trust and incorporated herein by this reference as amended from time to time.
- (3) The Trustee is hereby specifically authorized and empowered to invest Plan assets in deposit accounts of _____ which bear a reasonable rate of interest and securities offered by _____ (*name of Trustee or financial institution*). Such specification shall be permitted in any other applicable document related to funding the Plan, which document shall be incorporated herein by this reference.

[Section 4.2]

- (4) **Intermediate Valuation of Accounts.** Participant accounts will be valued for investment purposes as follows: (*select one*)
- ___ (a) Annually
- ___ (b) Semi-annually
- ___ (c) Quarterly
- ___ (d) Monthly
- X (e) Daily

N. ACCELERATED DISTRIBUTIONS

The following optional provisions for accelerated distributions may be made available to Plan Participants: (*Select as many as shall apply. Not applicable for Police and Fire Plans*) [Section 14] N/A

- ☐ (1) Medical emergency
- ☐ (2) Financial hardships
- ☐ (3) Education expenses
- ☐ (4) Purchase of home
- ☐ (5) After Normal Retirement Date

O. OPTIONAL FORMS OF DISTRIBUTION

The optional forms of benefit payment provided by this Plan are: *(Select as many as apply. If the requirements of Code section 411(d)(6) are applicable (which is not the case if this Plan is a government plan within the meaning of Code section 414(d)), the City may not eliminate optional forms of payment for benefits which have accrued prior to the date of Plan amendment unless said requirements are satisfied.)*

- ☒ (1) a single sum
- ☒ (2) straight life annuity
- ☐ (3) straight life annuity with a guarantee of at least 60 monthly payments
- ☐ (4) annuity payable for life of Participant and annuity to surviving beneficiary of 100%, 75% or 50% as elected by the City.
- ☐ (5) a combination of (1) through (4)
- ☐ (6) if this Plan is a transferee plan, an optional form of distribution provided under the transferor plan which is required to be preserved under Code section 411(d)(6) (and the regulations issued thereunder – which is not the case if this is a government plan under Code section 414(d)) with respect to accrued benefits of any Participant as of the date of transfer. *(Indicate name of transferor plan and date on which prior accrued benefit distribution options are protected)*

- ☒ (7) Other *(Describe)*: Single life annuity with period certain of 5, 10 or 15 years; single life annuity with installment refund; survivorship life annuity with installment refund and annuity to survivor of 100%, 66 2/3% or 50%; fixed period annuity for any period of whole months which is not less than

60 and does not exceed the life expectancy of the Participant and the named beneficiary; or a series of installments with a minimum payment each year beginning with the year the Participant attains age 70 1/2.

P. MANDATORY DISTRIBUTION ALTERNATIVES *(Section 5.1.3(a)(ii))*

The following election is made in lieu of the provisions of Section 5.1.3(a)(ii) reducing the mandatory cash out amount to an amount equal to or less than \$1,000 *(Option for plans other than Fire Plans -- Participant consent to distribution is always required for Fire Plans.) (select one):*

- _____ (1) Elimination of Mandatory Cash-Outs. An Employee's Vested Retirement Value will not be distributed upon the Employee's termination of service without the Employee's prior written consent, regardless of amount.
- _____ (2) Increase Mandatory Cash Out Amount. Upon termination of service, the Employee's Vested Retirement Value will be automatically distributed without the Employee's consent if the Vested Retirement Value is less than \$3,500 if a Police Plan (or not in excess of \$5,000 for plans other than Police or Fire Plans). *(Note that automatic distributions without Participant consent are not permitted for Fire Plans).* Said distribution, if greater than \$1,000, will be paid in a direct rollover to an "individual retirement plan" designated by the Plan Administrator if the Employee does not elect to have the distribution paid in a direct rollover directly to an "eligible retirement plan" specified by the Employee in accordance with direct rollover provisions of the Plan, or to receive the distribution directly.

- Q.** The City shall periodically pay to the Trustee a fee for services rendered according to the Trustee Fee Schedule attached to the Basic Municipal Employees Plan and Trust Agreement as Appendix A or otherwise agreed to by the parties, as incorporated herein by this reference as amended from time to time. The terms of any agreement adopted and executed by the City and Trustee separate and apart from this document and defining rights and duties of the parties to said agreement shall be supplemental and additional to, and incorporated by reference into, this document to the extent not contrary to terms contained herein; and the same, if entered before the date of this Adoption Agreement, shall continue and remain in effect. If any terms of any such separate trust document conflict with the terms of this document, the terms of this document shall control.

R. INITIAL DEPOSIT

In the case of establishment of a new Plan, the City hereby delivers to the Trustee the sum of \$ N/A as its initial deposit to establish the Trust, and receipt of the stated sum is hereby acknowledged by the Trustee.

- S. The completion of this Adoption Agreement creates certain legal relationships and responsibilities. Accordingly, your legal counsel should review the Plan and Trust prior to the execution of this document so as to insure the suitability of the Plan and Trust for your City.

The City acknowledges that it has consulted with and has been advised by its attorney(s) with respect to the effect of entering this Plan and executing this Adoption Agreement.

Terms used in this Adoption Agreement which are defined in the Plan shall have the meaning given them in the Plan.

The City hereby agrees to the provisions of this Plan and Trust, and, in witness whereof, the City and the Trustee have caused this Agreement to be executed on the date(s) set forth below.

THE CITY OF LA VISTA, NEBRASKA

By: _____

NOTICE TO ADOPTING CITY

Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

In order to obtain reliance with respect to Plan qualification, the City, upon adopting and executing this Plan, must apply to the Employee Plans Determinations of the Internal Revenue Service for a determination letter.

This Adoption Agreement may only be used with the Basic Municipal Employees Plan and Trust Agreement.

CITY OF LA VISTA, NEBRASKA, Employer

By: _____

Printed Name Title

Date: _____

_____, Trustee

By: _____

Printed Name Title

Date _____

ADOPTION AGREEMENT

CITY OF LA VISTA

CITY ADMINISTRATORS' DEFINED CONTRIBUTION PENSION

PLAN AND TRUST

**TO BE USED WITH
BASIC MUNICIPAL EMPLOYEES PLAN AND TRUST AGREEMENT**

THIS IS TO CERTIFY THAT:

The following resolution was adopted by resolution by the City of La Vista, Nebraska, by its City Council, at a meeting thereof duly called and held on _____, 20__:

RESOLVED,

SECTION 1. Pursuant to Nebraska Statutes, Section 19-3501, the Mayor and Council of the City of La Vista maintain the City of La Vista City Administrators' Defined Contribution Pension Plan and Trust, embodied in an adoption agreement and basic plan document attached thereto and constituting an integral part thereof, as well as various amendments required by applicable law.

SECTION 2. Applicable tax law requires that the Plan be amended and restated, and for this purpose, there has been presented to the City a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" together with the "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Document"; and together the Adoption Agreement and Basic Plan Document sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as an amendment and restatement of the Plan, and hereby makes the designations and elections with respect to the Plan as indicated in the Adoption Agreement, to be effective on the date(s) specified in the Adoption Agreement or Basic Plan Document.

SECTION 4. That the Mayor is authorized to execute said Adoption Agreement and Basic Plan Document 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 said resolution or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreement or Basic Plan Document and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

This Adoption Agreement is the Adoption Agreement referred to in the foregoing resolution, and the designations and elections hereinafter set forth are those made by the City in accordance with said resolution, to-wit:

A. ESTABLISHMENT, EFFECTIVE DATE, AND CITY DATA:

- (1) _____ establishes on _____, _____, a Retirement Plan and Trust to be known as _____
_____ Plan and Trust ("Plan") effective _____, _____ (Effective Date).

OR

- (2) X amends, restates and continues the City of La Vista City Administrators' Defined Contribution Pension Plan and Trust ("Plan"), originally established on January 1, 2006. This amendment and restatement is effective January 1, 2006, unless otherwise specified herein or in the Basic Plan Document or required under applicable law or regulations or guidance thereunder. (Supplemental Effective Date).
- (3) City's Address:
Street: 8116 Park View Boulevard
City, State, Zip Code: La Vista, Nebraska 68128
Attention: Pam Buethe, City Clerk
Telephone: (402) 331-4343
- (4) Retirement Committee: As may be designated from time to time pursuant to Section 12.3 of the Basic Plan Document.
- (5) Plan Administrator: the City of La Vista, with the exception of any administrative functions expressly delegated from time to time to the Retirement Committee herein or in or under the Basic Plan Document or otherwise by direction of the Mayor and City Council.
- (6) City's Taxpayer Identification No.: 47-6050031
- (7) City's Fiscal Year: October 1 – September 30
- (8) The Plan serial number ("PN") assigned to this Plan by the City for reporting and disclosure purposes is: 005

- (9) The last day of the Plan Year shall be December 31 and the Annual Valuation Date shall be December 31 [Sections 1.1.26 and 1.1.4]
- (10) The last day of the Plan's Limitation Year shall be December 31 [Section 1.1.20] (All qualified retirement plans maintained by the City shall have the same Limitation Year.)

B. ELIGIBILITY REQUIREMENTS

- (1) **Age Requirement.** The minimum age which each Employee must attain before becoming a Participant in the Plan is age N/A.
- (2) **Service Requirement.** To become a Participant in the Plan, each Employee must complete at least N/A year(s) of Eligibility Service. (Not Applicable for Police and Fire Plans. Not more than five (5) years for other Plans.) If year(s) of service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year.
- (3) The computation period for Eligibility Service will be (Not Applicable for Fire and Police Plans) Check One: N/A

___ as set forth in Section 1.1.9(a)(i), the year beginning with the date the Employee first performs an Hour of Service and then Plan Years.

___ as set forth in Section 1.1.9(a)(ii), based upon years commencing on the date the Employee first performs an Hour of Service and anniversaries thereof.

Upon reemployment, former Participants shall again participate in the Plan under the immediate reentry rule of Section 2.2.

- (4) Plan Entry Date shall be (check one):
- X (a) the first day of service in Recognized Employment with the City (Police and Fire Plans).
- ___ (b) the first day _____ (e.g., the Plan Year, the month, etc.) following the Employee's satisfaction of the Eligibility Requirements [Section 2.1(d)]
- ___ (c) the first day of the Plan Year in which the Employee first satisfies the Eligibility Requirements. [Section 2.1(c)]

___ (d) the first day of the first month or the first day of the seventh month of the Plan Year, whichever occurs first, following the Employee's satisfaction of the Eligibility Requirements. [Section 2.1(b)]

___ (e) Other _____

(5) **Recognized Employment.** Recognized Employment is service in the employment of the City in those job classifications indicated below (*place "X" on blank(s) indicating selection*): [Section 1.1.30]

___ (a) All Employees of the City employed as police officers.

___ (b) All Employees of the City employed as fire fighters.

___ (c) All Employees of the City as that term is defined in Section 1.1.10.

___ (d) All common law Employees of the City.

___ (e) Salaried Employees of the City.

___ (f) Hourly Employees of the City.

___ (g) Employees who are not covered by any retirement plan established by the City.

X (h) Other (*specify*): the City Administrator and Assistant City Administrator.

(6) **Participation Election:** (*check one*)

Employees and Participants

___ have

X do not have (*Police and Fire*)

a participation election provided in Section 3.3(b).

C. MANDATORY EMPLOYEE CONTRIBUTIONS

[Section 3.1]

- (1) **Amount of Contribution.** The Employee contribution to the Trustee for each Plan Year shall be:

___ (a) Six percent (6%) of his or her Salary. *(Police)*

___ (b) Six and one-half percent (6 1/2%) of his or her Salary. *(Fire)*

X (c) Other 6% of the Participant's Recognized Compensation

- (2) **Employee Contributions:**

X shall *(Police and Fire)*

___ shall not

be picked up by the City and treated as Employer contributions as permitted under Section 414(h) of the Code.

D. VOLUNTARY EMPLOYEE CONTRIBUTIONS

X shall *(Police and Fire)*

___ shall not

be permitted to the maximum amount allowed under the Internal Revenue Code.

E. ALLOCATION OF CITY CONTRIBUTIONS AND FORFEITURES

[Sections 3.2 and 6.4]

- (1) **Amount of Contribution.** Subject to the limitations of Section 3, the City's contribution to the Trustee for each Plan Year shall be: *(Select one option only. Complete blanks as applicable.)*

___ (a) Six percent (6%) of each Participant's Salary. *(Police)*

___ (b) Thirteen percent (13%) of each Participant's Salary. *(Fire)*

X (c) Other: 6% of the Participant's Recognized Compensation

Treatment of Forfeitures: *(Select one unless Item I(2)(a) is elected in which case this provision does not apply.) [Section 6.4.1] N/A*

- ___ (a) Forfeitures shall first be used to pay administration costs of the Plan and then used to reduce City contributions. *(Police)*
- ___ (b) Forfeitures shall be allocated to the Unallocated Employer Account, and if the Unallocated Employer Account is sufficient to meet Plan liabilities, then forfeitures shall first be used to pay expenses of administration and then to reduce City contributions. *(Fire)*
- ___ (c) Forfeitures will be added to the City contribution for allocation.
- ___ (d) Forfeitures will reduce City contributions.

(2) Is the Plan integrated with Social Security?

___ Yes X No *(Police and Fire)*

(If yes, complete items E, 3-6 and 11; if no, complete items E, 7-11).

NOTE: Items E, 3-6 and 11 relate to an integrated plan. Contributions are allocated pursuant to Section 3.3 of the Plan.

(3) "Recognized Compensation" shall be defined to mean all of each Participant's: *(place "X" to indicate selection)*

- ___ (a) W-2 earnings; or,
- ___ (b) Wages as defined in Code Section 3401(a); or
- ___ (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;
- ___ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below *(select all that apply)*:
 - ___ (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*
 - ___ (2) Include military continuation payments *(Section 3.6.9(b)-3(c))*
 - ___ (3) Include disability continuation payments *(Section 3.6.9(b)-3(d))*:
 - ___ (a) For nonhighly compensated Employees only; or

- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay ("first few weeks") rule (*Section 3.6.9(b)-4*); and/or
- _____ (5) Include "deemed" section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Other _____

which is actually paid to the Participant during

- _____ the Plan Year
- _____ the taxable year ending with or within the Plan Year
- _____ the Limitation Year ending with or within the Plan Year.
- _____ a consecutive 12-month period ending with or within the Plan Year beginning with the _____ day of _____ (*enter month*).

Recognized Compensation

- _____ shall include
- _____ shall not include

Employee contributions picked up by the City under Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (4) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]:

- _____ shall
- _____ shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (5) "Integration Level" is defined as (*place "X" next to definition selected and complete appropriate blanks*)

- ___ (a) For any Plan Year, an amount equal to \$_____ (*insert stated dollar amount not to exceed the Taxable Wage Base in effect at the beginning of the Plan Year*).
- ___ (b) For any Plan Year, an amount equal to ___% (*not more than 100%*) of the Taxable Wage Base in effect at the beginning of the Plan Year.
- ___ (c) For any Plan Year, an amount equal to the lesser of: (i) \$_____ (*insert stated dollar amount*); or (ii) the Taxable Wage Base in effect beginning at the Plan Year.

(6) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year (check one) :

___ shall

___ shall not

share in the City contribution and reallocation of the forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after Normal Retirement Date

___ disability.

NOTE: Items E, 7-11 relate to a nonintegrated plan. Contributions are allocated directly on Recognized Compensation. (Section 3.3(b)).

(7) Subject to an exclusion in Item (8), "Recognized Compensation" shall be defined to mean all of each Participant's (*place "X" to indicate selection, check only one*)

___ (a) W-2 earnings;

___ (b) Wages as defined in Code Section 3401(a); or

X (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;

___ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below (*select all that apply*):

- ____ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- ____ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- ____ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*):
- ____ (a) For nonhighly compensated Employees only; or
- ____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period ____.
- ____ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*); and/or
- ____ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.
- ____ (e) Salary as that term is defined in Section 1.1.36(a) of the Plan (*Police*);
- ____ (f) Salary as that term is defined in Section 1.1.36(b) of the Plan (*Fire*); or
- ____ (f) Other
-
-

which is actually paid to the Participant during

 X the Plan Year.

____ the taxable year ending with or within the Plan year.

____ the Limitation Year ending with or within the Plan year.

Recognized compensation (*Police and Fire Plans see definition of “Salary” in Section 1.1.36 of the Basic Plan Document*)

 X shall include

____ shall not include

Employee contributions picked up by the City pursuant to Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not

includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (8) "Recognized Compensation" shall not include: (*place "X" to indicate exclusion(s) and complete blank, if applicable*) *N/A*

___ (a) overtime, shift, holiday and vacation pay

___ (b) fringe benefits

___ (c) bonuses

___ (d) commissions, but not more than the first \$ _____ thereof
(*insert dollar limitation desired, if any*)

___ (e) overtime, callback pay, clothing allowances and other such benefits reported on Employee federal withholding statement (*Fire*).

- (9) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]: **N/A**

___ shall

___ shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (10) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year. (*Check one*):

X shall (*Police and Fire*)

___ shall not

share in the City contribution and reallocation of forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after their Normal Retirement Date

___ disability

- (11) Forfeitures will be reallocated [Sections 6.4.2 and 6.4.3; not applicable if section 1.2(a) is elected below] **N/A**

___ as of the following Valuation Date

___ after a Participant incurs 5 consecutive One Year Breaks in Service or his Account is no longer subject to restoration.

F. INTEREST N/A

___ shall

___ shall not

be paid on Employer Contributions pursuant to Section 3.2(a)(ii) of the Plan.

G. WITHDRAWAL OF PRIOR VOLUNTARY CONTRIBUTIONS

If this Plan or a predecessor plan previously permitted Voluntary Contributions, Participants: **N/A**

___ are

___ are not

permitted to withdraw their voluntary contributions before an Event of Maturity. [Section 7.9]

H. ROLLOVERS

- (1) Rollover contributions by Participants [Section 3.5]

 X are permitted as specified in Section 3.5. In addition to the plans specified in Section 3.5, rollover contributions and direct rollovers may be made from the following types of plans as of the specified effective date(s) (*specify all that apply*):

 X (a) annuity contract described in Code section 403(b), effective for distributions after _____ (December 31, 2001 if no date specified)

 X (b) eligible plan under Code section 457(b) which is maintained by a state or political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state,

effective for distributions after _____ (December 31, 2001 if no date specified)

_____ are not permitted

(2) Eligible rollover distribution [Section 7.12]

_____ must

X need not

be distributions that are reasonably expected to total \$200 or more during a year.

I. VESTING OF REGULAR ACCOUNTS

[Section 5]

(1) **Employee Accounts:** Each Employee is fully vested in his or her Employee Account at all times.

(2) **Employer Accounts:** Each Participant's Employer Account shall become Vested in him as follows (*place "X" next to formula selected and complete appropriate blanks*):

X (a) **Full and Immediate Vesting.** Each Employer Account shall be fully Vested in him at all times.

_____ (b) **Graded Vesting.** Each Participant's Employer Account shall be vested in him in accordance with the following schedule (*Choose One*):

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:*

_____ (i) Five Year Vesting:

Less than 1 year	_____ %
1 year but less than 2 years	_____ %
2 years but less than 3 years	_____ %
3 years but less than 4 years	_____ %
4 years but less than 5 years	_____ %
5 years or more	100 %

___ (ii) Seven Year Vesting:

Less than 1 year	___ %	(0%)
1 year but less than 2 years	___ %	(0%)
2 years but less than 3 years	___ %	(0%)
3 years but less than 4 years	___ %	(20%)
4 years but less than 5 years	___ %	(40%)
5 years but less than 6 years	___ %	(60%)
6 years but less than 7 years	___ %	(80%)
7 years or more	100 %	

___ (iii) Seven Year Special Vesting (Fire):

Less than 4 years	___ %
4 years but less than 5 years	___ %
5 years but less than 6 years	___ %
6 years but less than 7 years	___ %
7 years or more	___ %

___ (iv) Ten Year Vesting (Police):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	50 %
6 years but less than 7 years	60 %
7 years but less than 8 years	70 %
8 years but less than 9 years	80 %
9 years but less than 10 years	90 %
10 years or more	100 %

- (3) In determining a Participant's Plan Years of Service, the following periods shall be disregarded: *[Section 1.1.44] (Not Applicable for Police and Fire Plans).*

___ Yes X No Plan Years prior to the Effective Date of this Plan or a predecessor Plan. *[Yes, 1.1.44(c); No, Section 1.1.44(c)]*

___ Yes X No Plan Years completed prior to the date upon which the Participant attained age ____ years. *(Insert age, but not greater than age 18.) [Section 1.1.44(e)]*

- (4) Notwithstanding any of the foregoing, each Participant's Employer Account shall be 100% Vested in him upon his attainment of: **N/A**

___ (a) 60 (Police)

___ (b) 55 (Fire)

___ (c) Other _____

years of age while in the employment of the City. *(If no age is entered, it will be assumed Normal Retirement Date was intended.)*

[Section 5.1.2]

- (5) Normal Retirement Date is: *(place "X" next to choice selected)*

[Section 1.1.22]

X (a) The Participant's 65th birthday.

___ (b) The Participant's 65th birthday or, if later, the 5th anniversary of the date the Participant first becomes a Participant.

___ (c) Age ___ years *(60 for Police; 55 for Fire; Otherwise not greater than the Participant's 65th birthday and not less than age 55.)*

- (6) Early Retirement Date is age N/A years. *(Specify age. Not applicable for Police/Fire Plans – see Section 1.1.34 of Basic Plan for definition of Early Retirement Date for Police or Fire Plan.)*

- (7) An Employee who returns to employment of the City in Covered Employment after terminating service

X shall

___ shall not

be permitted to restore his or her Employer Account to the amount on the date of distribution. *(Section 5.1.3 or 6.4.4)*

J. INVESTMENT DIRECTIONS

- (1) Participants:

___ are

X are not

permitted to direct the investment of a portion of their accounts into life insurance.

[Section 10.10]

(2) Participant Account Investment Direction [Section 10.11.2]

(a) Participants:

 X are

 are not

permitted to direct the investment of their:

 X Employee Accounts (*Required of Police and Fire Plans*)

 X Employer Accounts (*Permitted for all types of plans, with the exception of pre-1984 contributions under Police and Fire Plans, and the Employer Account of pre-1984 hires under Fire Plans.*)

The City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such direction. (*Sections 1.1.35, 4.3 and 10.11*)

(b) Separate Investment Accounts (*Police*)

The City

 X may

 may not

direct the establishment of separate investment accounts for each Participant to allow each Participant to direct the investment of all or a portion of his or her Employee or Employer Account

If in the affirmative, enter name or title of person (or committee) authorized to communicate such directions to the Trustee: City Clerk.
Such directions shall be in writing and the City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such directions.

(3) Investment Direction [Sections 4.3, 10 and 12]

(a) The

 X City

 X may

_____ may not

_____ Retirement Committee (*Police and Fire*)

_____ may

_____ may not

direct the Trustee in the investment management of Plan assets.

(4) Participant Loans: *[Section 10.13]*

 X are permitted

_____ are not permitted

K. INTERNAL REVENUE CODE SECTION 415 LIMITATIONS

[Section 3.6]

If the City maintains or ever has maintained another qualified plan in which any Participant in this Plan is (or was) a Participant or could possibly become a Participant, the City must complete this Section. City must also complete this Section if it maintains a welfare benefit fund, as defined in Code section 419(e), an individual medical account, as defined in Code section 415(1)(2), or simplified employer pension, as defined in Code section 408(k) under which amounts are treated as annual additions with respect to any Participant in this Plan. (*Designate whether (1) or (2) applies, and complete as appropriate.*)

If a Participant is covered by another qualified plan maintained by the City:

 X (1) the provisions of Sections 3.6.4 through 3.6.9 will apply;

OR

_____ (2) set forth the method under which the Plans will limit total annual additions or distributions to the maximum permissible amount or benefit, as applicable, and will properly reduce any excess amounts or benefits, in a manner that precludes City discretion.

_____ (Use additional continuation pages if alternative limitation rules are to be specified.)

415 Compensation. The definition of Compensation for Code section 415 purposes shall be 415 Safe Harbor Compensation defined in section 3.6.9(b)i of the Plan,

unless an alternative definition of compensation is elected below pursuant to section 3.6.9(b)ii of the Plan:

- ☐ (1) W-2 Wages; or
- ☐ (2) Section 3401(a) Wages

Modifications to 415 Compensation – Compensation for 415 purposes shall include amounts described in Sections 3.6.9(b)-2 and 3.6.9(b)(vi) as “default provisions” unless otherwise elected below (*select all that apply*).

- ☐ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- ☐ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- ☐ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*)
 - ☐ (a) For nonhighly compensated Employees only
 - ☐ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- ☐ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*)
- ☐ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.

L. CREDITING SERVICE (*Complete (1) and (2), as appropriate.*)

- ☒ (1) **Hours of Service Method.** [*Section 1.1.18*] Except as provided in (2) below, for the purpose of determining an Employee's One-Year Breaks in Service [*Section 1.1.23*], Vesting Service [*Section 1.1.44*], Eligibility Service [*Section 1.1.9*] and minimum annual service requirement to share in the City contribution made for a Plan Year [*Section 3.3*], service will be determined by reference to Hours of Service according to the following: (*check one*)
 - ☒ (a) On the basis of the actual recorded hours for which an Employee is paid or entitled to payment.
 - ☐ (b) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 10 Hours of Service for a day if under Section 1.1.18 such Employee would be certified with at least one hour of service during that day.
 - ☐ (c) On the basis that, without regard to his actual recorded hours, an Employee shall be credited under 45 Hours of Service for a calendar week if under Section 1.1.18 such

Employee would be credited with at least One Hour of Service during that calendar week.

— (d) On the basis of semimonthly payroll periods, an Employee shall be credited with 95 Hours of Service for a semi-monthly payroll period if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that semimonthly payroll period.

— (e) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 190 Hours of Service for a calendar month if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that calendar month.

X (2) **Elapsed Time Method.** [Section 1.2] Notwithstanding (1) above, service will be credited based upon elapsed time for the following purposes: *(check as appropriate)*

X (a) None

— (b) All

— (c) Eligibility (and Eligibility Breaks in Service)

— (d) Vesting (and Vesting Breaks in Service)(*Police and Fire*)

— (e) Minimum Service for benefit accrual for a Plan Year

M. INVESTMENTS

[Section 10.14(p)]

(1) All funds of a Plan for police officers or fire fighters must be invested pursuant to the policies established by the Nebraska Investment Council.

(2) The Trustee's collective investment fund or funds incorporated by reference into this Agreement as indicated in Appendix "C" of the Basic Municipal Employees Plan and Trust and incorporated herein by this reference as amended from time to time.

(3) The Trustee is hereby specifically authorized and empowered to invest Plan assets in deposit accounts of _____ which bear a reasonable rate of interest and securities offered by _____ *(name of Trustee or financial institution).*

Such specification shall be permitted in any other applicable document related to funding the Plan, which document shall be incorporated herein by this reference.

[Section 4.2]

- (4) **Intermediate Valuation of Accounts.** Participant accounts will be valued for investment purposes as follows: *(select one)*

- ☐ (a) Annually
- ☐ (b) Semi-annually
- ☐ (c) Quarterly
- ☐ (d) Monthly
- ☒ (e) Daily

N. ACCELERATED DISTRIBUTIONS

The following optional provisions for accelerated distributions may be made available to Plan Participants: *(Select as many as shall apply. Not applicable for Police and Fire Plans)* [Section 14] N/A

- ☒ (1) Medical emergency
- ☒ (2) Financial hardships
- ☐ (3) Education expenses
- ☒ (4) Purchase of home
- ☐ (5) After Normal Retirement Date

O. OPTIONAL FORMS OF DISTRIBUTION

The optional forms of benefit payment provided by this Plan are: *(Select as many as apply. If the requirements of Code section 411(d)(6) are applicable (which is not the case if this Plan is a government plan within the meaning of Code section 414(d)), the City may not eliminate optional forms of payment for benefits which have accrued prior to the date of Plan amendment unless said requirements are satisfied.)*

- ☒ (1) a single sum

- X (2) straight life annuity
- X (3) straight life annuity with a guarantee of any certain number of monthly payments
- (4) annuity payable for life of Participant and annuity to surviving beneficiary of 100%, 75% or 50% as elected by the City.
- X (5) a combination of forms of benefit elected in (1) through (4) and (7)
- (6) if this Plan is a transferee plan, an optional form of distribution provided under the transferor plan which is required to be preserved under Code section 411(d)(6) (and the regulations issued thereunder – which is not the case if this is a government plan under Code section 414(d)) with respect to accrued benefits of any Participant as of the date of transfer. *(Indicate name of transferor plan and date on which prior accrued benefit distribution options are protected)*
- _____
- _____
- X (7) Other *(Describe)*: installment (monthly, quarterly, semi-annually, or annually) with or without a period certain, Code Section 401(a)(9) minimum distributions, and any other payment option available under the funding medium.

P. MANDATORY DISTRIBUTION ALTERNATIVES *(Section 5.1.3(a)(ii))*

The following election is made in lieu of the provisions of Section 5.1.3(a)(ii) reducing the mandatory cash out amount to an amount equal to or less than \$1,000 *(Option for plans other than Fire Plans -- Participant consent to distribution is always required for Fire Plans.) (select one):*

- (1) Elimination of Mandatory Cash-Outs. An Employee's Vested Retirement Value will not be distributed upon the Employee's termination of service without the Employee's prior written consent, regardless of amount.
- (2) Increase Mandatory Cash Out Amount. Upon termination of service, the Employee's Vested Retirement Value will be automatically distributed without the Employee's consent if the Vested Retirement Value is less than \$3,500 if a Police Plan (or not in excess of \$5,000 for plans other than Police or Fire Plans). *(Note that automatic distributions without Participant consent are not permitted for Fire Plans).* Said distribution, if greater than \$1,000, will be paid in a direct rollover to an "individual retirement plan" designated by the Plan Administrator if the Employee does not elect to have the distribution paid in a direct rollover

directly to an "eligible retirement plan" specified by the Employee in accordance with direct rollover provisions of the Plan, or to receive the distribution directly.

- Q.** The City shall periodically pay to the Trustee a fee for services rendered according to the Trustee Fee Schedule attached to the Basic Municipal Employees Plan and Trust Agreement as Appendix A or otherwise agreed to by the parties, as incorporated herein by this reference as amended from time to time. The terms of any agreement adopted and executed by the City and Trustee separate and apart from this document and defining rights and duties of the parties to said agreement shall be supplemental and additional to, and incorporated by reference into, this document to the extent not contrary to terms contained herein; and the same, if entered before the date of this Adoption Agreement, shall continue and remain in effect. If any terms of any such separate trust document conflict with the terms of this document, the terms of this document shall control.

R. INITIAL DEPOSIT

In the case of establishment of a new Plan, the City hereby delivers to the Trustee the sum of \$ N/A as its initial deposit to establish the Trust, and receipt of the stated sum is hereby acknowledged by the Trustee.

- S.** The completion of this Adoption Agreement creates certain legal relationships and responsibilities. Accordingly, your legal counsel should review the Plan and Trust prior to the execution of this document so as to insure the suitability of the Plan and Trust for your City.

The City acknowledges that it has consulted with and has been advised by its attorney(s) with respect to the effect of entering this Plan and executing this Adoption Agreement.

Terms used in this Adoption Agreement which are defined in the Plan shall have the meaning given them in the Plan.

The City hereby agrees to the provisions of this Plan and Trust, and, in witness whereof, the City and the Trustee have caused this Agreement to be executed on the date(s) set forth below.

THE CITY OF LA VISTA, NEBRASKA

By _____

NOTICE TO ADOPTING CITY

Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

In order to obtain reliance with respect to Plan qualification, the City, upon adopting and executing this Plan, must apply to the Employee Plans Determinations of the Internal Revenue Service for a determination letter.

This Adoption Agreement may only be used with the Basic Municipal Employees Plan and Trust Agreement.

CITY OF LA VISTA, NEBRASKA, Employer

By: _____

Printed Name

Title

Date: _____

_____, Trustee

By: _____

Printed Name

Title

Date _____

ADOPTION AGREEMENT
CITY OF LA VISTA
FIREFIGHTERS RETIREMENT
PLAN AND TRUST
TO BE USED WITH
BASIC MUNICIPAL EMPLOYEES PLAN AND TRUST AGREEMENT

THIS IS TO CERTIFY THAT:

The following actions were adopted by ordinance by the City of La Vista, Nebraska, by its City Council, at a meeting thereof duly called and held on _____, 20__:

RESOLVED,

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

SECTION 2. Applicable tax law requires that the Plan be amended and restated, and for this purpose, there has been presented to the City a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" together with the "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Document"; and together the Adoption Agreement and Basic Plan Document sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as an amendment and restatement of the Plan, and hereby makes the designations and elections with respect to the Plan as indicated in the Adoption Agreement, to be effective on the date(s) specified in the Adoption Agreement or Basic Plan Document.

SECTION 4. That the Mayor is authorized to execute said Adoption Agreement and Basic Plan Document 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 said ordinance or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreement or Basic Plan Document and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

This Adoption Agreement is the Adoption Agreement referred to in the foregoing actions, and the designations and elections hereinafter set forth are those made by the City in accordance with said actions, to-wit:

A. ESTABLISHMENT, EFFECTIVE DATE, AND CITY DATA:

- (1) ___ establishes on _____, _____, a Retirement Plan and Trust to be known as _____
Plan and Trust ("Plan") effective _____, _____ (Effective Date).
- OR
- (2) X amends, restates and continues the City of La Vista Firefighters Retirement Plan and Trust ("Plan"), originally established on April 3rd, 2007. This amendment and restatement is effective April 3rd, 2007, unless otherwise specified herein or in the Basic Plan Document or required under applicable law or regulations or guidance thereunder. (Supplemental Effective Date).
- (3) City's Address:
Street: 8116 Park View Boulevard
City, State, Zip Code: La Vista, Nebraska 68128
Attention: Pam Buethe, City Clerk
Telephone: (402) 331-4343
- (4) Retirement Committee: As designated from time to time pursuant to Section 12.3(i) of the Basic Plan Document.
- (5) Plan Administrator: the City of La Vista, with the exception of any administrative functions expressly delegated from time to time to the Retirement Committee herein or in or under the Basic Plan Document or otherwise by ordinance of the Mayor and City Council.
- (6) City's Taxpayer Identification No.: 47-6050031
- (7) City's Fiscal Year: October 1 – September 30

- (8) The Plan serial number ("PN") assigned to this Plan by the City for reporting and disclosure purposes is: 006
- (9) The last day of the Plan Year shall be December 31 and the Annual Valuation Date shall be December 31 [Sections 1.1.26 and 1.1.4]
- (10) The last day of the Plan's Limitation Year shall be December 31 [Section 1.1.20] *(All qualified retirement plans maintained by the City shall have the same Limitation Year.)*

B. ELIGIBILITY REQUIREMENTS

- (1) **Age Requirement.** The minimum age which each Employee must attain before becoming a Participant in the Plan is age N/A.
- (2) **Service Requirement.** To become a Participant in the Plan, each Employee must complete at least N/A year(s) of Eligibility Service. *(Not Applicable for Police and Fire Plans. Not more than five (5) years for other Plans.)* If year(s) of service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year.
- (3) The computation period for Eligibility Service will be *(Not Applicable for Fire and Police Plans)* Check One: N/A

_____ as set forth in Section 1.1.9(a)(i), the year beginning with the date the Employee first performs an Hour of Service and then Plan Years.

_____ as set forth in Section 1.1.9(a)(ii), based upon years commencing on the date the Employee first performs an Hour of Service and anniversaries thereof.

Upon reemployment, former Participants shall again participate in the Plan under the immediate reentry rule of Section 2.2.

- (4) Plan Entry Date shall be *(check one)*:
 - X (a) the first day of service in Recognized Employment with the City *(Police and Fire Plans)*.
 - _____ (b) the first day _____ *(e.g., the Plan Year, the month, etc.)* following the Employee's satisfaction of the Eligibility Requirements [Section 2.1(d)]

- ___ (c) the first day of the Plan Year in which the Employee first satisfies the Eligibility Requirements. [Section 2.1(c)]
- ___ (d) the first day of the first month or the first day of the seventh month of the Plan Year, whichever occurs first, following the Employee's satisfaction of the Eligibility Requirements. [Section 2.1(b)]
- ___ (e) Other _____

(5) **Recognized Employment.** Recognized Employment is service in the employment of the City in those job classifications indicated below (*place "X" on blank(s) indicating selection*): [Section 1.1.30]

- ___ (a) All Employees of the City employed as police officers.
- X (b) All Employees of the City employed as fire fighters.
- ___ (c) All Employees of the City as that term is defined in Section 1.1.10.
- ___ (d) All common law Employees of the City.
- ___ (e) Salaried Employees of the City.
- ___ (f) Hourly Employees of the City.
- ___ (g) Employees who are not covered by any retirement plan established by the City.
- ___ (h) Other (*specify*) _____

(6) **Participation Election:** (*check one*)

Employees and Participants

___ have

X do not have (*Police and Fire*)

a participation election provided in Section 3.3(b).

C. MANDATORY EMPLOYEE CONTRIBUTIONS

[Section 3.1]

- (1) **Amount of Contribution.** The Employee contribution to the Trustee for each Plan Year shall be:

____ (a) Six percent (6%) of his or her Salary. (*Police*)
X (b) Six and one-half percent (6 1/2%) of his or her Salary. (*Fire*)
____ (c) Other _____

- (2) **Employee Contributions:**

X shall (*Police and Fire*)
____ shall not

be picked up by the City and treated as Employer contributions as permitted under Section 414(h) of the Code.

D. VOLUNTARY EMPLOYEE CONTRIBUTIONS

X shall (*Police and Fire*)
____ shall not

be permitted to the maximum amount allowed under the Internal Revenue Code.

E. ALLOCATION OF CITY CONTRIBUTIONS AND FORFEITURES

[Sections 3.2 and 6.4]

- (1) **Amount of Contribution.** Subject to the limitations of Section 3, the City's contribution to the Trustee for each Plan Year shall be: (*Select one option only. Complete blanks as applicable.*)

____ (a) Six percent (6%) of each Participant's Salary. (*Police*)
X (b) Thirteen percent (13%) of each Participant's Salary. (*Fire*)
____ (c) Other _____

Treatment of Forfeitures: (*Select one unless Item I(2)(a) is elected in which case this provision does not apply.*) [Sections 6.4.1 and 6.4.2]

____ (a) Forfeitures shall first be used to pay administration costs of the Plan and then used to reduce City contributions. *(Police)*

X (b) Forfeitures shall be allocated to the Unallocated Employer Account, and if the Unallocated Employer Account is sufficient to meet Plan liabilities, then forfeitures shall first be used to pay expenses of administration and then to reduce City contributions. *(Fire)*

____ (c) Forfeitures will be added to the City contribution for allocation.

____ (d) Forfeitures will reduce City contributions.

(2) Is the Plan integrated with Social Security?

____ Yes X No *(Police and Fire)*

(If yes, complete items E, 3-6 and 11; if no, complete items E, 7-11).

NOTE: Items E, 3-6 and 11 relate to an integrated plan. Contributions are allocated pursuant to Section 3.3 of the Plan.

(3) "Recognized Compensation" shall be defined to mean all of each Participant's:
(place "X" to indicate selection)

____ (a) W-2 earnings; or,

____ (b) Wages as defined in Code Section 3401(a); or

____ (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;

____ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below *(select all that apply)*:

____ (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*

(2) Include military continuation payments *(Section 3.6.9(b)-3(c))*

(3) Include disability continuation payments *(Section 3.6.9(b)-3(d))*:

____ (a) For nonhighly compensated Employees only; or

- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay ("first few weeks") rule (*Section 3.6.9(b)-4*); and/or
- (5) Include "deemed" section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Other _____

which is actually paid to the Participant during

- _____ the Plan Year
- _____ the taxable year ending with or within the Plan Year
- _____ the Limitation Year ending with or within the Plan Year.
- _____ a consecutive 12-month period ending with or within the Plan Year beginning with the _____ day of _____ (*enter month*).

Recognized Compensation

- _____ shall include
- _____ shall not include

Employee contributions picked up by the City under Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (4) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]:

- _____ shall
- _____ shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (5) "Integration Level" is defined as (*place "X" next to definition selected and complete appropriate blanks*)

- ___ (a) For any Plan Year, an amount equal to \$_____ (*insert stated dollar amount not to exceed the Taxable Wage Base in effect at the beginning of the Plan Year*).
- ___ (b) For any Plan Year, an amount equal to ___% (*not more than 100%*) of the Taxable Wage Base in effect at the beginning of the Plan Year.
- ___ (c) For any Plan Year, an amount equal to the lesser of: (i) \$_____ (*insert stated dollar amount*); or (ii) the Taxable Wage Base in effect beginning at the Plan Year.

(6) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year (check one) :

___ shall

___ shall not

share in the City contribution and reallocation of the forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after Normal Retirement Date

___ disability.

NOTE: Items E, 7-11 relate to a nonintegrated plan. Contributions are allocated directly on Recognized Compensation. (Section 3.3(b)).

(7) Subject to an exclusion in Item (8), "Recognized Compensation" shall be defined to mean all of each Participant's (*place "X" to indicate selection, check only one*)

___ (a) W-2 earnings;

___ (b) Wages as defined in Code Section 3401(a); or

___ (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;

___ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below (*select all that apply*):

- _____ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- _____ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- _____ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*):
- _____ (a) For nonhighly compensated Employees only; or
- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*); and/or
- _____ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Salary as that term is defined in Section 1.1.36(a) of the Plan (*Police*);
- X (f) Salary as that term is defined in Section 1.1.36(b) of the Plan (*Fire*); or
- _____ (f) Other
- _____
- _____

which is actually paid to the Participant during

 X the Plan Year.

_____ the taxable year ending with or within the Plan year.

_____ the Limitation Year ending with or within the Plan year.

Recognized compensation (*Police and Fire Plans see definition of “Salary” in Section 1.1.36 of the Basic Plan Document*)

_____ shall include

_____ shall not include

Employee contributions picked up by the City pursuant to Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4),

402(e)(3), 402(h), 403(b) or 457 of the Code. *(Police and Fire Plans see definition of "Salary" in Section 1.1.36 of the Basic Plan Document)*

- (8) "Recognized Compensation" shall not include: *(place "X" to indicate exclusion(s) and complete blank, if applicable) N/A*

___ (a) overtime, shift, holiday and vacation pay

___ (b) bonuses

___ (c) commissions, but not more than the first \$_____ thereof
(insert dollar limitation desired, if any)

X (d) overtime, callback pay, clothing allowances and other such benefits reported on Employee federal withholding statement *(Fire)*.

- (9) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year *[check one]*:

___ shall

X shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (10) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year. *(Check one)*:

X shall *(Police and Fire)*

___ shall not

share in the City contribution and reallocation of forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after their Normal Retirement Date

___ disability

- (11) Forfeitures will be reallocated *[Sections 6.4.2 and 6.4.3]*

X as of the following Valuation Date

_____ after a Participant incurs 5 consecutive One Year Breaks in Service or his Account is no longer subject to restoration.

F. INTEREST

 X shall

_____ shall not

be paid on Employer Contributions pursuant to Section 3.2(a)(ii) of the Plan.

G. WITHDRAWAL OF PRIOR VOLUNTARY CONTRIBUTIONS

If this Plan or a predecessor plan previously permitted Voluntary Contributions, Participants:

_____ are

 X are not

permitted to withdraw their voluntary contributions before an Event of Maturity.
[Section 7.9]

H. ROLLOVERS

(1) Rollover contributions by Participants [Section 3.5]

 X are permitted as specified in Section 3.5. In addition to the plans specified in Section 3.5, rollover contributions and direct rollovers may be made from the following types of plans as of the specified effective date(s) (*specify all that apply*):

 X (a) annuity contract described in Code section 403(b), effective for distributions after _____ (December 31, 2001 if no date specified)

 X (b) eligible plan under Code section 457(b) which is maintained by a state or political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state, effective for distributions after _____ (December 31, 2001 if no date specified)

_____ are not permitted

(2) Eligible rollover distribution [Section 7.12]

___ must

X need not

be distributions that are reasonably expected to total \$200 or more during a year.

I. VESTING OF REGULAR ACCOUNTS

[Section 5]

(1) **Employee Accounts:** Each Employee is fully vested in his or her Employee Account at all times.

(2) **Employer Accounts:** Each Participant's Employer Account shall become Vested in him as follows (*place "X" next to formula selected and complete appropriate blanks*):

___ (a) **Full and Immediate Vesting.** Each Employer Account shall be fully Vested in him at all times.

X (b) **Graded Vesting.** Each Participant's Employer Account shall be vested in him in accordance with the following schedule (*Choose One*):

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:*

___ (i) Five Year Vesting:

Less than 1 year	___%
1 year but less than 2 years	___%
2 years but less than 3 years	___%
3 years but less than 4 years	___%
4 years but less than 5 years	___%
5 years or more	100 %

___ (ii) Seven Year Vesting:

Less than 1 year	___%	(0%)
1 year but less than 2 years	___%	(0%)
2 years but less than 3 years	___%	(0%)

3 years but less than 4 years	_____ %	(20%)
4 years but less than 5 years	_____ %	(40%)
5 years but less than 6 years	_____ %	(60%)
6 years but less than 7 years	_____ %	(80%)
7 years or more	100 %	

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:

X (iii) Seven Year Special Vesting (Fire):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	60 %
6 years but less than 7 years	80 %
7 years or more	100 %

_____ (iv) Ten Year Vesting (Police):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	50 %
6 years but less than 7 years	60 %
7 years but less than 8 years	70 %
8 years but less than 9 years	80 %
9 years but less than 10 years	90 %
10 years or more	100 %

- (3) In determining a Participant's Plan Years of Service, the following periods shall be disregarded: *[Section 1.1.44] (Not Applicable for Police and Fire Plans).*

___ Yes ___ No Plan Years prior to the Effective Date of this Plan or a predecessor Plan. *[Yes, 1.1.44(c); No, Section 1.1.44(c)]*

___ Yes ___ No Plan Years completed prior to the date upon which the Participant attained age _____ years. *(Insert age, but not greater than age 18.) [Section 1.1.44(e)]*

- (4) Notwithstanding any of the foregoing, each Participant's Employer Account shall be 100% Vested in him upon his attainment of:

_____ (a) 60 (Police)

X (b) 55 (Fire)

_____ (c) Other _____

years of age while in the employment of the City. *(If no age is entered, it will be assumed Normal Retirement Date was intended.)*

[Section 5.1.2]

- (5) Normal Retirement Date is: *(place "X" next to choice selected)*

[Section 1.1.22]

- ___ (a) The Participant's 65th birthday.
- ___ (b) The Participant's 65th birthday or, if later, the 5th anniversary of the date the Participant first becomes a Participant.
- X (c) Age 55 years *(60 for Police; 55 for Fire; Otherwise not greater than the Participant's 65th birthday and not less than age 55.*

- (6) Early Retirement Date is age _____ years. *(Specify age. Not applicable for Police/Fire Plans – see Section 1.1.34 of Basic Plan for definition of Early Retirement Date for Police or Fire Plan.)*

- (7) An Employee who returns to employment of the City in Covered Employment after terminating service

X shall

___ shall not

be permitted to restore his or her Employer Account to the amount on the date of distribution. *(Section 5.1.3 or 6.4.4)*

J. INVESTMENT DIRECTIONS

- (1) Participants:

___ are

X are not

permitted to direct the investment of a portion of their accounts into life insurance.

[Section 10.10]

- (2) Participant Account Investment Direction *[Section 10.11.2]*

(a) Participants:

 X are

 are not

permitted to direct the investment of their:

 X Employee Accounts (*Required of Police and Fire Plans*)

 X Employer Accounts (*Permitted for all types of plans, with the exception of pre-1984 contributions under Police and Fire Plans, and the Employer Account of pre-1984 hires under Fire Plans.*)

The City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such direction. (*Sections 1.1.35, 4.3 and 10.11*)

(b) Separate Investment Accounts (*Police*)

The City

 may

 may not

direct the establishment of separate investment accounts for each Participant to allow each Participant to direct the investment of all or a portion of his or her Employee or Employer Account

If in the affirmative, enter name or title of person (or committee) authorized to communicate such directions to the Trustee:_____.
Such directions shall be in writing and the City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such directions.

(3) Investment Direction [*Sections 4.3, 10 and 12*]

(a) The

 City

 may

 may not

X Retirement Committee (*Police and Fire*)

 X may

 may not

direct the Trustee in the investment management of Plan assets.

(4) Participant Loans: *[Section 10.13]*

 are permitted

 X are not permitted

K. INTERNAL REVENUE CODE SECTION 415 LIMITATIONS

[Section 3.6]

If the City maintains or ever has maintained another qualified plan in which any Participant in this Plan is (or was) a Participant or could possibly become a Participant, the City must complete this Section. City must also complete this Section if it maintains a welfare benefit fund, as defined in Code section 419(e), an individual medical account, as defined in Code section 415(1)(2), or simplified employer pension, as defined in Code section 408(k) under which amounts are treated as annual additions with respect to any Participant in this Plan. (*Designate whether (1) or (2) applies, and complete as appropriate.*)

If a Participant is covered by another qualified plan maintained by the City:

 X (1) the provisions of Sections 3.6.4 through 3.6.9 will apply;

OR

 (2) set forth the method under which the Plans will limit total annual additions or distributions to the maximum permissible amount or benefit, as applicable, and will properly reduce any excess amounts or benefits, in a manner that precludes City discretion.

(Use additional continuation pages if alternative limitation rules are to be specified.)

415 Compensation. The definition of Compensation for Code section 415 purposes shall be 415 Safe Harbor Compensation defined in section 3.6.9(b)i of the Plan, unless an alternative definition of compensation is elected below pursuant to section 3.6.9(b)ii of the Plan:

- ___ (1) W-2 Wages; or
- X (2) Section 3401(a) Wages

Modifications to 415 Compensation – Compensation for 415 purposes shall include amounts described in Sections 3.6.9(b)-2 and 3.6.9(b)(vi) as “default provisions” unless otherwise elected below (*select all that apply*).

- ___ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- ___ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- ___ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*)
 - ___ (a) For nonhighly compensated Employees only
 - ___ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period ____.
- ___ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*)
- ___ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.

L. CREDITING SERVICE (*Complete (1) and (2), as appropriate.*)

- X (1) **Hours of Service Method.** [*Section 1.1.18*] Except as provided in (2) below, for the purpose of determining an Employee's One-Year Breaks in Service [*Section 1.1.23*], Vesting Service [*Section 1.1.44*], Eligibility Service [*Section 1.1.9*] and minimum annual service requirement to share in the City contribution made for a Plan Year [*Section 3.3*], service will be determined by reference to Hours of Service according to the following: (*check one*)
 - X (a) On the basis of the actual recorded hours for which an Employee is paid or entitled to payment.
 - ___ (b) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 10 Hours of Service for a day if under Section 1.1.18 such Employee would be certified with at least one hour of service during that day.
 - ___ (c) On the basis that, without regard to his actual recorded hours, an Employee shall be credited under 45 Hours of Service for a calendar week if under Section 1.1.18 such Employee would be credited with at least One Hour of Service during that calendar week.

___ (d) On the basis of semimonthly payroll periods, an Employee shall be credited with 95 Hours of Service for a semi-monthly payroll period if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that semimonthly payroll period.

___ (e) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 190 Hours of Service for a calendar month if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that calendar month.

X (2) **Elapsed Time Method.** [Section 1.2] Notwithstanding (1) above, service will be credited based upon elapsed time for the following purposes: *(check as appropriate)*

___ (a) None

___ (b) All

___ (c) Eligibility (and Eligibility Breaks in Service)

X (d) Vesting (and Vesting Breaks in Service)(*Police and Fire*)

___ (e) Minimum Service for benefit accrual for a Plan Year

M. INVESTMENTS

[Section 10.14(p)]

(1) All funds of a Plan for police officers or fire fighters must be invested pursuant to the policies established by the Nebraska Investment Council.

(2) The Trustee's collective investment fund or funds incorporated by reference into this Agreement as indicated in Appendix "C" of the Basic Municipal Employees Plan and Trust and incorporated herein by this reference as amended from time to time.

(3) The Trustee is hereby specifically authorized and empowered to invest Plan assets in deposit accounts of _____ which bear a reasonable rate of interest and securities offered by _____ *(name of Trustee or financial institution)*. Such specification shall be permitted in any other applicable document related to funding the Plan, which document shall be incorporated herein by this reference.

[Section 4.2]

- (4) **Intermediate Valuation of Accounts.** Participant accounts will be valued for investment purposes as follows: *(select one)*

- ☐ (a) Annually
- ☐ (b) Semi-annually
- ☐ (c) Quarterly
- ☐ (d) Monthly
- ☒ (e) Daily

N. ACCELERATED DISTRIBUTIONS

The following optional provisions for accelerated distributions may be made available to Plan Participants: *(Select as many as shall apply. Not applicable for Police and Fire Plans) [Section 14] N/A*

- ☐ (1) Medical emergency
- ☐ (2) Financial hardships
- ☐ (3) Education expenses
- ☐ (4) Purchase of home
- ☐ (5) After Normal Retirement Date

O. OPTIONAL FORMS OF DISTRIBUTION

The optional forms of benefit payment provided by this Plan are: *(Select as many as apply. If the requirements of Code section 411(d)(6) are applicable (which is not the case if this Plan is a government plan within the meaning of Code section 414(d)), the City may not eliminate optional forms of payment for benefits which have accrued prior to the date of Plan amendment unless said requirements are satisfied.)*

- ☒ (1) a single sum
- ☒ (2) straight life annuity
- ☒ (3) straight life annuity with a guarantee of at least 60 monthly payments

- X (4) annuity payable for life of Participant and annuity to surviving beneficiary of 100%, 75% or 50% as elected by the City.
- (5) a combination of (1) through (4)
- (6) if this Plan is a transferee plan, an optional form of distribution provided under the transferor plan which is required to be preserved under Code section 411(d)(6) (and the regulations issued thereunder – which is not the case if this is a government plan under Code section 414(d)) with respect to accrued benefits of any Participant as of the date of transfer. *(Indicate name of transferor plan and date on which prior accrued benefit distribution options are protected)*
- _____
- _____
- _____
- (7) Other *(Describe)*: _____
- _____

P. MANDATORY DISTRIBUTION ALTERNATIVES *(Section 5.1.3(a)(ii))*

The following election is made in lieu of the provisions of Section 5.1.3(a)(ii) reducing the mandatory cash out amount to an amount equal to or less than \$1,000 *(Option for plans other than Fire Plans -- Participant consent to distribution is always required for Fire Plans.) (select one):*

- (1) Elimination of Mandatory Cash-Outs. An Employee's Vested Retirement Value will not be distributed upon the Employee's termination of service without the Employee's prior written consent, regardless of amount.
- (2) Increase Mandatory Cash Out Amount. Upon termination of service, the Employee's Vested Retirement Value will be automatically distributed without the Employee's consent if the Vested Retirement Value is less than \$3,500 if a Police Plan (or not in excess of \$5,000 for plans other than Police or Fire Plans). *(Note that automatic distributions without Participant consent are not permitted for Fire Plans).* Said distribution, if greater than \$1,000, will be paid in a direct rollover to an "individual retirement plan" designated by the Plan Administrator if the Employee does not elect to have the distribution paid in a direct rollover directly to an "eligible retirement plan" specified by the Employee in accordance with direct rollover provisions of the Plan, or to receive the distribution directly.

Q. The City shall periodically pay to the Trustee a fee for services rendered according to the Trustee Fee Schedule attached to the Basic Municipal Employees Plan and Trust

Agreement as Appendix A or otherwise agreed to by the parties, as incorporated herein by this reference as amended from time to time. The terms of any agreement adopted and executed by the City and Trustee separate and apart from this document and defining rights and duties of the parties to said agreement shall be supplemental and additional to, and incorporated by reference into, this document to the extent not contrary to terms contained herein; and the same, if entered before the date of this Adoption Agreement, shall continue and remain in effect. If any terms of any such separate trust document conflict with the terms of this document, the terms of this document shall control.

R. INITIAL DEPOSIT

In the case of establishment of a new Plan, the City hereby delivers to the Trustee the sum of \$ N/A as its initial deposit to establish the Trust, and receipt of the stated sum is hereby acknowledged by the Trustee.

- S.** The completion of this Adoption Agreement creates certain legal relationships and responsibilities. Accordingly, your legal counsel should review the Plan and Trust prior to the execution of this document so as to insure the suitability of the Plan and Trust for your City.

The City acknowledges that it has consulted with and has been advised by its attorney(s) with respect to the effect of entering this Plan and executing this Adoption Agreement.

Terms used in this Adoption Agreement which are defined in the Plan shall have the meaning given them in the Plan.

The City hereby agrees to the provisions of this Plan and Trust, and, in witness whereof, the City and the Trustee have caused this Agreement to be executed on the date(s) set forth below.

THE CITY OF LA VISTA, NEBRASKA

By _____

NOTICE TO ADOPTING CITY

Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

In order to obtain reliance with respect to Plan qualification, the City, upon adopting and executing this Plan, must apply to the Employee Plans Determinations of the Internal Revenue Service for a determination letter.

This Adoption Agreement may only be used with the Basic Municipal Employees Plan and Trust Agreement.

CITY OF LA VISTA, NEBRASKA, Employer

By: _____

Printed Name

Title

Date: _____

_____, Trustee

By: _____

Printed Name

Title

Date _____

ADOPTION AGREEMENT
CITY OF LA VISTA
POLICE OFFICERS RETIREMENT
PLAN AND TRUST
TO BE USED WITH
BASIC MUNICIPAL EMPLOYEES PLAN AND TRUST AGREEMENT

THIS IS TO CERTIFY THAT:

The following actions were adopted by ordinance by the City of La Vista, Nebraska, by its City Council, at a meeting thereof duly called and held on _____, 20__:

RESOLVED,

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

SECTION 2. Applicable tax law requires that the Plan be amended and restated, and for this purpose, there has been presented to the City a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" together with the "Basic Municipal Employees Plan and Trust Agreement" as an integral part thereof ("Basic Plan Document"; and together the Adoption Agreement and Basic Plan Document sometimes are referred to herein together as "Agreements"), which Agreements have been reviewed by legal counsel for the City.

SECTION 3. The City does hereby approve and adopt said Agreements as an amendment and restatement of the Plan, and hereby makes the designations and elections with respect to the Plan as indicated in the Adoption Agreement, to be effective on the date(s) specified in the Adoption Agreement or Basic Plan Document.

SECTION 4. That the Mayor is authorized to execute said Adoption Agreement and Basic Plan Document 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 said ordinance or otherwise determined necessary or advisable, to cause said Agreements 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 designations, elections or provisions under or of said Adoption Agreement or Basic Plan Document and take such further actions as he or she determines necessary or appropriate to obtain a favorable ruling.

This Adoption Agreement is the Adoption Agreement referred to in the foregoing actions, and the designations and elections hereinafter set forth are those made by the City in accordance with said actions, to-wit:

A. ESTABLISHMENT, EFFECTIVE DATE, AND CITY DATA:

- (1) _____ establishes on _____, _____, a Retirement Plan and Trust to be known as _____

Plan and Trust ("Plan") effective _____, _____ (Effective Date).

OR

- (2) X amends, restates and continues the City of La Vista Police Officers Retirement Plan and Trust ("Plan"), originally established on May 1, 1973. This amendment and restatement is effective January 1, 2002, unless otherwise specified herein or in the Basic Plan Document or required under applicable law or regulations or guidance thereunder. (Supplemental Effective Date).

- (3) City's Address:
Street: 8116 Park View Boulevard
City, State, Zip Code: La Vista, Nebraska 68128
Attention: Pam Buethe, City Clerk
Telephone: (402) 331-4343

- (4) Retirement Committee: As designated from time to time pursuant to Section 12.3(i) of the Basic Plan Document.

- (5) Plan Administrator: the City of La Vista, with the exception of any administrative functions expressly delegated from time to time to the Retirement Committee herein or in or under the Basic Plan Document or otherwise by ordinance of the Mayor and City Council.

- (6) City's Taxpayer Identification No.: 47-6050031

- (7) City's Fiscal Year: October 1 – September 30

- (8) The Plan serial number ("PN") assigned to this Plan by the City for reporting and disclosure purposes is: 001
- (9) The last day of the Plan Year shall be December 31 and the Annual Valuation Date shall be December 31 [Sections 1.1.26 and 1.1.4]
- (10) The last day of the Plan's Limitation Year shall be December 31 [Section 1.1.20] *(All qualified retirement plans maintained by the City shall have the same Limitation Year.)*

B. ELIGIBILITY REQUIREMENTS

- (1) **Age Requirement.** The minimum age which each Employee must attain before becoming a Participant in the Plan is age N/A.
- (2) **Service Requirement.** To become a Participant in the Plan, each Employee must complete at least N/A year(s) of Eligibility Service. *(Not Applicable for Police and Fire Plans. Not more than five (5) years for other Plans.)* If year(s) of service selected is or includes a fractional year, an Employee will not be required to complete any specified number of Hours of Service to receive credit for such fractional year.
- (3) The computation period for Eligibility Service will be *(Not Applicable for Fire and Police Plans)* Check One: N/A

___ as set forth in Section 1.1.9(a)(i), the year beginning with the date the Employee first performs an Hour of Service and then Plan Years.

___ as set forth in Section 1.1.9(a)(ii), based upon years commencing on the date the Employee first performs an Hour of Service and anniversaries thereof.

Upon reemployment, former Participants shall again participate in the Plan under the immediate reentry rule of Section 2.2.

- (4) Plan Entry Date shall be *(check one)*:

X (a) the first day of service in Recognized Employment with the City *(Police and Fire Plans)*.

___ (b) the first day _____ *(e.g., the Plan Year, the month, etc.)* following the Employee's satisfaction of the Eligibility Requirements [Section 2.1(d)]

___ (c) the first day of the Plan Year in which the Employee first satisfies the Eligibility Requirements. [Section 2.1(c)]

____ (d) the first day of the first month or the first day of the seventh month of the Plan Year, whichever occurs first, following the Employee's satisfaction of the Eligibility Requirements. [Section 2.1(b)]

____ (e) Other _____

(5) **Recognized Employment.** Recognized Employment is service in the employment of the City in those job classifications indicated below (*place "X" on blank(s) indicating selection*): [Section 1.1.30]

 X (a) All Employees of the City employed as police officers.

____ (b) All Employees of the City employed as fire fighters.

____ (c) All Employees of the City as that term is defined in Section 1.1.10.

____ (d) All common law Employees of the City.

____ (e) Salaried Employees of the City.

____ (f) Hourly Employees of the City.

____ (g) Employees who are not covered by any retirement plan established by the City.

____ (h) Other (*specify*) _____

(6) **Participation Election:** (*check one*)

Employees and Participants

____ have

 X do not have (*Police and Fire*)

a participation election provided in Section 3.3(b).

C. MANDATORY EMPLOYEE CONTRIBUTIONS

[Section 3.1]

- (1) **Amount of Contribution.** The Employee contribution to the Trustee for each Plan Year shall be:

 X (a) Six percent (6%) of his or her Salary. *(Police)*

 (b) Six and one-half percent (6 1/2%) of his or her Salary. *(Fire)*

 (c) Other _____

- (2) **Employee Contributions:**

 X shall *(Police and Fire)*

 shall not

be picked up by the City and treated as Employer contributions as permitted under Section 414(h) of the Code.

D. VOLUNTARY EMPLOYEE CONTRIBUTIONS

 X shall *(Police and Fire)*

 shall not

be permitted to the maximum amount allowed under the Internal Revenue Code.

E. ALLOCATION OF CITY CONTRIBUTIONS AND FORFEITURES

[Sections 3.2 and 6.4]

- (1) **Amount of Contribution.** Subject to the limitations of Section 3, the City's contribution to the Trustee for each Plan Year shall be: *(Select one option only. Complete blanks as applicable.)*

 X (a) Six percent (6%) of each Participant's Salary. *(Police)*

 (b) Thirteen percent (13%) of each Participant's Salary. *(Fire)*

 (c) Other _____

Treatment of Forfeitures: *(Select one unless Item I(2)(a) is elected in which case this provision does not apply.) [Sections 6.4.1 and 6.4.2]*

- ☒ (a) Forfeitures shall first be used to pay administration costs of the Plan and then used to reduce City contributions. *(Police)*
- ☐ (b) Forfeitures shall be allocated to the Unallocated Employer Account, and if the Unallocated Employer Account is sufficient to meet Plan liabilities, then forfeitures shall first be used to pay expenses of administration and then to reduce City contributions. *(Fire)*
- ☐ (c) Forfeitures will be added to the City contribution for allocation.
- ☐ (d) Forfeitures will reduce City contributions.

(2) Is the Plan integrated with Social Security?

☐ Yes ☒ No *(Police and Fire)*

(If yes, complete items E, 3-6 and 11; if no, complete items E, 7-11).

NOTE: Items E, 3-6 and 11 relate to an integrated plan. Contributions are allocated pursuant to Section 3.3 of the Plan.

(3) "Recognized Compensation" shall be defined to mean all of each Participant's: *(place "X" to indicate selection)*

- ☐ (a) W-2 earnings; or,
- ☐ (b) Wages as defined in Code Section 3401(a); or
- ☐ (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;
- ☐ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below *(select all that apply)*:
- ☐ (1) Exclude leave cashouts and deferred compensation *(Section 3.6.9(b)-3(b))*
- ☐ (2) Include military continuation payments *(Section 3.6.9(b)-3(c))*
- ☐ (3) Include disability continuation payments *(Section 3.6.9(b)-3(d))*:
- ☐ (a) For nonhighly compensated Employees only; or

- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay ("first few weeks") rule (*Section 3.6.9(b)-4*); and/or
- (5) Include "deemed" section 125 compensation pursuant to 3.6.9(b)-vi.
- _____ (e) Other _____

which is actually paid to the Participant during

- _____ the Plan Year
- _____ the taxable year ending with or within the Plan Year
- _____ the Limitation Year ending with or within the Plan Year.
- _____ a consecutive 12-month period ending with or within the Plan Year beginning with the _____ day of _____ (*enter month*).

Recognized Compensation

- _____ shall include
- _____ shall not include

Employee contributions picked up by the City under Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457 of the Code.

- (4) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year [*check one*]:

- _____ shall
- _____ shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (5) "Integration Level" is defined as (*place "X" next to definition selected and complete appropriate blanks*)

- ___ (a) For any Plan Year, an amount equal to \$_____ (*insert stated dollar amount not to exceed the Taxable Wage Base in effect at the beginning of the Plan Year*).
- ___ (b) For any Plan Year, an amount equal to ___% (*not more than 100%*) of the Taxable Wage Base in effect at the beginning of the Plan Year.
- ___ (c) For any Plan Year, an amount equal to the lesser of: (i) \$_____ (*insert stated dollar amount*); or (ii) the Taxable Wage Base in effect beginning at the Plan Year.

(6) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year (check one) :

___ shall

___ shall not

share in the City contribution and reallocation of the forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after Normal Retirement Date

___ disability.

NOTE: Items E, 7-11 relate to a nonintegrated plan. Contributions are allocated directly on Recognized Compensation. (Section 3.3(b)).

(7) Subject to an exclusion in Item (8), "Recognized Compensation" shall be defined to mean all of each Participant's (*place "X" to indicate selection, check only one*)

___ (a) W-2 earnings;

___ (b) Wages as defined in Code Section 3401(a); or

___ (c) Compensation as that term is defined in Section 3.6.9(b)(i) of the Plan;

___ (d) Provided, that Recognized Compensation defined in (a) through (c) shall include amounts described in Sections 3.6.9(b)(vi) and 3.6.9(b)-2 as "default provisions" unless otherwise elected below (*select all that apply*):

- _____ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- _____ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- _____ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*):
- _____ (a) For nonhighly compensated Employees only; or
- _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*); and/or
- _____ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.
- X (e) Salary as that term is defined in Section 1.1.36(a) of the Plan (*Police*);
- _____ (f) Salary as that term is defined in Section 1.1.36(b) of the Plan (*Fire*); or
- _____ (f) Other _____
- _____
- _____

which is actually paid to the Participant during

 X the Plan Year.

_____ the taxable year ending with or within the Plan year.

_____ the Limitation Year ending with or within the Plan year.

Recognized compensation (*Police and Fire Plans see definition of “Salary” in Section 1.1.36 of the Basic Plan Document*):

_____ shall include

_____ shall not include

Employee contributions picked up by the City pursuant to Section 414(h), and City contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Employee under Sections 125, 132(f)(4),

402(e)(3), 402(h), 403(b) or 457 of the Code. *(Police and Fire Plans see definition of "Salary" in Section 1.1.36 of the Basic Plan Document)*

- (8) "Recognized Compensation" shall not include: *(place "X" to indicate exclusion(s) and complete blank, if applicable) N/A*

___ (a) overtime, shift, holiday and vacation pay

___ (b) bonuses

___ (c) commissions, but not more than the first \$_____ thereof
(insert dollar limitation desired, if any)

___ (d) overtime, callback pay, clothing allowances and other such benefits reported on Employee federal withholding statement *(Fire)*.

- (9) If an Employee participates in the Plan for only a portion of the year, his Recognized Compensation for the year *[check one]*:

___ shall

X shall not

include otherwise Recognized Compensation during the portion of the year during which he was not a Participant in the Plan.

- (10) Participants who have been credited with a Year of Service for a Plan Year but who terminate employment before the last day of the Plan Year. *(Check one)*:

X shall *(Police and Fire)*

___ shall not

share in the City contribution and reallocation of forfeitures for that Plan Year. If shall not is elected, designate any exceptions that apply:

___ death

___ retirement at or after their Normal Retirement Date

___ disability

- (11) Forfeitures will be reallocated *[Sections 6.4.2 and 6.4.3]*

X as of the following Valuation Date

_____ after a Participant incurs 5 consecutive One Year Breaks in Service or his Account is no longer subject to restoration.

F. INTEREST

 X shall

_____ shall not

be paid on Employer Contributions pursuant to Section 3.2(a)(ii) of the Plan.

G. WITHDRAWAL OF PRIOR VOLUNTARY CONTRIBUTIONS

If this Plan or a predecessor plan previously permitted Voluntary Contributions, Participants:

_____ are

 X are not

permitted to withdraw their voluntary contributions before an Event of Maturity.
[Section 7.9]

H. ROLLOVERS

(1) Rollover contributions by Participants [Section 3.5]

 X are permitted as specified in Section 3.5. In addition to the plans specified in Section 3.5, rollover contributions and direct rollovers may be made from the following types of plans as of the specified effective date(s) (*specify all that apply*):

 X (a) annuity contract described in Code section 403(b), effective for distributions after _____ (December 31, 2001 if no date specified)

 X (b) eligible plan under Code section 457(b) which is maintained by a state or political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state, effective for distributions after _____ (December 31, 2001 if no date specified)

_____ are not permitted

(2) Eligible rollover distribution [Section 7.12]

___ must

X need not

be distributions that are reasonably expected to total \$200 or more during a year.

I. VESTING OF REGULAR ACCOUNTS

[Section 5]

(1) **Employee Accounts:** Each Employee is fully vested in his or her Employee Account at all times.

(2) **Employer Accounts:** Each Participant's Employer Account shall become Vested in him as follows (*place "X" next to formula selected and complete appropriate blanks*):

___ (a) **Full and Immediate Vesting.** Each Employer Account shall be fully Vested in him at all times.

X (b) **Graded Vesting.** Each Participant's Employer Account shall be vested in him in accordance with the following schedule (*Choose One*):

When the Participant Has Completed
the Following Vesting Service:

The Vested Portion of
His Regular Account
Will Be:*

___ (i) Five Year Vesting:

Less than 1 year	___%
1 year but less than 2 years	___%
2 years but less than 3 years	___%
3 years but less than 4 years	___%
4 years but less than 5 years	___%
5 years or more	100 %

___ (ii) Seven Year Vesting:

Less than 1 year	___%	(0%)
1 year but less than 2 years	___%	(0%)
2 years but less than 3 years	___%	(0%)

3 years but less than 4 years	_____ %	(20%)
4 years but less than 5 years	_____ %	(40%)
5 years but less than 6 years	_____ %	(60%)
6 years but less than 7 years	_____ %	(80%)
7 years or more	100 %	

____ (iii) Seven Year Special Vesting (Fire):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	60 %
6 years but less than 7 years	80 %
7 years or more	100 %

X (iv) Ten Year Vesting (Police):

Less than 4 years	0 %
4 years but less than 5 years	40 %
5 years but less than 6 years	50 %
6 years but less than 7 years	60 %
7 years but less than 8 years	70 %
8 years but less than 9 years	80 %
9 years but less than 10 years	90 %
10 years or more	100 %

- (3) In determining a Participant's Plan Years of Service, the following periods shall be disregarded: *[Section 1.1.44] (Not Applicable for Police and Fire Plans).*

___ Yes ___ No Plan Years prior to the Effective Date of this Plan or a predecessor Plan. *[Yes, 1.1.44(c); No, Section 1.1.44(c)]*

___ Yes ___ No Plan Years completed prior to the date upon which the Participant attained age _____ years. *(Insert age, but not greater than age 18.) [Section 1.1.44(e)]*

- (4) Notwithstanding any of the foregoing, each Participant's Employer Account shall be 100% Vested in him upon his attainment of:

- X (a) 60 (Police)
- ___ (b) 55 (Fire)
- ___ (c) Other _____

years of age while in the employment of the City. *(If no age is entered, it will be assumed Normal Retirement Date was intended.)*

[Section 5.1.2]

- (5) Normal Retirement Date is: *(place "X" next to choice selected)*

[Section 1.1.22]

- ___ (a) The Participant's 65th birthday.
- ___ (b) The Participant's 65th birthday or, if later, the 5th anniversary of the date the Participant first becomes a Participant.
- X (c) Age 60 years *(60 for Police; 55 for Fire; Otherwise not greater than the Participant's 65th birthday and not less than age 55.*
- (6) Early Retirement Date is age _____ years. *(Specify age. Not applicable for Police/Fire Plans – see Section 1.1.34 of Basic Plan for definition of Early Retirement Date for Police or Fire Plan.)*
- (7) An Employee who returns to employment of the City in Covered Employment after terminating service

X shall

___ shall not

be permitted to restore his or her Employer Account to the amount on the date of distribution. *(Section 5.1.3 or 6.4.4)*

J. INVESTMENT DIRECTIONS

- (1) Participants:

___ are

X are not

permitted to direct the investment of a portion of their accounts into life insurance.

[Section 10.10]

- (2) Participant Account Investment Direction [Section 10.11.2]

- (a) Participants:

X are

 are not

permitted to direct the investment of their:

 X Employee Accounts *(Required of Police and Fire Plans)*

 X Employer Accounts *(Permitted for all types of plans, with the exception of pre-1984 contributions under Police and Fire Plans, and the Employer Account of pre-1984 hires under Fire Plans.)*

The City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such direction. *(Sections 1.1.35, 4.3 and 10.11)*

(b) Separate Investment Accounts *(Police)*

The City

 X may

 may not

direct the establishment of separate investment accounts for each Participant to allow each Participant to direct the investment of all or a portion of his or her Employee or Employer Account

If in the affirmative, enter name or title of person (or committee) authorized to communicate such directions to the Trustee: Retirement Committee, Mayor, City Administrator or City Clerk. Such directions shall be in writing and the City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such directions.

(3) Investment Direction *[Sections 4.3, 10 and 12]*

(a) The

 City

 may

 may not

 X Retirement Committee *(Police and Fire)*

X may
 may not

direct the Trustee in the investment management of Plan assets.

(4) Participant Loans: *[Section 10.13]*

 are permitted
 X are not permitted

K. INTERNAL REVENUE CODE SECTION 415 LIMITATIONS

[Section 3.6]

If the City maintains or ever has maintained another qualified plan in which any Participant in this Plan is (or was) a Participant or could possibly become a Participant, the City must complete this Section. City must also complete this Section if it maintains a welfare benefit fund, as defined in Code section 419(e), an individual medical account, as defined in Code section 415(1)(2), or simplified employer pension, as defined in Code section 408(k) under which amounts are treated as annual additions with respect to any Participant in this Plan. *(Designate whether (1) or (2) applies, and complete as appropriate.)*

If a Participant is covered by another qualified plan maintained by the City:

 X (1) the provisions of Sections 3.6.4 through 3.6.9 will apply;

OR

 (2) set forth the method under which the Plans will limit total annual additions or distributions to the maximum permissible amount or benefit, as applicable, and will properly reduce any excess amounts or benefits, in a manner that precludes City discretion.

(Use additional continuation pages if alternative limitation rules are to be specified.)

415 Compensation. The definition of Compensation for Code section 415 purposes shall be 415 Safe Harbor Compensation defined in section 3.6.9(b)i of the Plan, unless an alternative definition of compensation is elected below pursuant to section 3.6.9(b)ii of the Plan:

 (1) W-2 Wages; or

X (2) Section 3401(a) Wages

Modifications to 415 Compensation – Compensation for 415 purposes shall include amounts described in Sections 3.6.9(b)-2 and 3.6.9(b)(vi) as “default provisions” unless otherwise elected below (*select all that apply*).

- _____ (1) Exclude leave cashouts and deferred compensation (*Section 3.6.9(b)-3(b)*)
- _____ (2) Include military continuation payments (*Section 3.6.9(b)-3(c)*)
- _____ (3) Include disability continuation payments (*Section 3.6.9(b)-3(d)*)
 - _____ (a) For nonhighly compensated Employees only
 - _____ (b) For all Employees and the salary continuation will continue for the following fixed or determinable period _____.
- _____ (4) Apply the administrative delay (“first few weeks”) rule (*Section 3.6.9(b)-4*)
- _____ (5) Include “deemed” section 125 compensation pursuant to 3.6.9(b)-vi.

L. CREDITING SERVICE (*Complete (1) and (2), as appropriate.*)

X (1) **Hours of Service Method.** [*Section 1.1.18*] Except as provided in (2) below, for the purpose of determining an Employee's One-Year Breaks in Service [*Section 1.1.23*], Vesting Service [*Section 1.1.44*], Eligibility Service [*Section 1.1.9*] and minimum annual service requirement to share in the City contribution made for a Plan Year [*Section 3.3*], service will be determined by reference to Hours of Service according to the following: (*check one*)

- X (a) On the basis of the actual recorded hours for which an Employee is paid or entitled to payment.
- _____ (b) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 10 Hours of Service for a day if under Section 1.1.18 such Employee would be certified with at least one hour of service during that day.
- _____ (c) On the basis that, without regard to his actual recorded hours, an Employee shall be credited under 45 Hours of Service for a calendar week if under Section 1.1.18 such Employee would be credited with at least One Hour of Service during that calendar week.
- _____ (d) On the basis of semimonthly payroll periods, an Employee shall be credited with 95 Hours of Service for a semi-monthly payroll period if under Section 1.1.18 such

Employee would be credited with at least one Hour of Service during that semimonthly payroll period.

- ____ (e) On the basis that, without regard to his actual recorded hours, an Employee shall be credited with 190 Hours of Service for a calendar month if under Section 1.1.18 such Employee would be credited with at least one Hour of Service during that calendar month.

X (2) **Elapsed Time Method.** [Section 1.2] Notwithstanding (1) above, service will be credited based upon elapsed time for the following purposes: *(check as appropriate)*

- ____ (a) None
- ____ (b) All
- ____ (c) Eligibility (and Eligibility Breaks in Service)
- X (d) Vesting (and Vesting Breaks in Service)(*Police and Fire*)
- ____ (e) Minimum Service for benefit accrual for a Plan Year

M. INVESTMENTS

[Section 10.14(p)]

- (1) All funds of a Plan for police officers or fire fighters must be invested pursuant to the policies established by the Nebraska Investment Council.
- (2) The Trustee's collective investment fund or funds incorporated by reference into this Agreement as indicated in Appendix "C" of the Basic Municipal Employees Plan and Trust and incorporated herein by this reference as amended from time to time.
- (3) The Trustee is hereby specifically authorized and empowered to invest Plan assets in deposit accounts of _____ which bear a reasonable rate of interest and securities offered by _____
(*name of Trustee or financial institution*). Such specification shall be permitted in any other applicable document related to funding the Plan, which document shall be incorporated herein by this reference.

[Section 4.2]

- (4) **Intermediate Valuation of Accounts.** Participant accounts will be valued for investment purposes as follows: *(select one)*

- ☐ (a) Annually
- ☐ (b) Semi-annually
- ☐ (c) Quarterly
- ☐ (d) Monthly
- ☒ (e) Daily

N. ACCELERATED DISTRIBUTIONS

The following optional provisions for accelerated distributions may be made available to Plan Participants: *(Select as many as shall apply. Not applicable for Police and Fire Plans) [Section 14]* N/A

- ☐ (1) Medical emergency
- ☐ (2) Financial hardships
- ☐ (3) Education expenses
- ☐ (4) Purchase of home
- ☐ (5) After Normal Retirement Date

O. OPTIONAL FORMS OF DISTRIBUTION

The optional forms of benefit payment provided by this Plan are: *(Select as many as apply. If the requirements of Code section 411(d)(6) are applicable (which is not the case if this Plan is a government plan within the meaning of Code section 414(d)), the City may not eliminate optional forms of payment for benefits which have accrued prior to the date of Plan amendment unless said requirements are satisfied.)*

- ☒ (1) a single sum
- ☒ (2) straight life annuity
- ☒ (3) straight life annuity with a guarantee of at least 60 monthly payments

- X (4) annuity payable for life of Participant and annuity to surviving beneficiary of 100%, 75% or 50% as elected by the City.
- ___ (5) a combination of (1) through (4)
- ___ (6) if this Plan is a transferee plan, an optional form of distribution provided under the transferor plan which is required to be preserved under Code section 411(d)(6) (and the regulations issued thereunder – which is not the case if this is a government plan under Code section 414(d)) with respect to accrued benefits of any Participant as of the date of transfer. *(Indicate name of transferor plan and date on which prior accrued benefit distribution options are protected)* _____
- ___ (7) Other *(Describe)*: _____

P. MANDATORY DISTRIBUTION ALTERNATIVES *(Section 5.1.3(a)(ii))*

The following election is made in lieu of the provisions of Section 5.1.3(a)(ii) reducing the mandatory cash out amount to an amount equal to or less than \$1,000 *(Option for plans other than Fire Plans -- Participant consent to distribution is always required for Fire Plans.) (select one):*

- ___ (1) Elimination of Mandatory Cash-Outs. An Employee's Vested Retirement Value will not be distributed upon the Employee's termination of service without the Employee's prior written consent, regardless of amount.
- ___ (2) Increase Mandatory Cash Out Amount. Upon termination of service, the Employee's Vested Retirement Value will be automatically distributed without the Employee's consent if the Vested Retirement Value is less than \$3,500 if a Police Plan (or not in excess of \$5,000 for plans other than Police or Fire Plans). *(Note that automatic distributions without Participant consent are not permitted for Fire Plans).* Said distribution, if greater than \$1,000, will be paid in a direct rollover to an "individual retirement plan" designated by the Plan Administrator if the Employee does not elect to have the distribution paid in a direct rollover directly to an "eligible retirement plan" specified by the Employee in accordance with direct rollover provisions of the Plan, or to receive the distribution directly.

Q. The City shall periodically pay to the Trustee a fee for services rendered according to the Trustee Fee Schedule attached to the Basic Municipal Employees Plan and Trust

Agreement as Appendix A or otherwise agreed to by the parties, as incorporated herein by this reference as amended from time to time. The terms of any agreement adopted and executed by the City and Trustee separate and apart from this document and defining rights and duties of the parties to said agreement shall be supplemental and additional to, and incorporated by reference into, this document to the extent not contrary to terms contained herein; and the same, if entered before the date of this Adoption Agreement, shall continue and remain in effect. If any terms of any such separate trust document conflict with the terms of this document, the terms of this document shall control.

R. INITIAL DEPOSIT

In the case of establishment of a new Plan, the City hereby delivers to the Trustee the sum of \$ N/A as its initial deposit to establish the Trust, and receipt of the stated sum is hereby acknowledged by the Trustee.

- S.** The completion of this Adoption Agreement creates certain legal relationships and responsibilities. Accordingly, your legal counsel should review the Plan and Trust prior to the execution of this document so as to insure the suitability of the Plan and Trust for your City.

The City acknowledges that it has consulted with and has been advised by its attorney(s) with respect to the effect of entering this Plan and executing this Adoption Agreement.

Terms used in this Adoption Agreement which are defined in the Plan shall have the meaning given them in the Plan.

The City hereby agrees to the provisions of this Plan and Trust, and, in witness whereof, the City and the Trustee have caused this Agreement to be executed on the date(s) set forth below.

THE CITY OF LA VISTA, NEBRASKA

By _____

NOTICE TO ADOPTING CITY

Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

In order to obtain reliance with respect to Plan qualification, the City, upon adopting and executing this Plan, must apply to the Employee Plans Determinations of the Internal Revenue Service for a determination letter.

This Adoption Agreement may only be used with the Basic Municipal Employees Plan and Trust Agreement.

CITY OF LA VISTA, NEBRASKA, Employer

By: _____

Printed Name

Title

Date: _____

_____, Trustee

By: _____

Printed Name

Title

Date _____