



# City of Grand Island

Tuesday, March 22, 2016

Council Session

## Item G-19

**#2016-71 - Approving Agreements with Union Bank & Trust  
Company for Fire Pension Plan**

Staff Contact: Renae Griffiths

# **Council Agenda Memo**

**From:** William Clingman, Assistant Finance Director

**Meeting:** March 22, 2016

**Subject:** Approving Agreements with Union Bank & Trust Company for Fire Pension Plan

**Presenter(s):** Renae Griffiths, Finance Director

## **Background**

On January 12, 2016 the City Council approved resolution 2016-14 which approved the contract with Union Bank and Trust to provide administrative services for the Fire Pension Plan.

## **Discussion**

A “qualified plan,” under IRS guidelines, is required to address mandatory distributions if the participant's vested benefit is \$5,000 or less, whether amounts more than \$1,000 but less than or equal to \$5,000 are automatically rolled over to an IRA and any possible forfeitures of plan benefits. The agreements were left out of the original contract approved by City Council on January 12, 2016. We are now requesting approval of the Lost Participant Policy and Automatic Rollover IRA Provider Agreement with Union Bank and Trust to maintain the plan as a “qualified plan” as defined by the IRS.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the Resolution as presented.
2. Take no action.

## **Recommendation**

City Administration recommends that the Council approve the additional agreements with Union Bank & Trust Company.

## **Sample Motion**

Move to approve the agreements with Union Bank & Trust Company.

# Lost Participant Policy

Name of Plan: City of Grand Island, Nebraska Firefighters' Retirement System Plan & Trust (the "Plan")

Plan Administrator: City of Grand Island, Nebraska ("Plan Administrator")

## I. Background Information

City of Grand Island, Nebraska has adopted the above-named Plan for the benefit of its eligible employees. Union Bank & Trust Company's ("Union Bank") preapproved plan document provides direction with respect to those participants whose accounts are distributable but who cannot be located, as well as participants who have not cashed their distribution checks. These participants are referred to as "lost participants."

The Plan Administrator, which is authorized to adopt rules, procedures and/or policies necessary or appropriate to administer the Plan, hereby adopts this Lost Participant Policy (the "Policy"), which has been prepared pursuant to the Defined Contribution Plan Services Agreement, to help it fulfill its duties to locate "lost participants," and to make disclosures to participants. In addition, the Plan Administrator hereby directs Union Bank to take the action necessary or appropriate to implement this Policy to the extent it complies with the Plan document and applicable law.

## II. Definition of Lost Participant

A "lost participant" is a participant who falls into any of the following categories:

- A participant whose account is not distributable but for whom a participant disclosure has been returned by the U.S. Postal Service;
- A participant whose account has become distributable but who cannot be located; or
- A participant whose account has become distributable but who has not cashed the distribution check.

For purposes of this Policy, unless otherwise provided, a "participant" includes a participant, a beneficiary, and an alternate payee under a qualified domestic relations order.

## III. Lost Participant Procedure – Participant's Account is not Distributable

Union Bank, on behalf of the Plan Administrator, provides disclosure materials to participants. In some cases, the U.S. Postal Service returns the disclosure materials to Union Bank because a participant is no longer at the address as reflected in Plan records. In these cases, the Plan Administrator hereby directs Union Bank to take the following action:

1. If the U.S. Postal Service has provided a forwarding address for the participant, Union Bank should update its own records, and notify the Plan Administrator of the participant's new address for the Plan's records to be updated.
2. If the U.S. Postal Service has not provided a forwarding address for the participant, Union Bank should notify the Plan Administrator to take further action to locate the participant.

#### IV. Lost Participant Procedure – Participant's Account is Distributable

Union Bank, on behalf of the Plan Administrator, will provide distribution paperwork (consisting of required distribution election forms and notices) to a participant whose account is distributable. In the event that such distribution paperwork is returned to Union Bank, or the participant does not cash a distribution check within 180 days, the Plan Administrator hereby directs Union Bank to take the following action:

1. If Union Bank has received a forwarding address from the U.S. Postal Service for such participant, Union Bank will resend the distribution paperwork (or a letter confirming the participant's address change) to the participant at the address provided by the U.S. Postal Service.
2. If the U.S. Postal Service has not provided a forwarding address to Union Bank for such participant, then on behalf of the Plan Administrator, Union Bank will resend the distribution paperwork to the participant at the participant's last known address by certified or registered mail.
3. If a participant remains unlocated after 6 months following the date Union Bank (on behalf of the Plan Administrator) resent distribution paperwork to the participant by certified or registered mail, and the participant has not attained the later of age 62 or the Plan's normal retirement age, the Plan Administrator directs Union Bank to take the following action at the end of such 6-month period:
  - a. \$5,000 Cash-Out Limit -- Account Balance Exceeds \$5,000 – Distributable before Age 62 / Normal Retirement Age. Union Bank should not take any additional action if: (i) the Plan's cash-out limit is \$5,000; (ii) the participant's vested account balance (as determined under the Plan) exceeds \$5,000; and (iii) the participant's account is distributable before the participant has attained the later of age 62 or the Plan's normal retirement age.
  - b. \$5,000 Cash-Out Limit -- Account Balance Exceeds \$1,000 but does not Exceed \$5,000 – Distributable before Age 62/Normal Retirement Age. Union Bank should pay such lost participant's account to an automatic rollover IRA if: (i) the Plan's cash-out limit is \$5,000; (ii) the participant's vested account balance (as determined under the Plan) exceeds \$1,000 but does not exceed \$5,000; and (iii) the participant's account is distributable before the participant has attained the later of age 62 or the Plan's normal retirement age.
  - c. \$1,000 Cash-Out Limit -- Account Balance Exceeds \$1,000 – Distributable before Age 62 / Normal Retirement Age. Union Bank should not take any additional action if: (i) the Plan's cash-out limit is \$1,000; (ii) the participant's vested account balance (as determined under the Plan) exceeds \$1,000; and (iii) the participant's account is distributable before the participant has attained the later of age 62 or the Plan's normal retirement age.
  - d. Account Balance does not Exceed \$1,000 – Distributable before Age 62 / Normal Retirement Age. Union Bank should take action to forfeit such lost participant's account if: (i) the lost participant's vested account balance (as determined under the Plan) does not exceed \$1,000; and (iii) the lost participant's account is distributable before the participant has attained the later of age 62 or the Plan's normal retirement age.
  - e. Account Balance Distributable after Age 62 / Normal Retirement Age. Union Bank should pay such lost participant's account to an automatic rollover IRA if the lost participant has attained the later of age 62 or the Plan's normal retirement age (for these purposes, if permitted under the terms of the Plan, Union Bank is not required to take the action described in this paragraph until such lost participant has reached his/her required beginning date for required minimum distribution purposes). If the Plan document does not permit such lost participant's account to be

distributed to an automatic rollover IRA, then such lost participant's account will be forfeited (or operationally disposed of under any method authorized under the Plan).

f. Account Balance Distributable after Required Beginning Date. Union Bank should pay such lost participant's account to an automatic rollover IRA if the lost participant has reached his/her required beginning date. If the Plan document does not permit such lost participant's account to be distributed to an automatic rollover IRA, then such lost participant's account will be forfeited (or other action will be taken as permitted under the Plan).

4. If a lost participant whose account was forfeited pursuant to the terms of the Plan and this Policy makes a claim for his/her forfeited account, the Plan Administrator will restore the lost participant's account to the same dollar amount as the amount forfeited, unadjusted for earnings occurring subsequent to the forfeiture. Unless the Plan provides otherwise: (a) the restoration will be made in the plan year in which the lost participant makes the claim, first from the amount, if any, of the participant forfeitures the Plan Administrator otherwise would allocate for the plan year, and then from employer contributions to the Plan for the plan year; and (b) the Plan Administrator will direct Union Bank to distribute the restored account to the lost participant not later than 60 days after the close of the plan year in which the Plan Administrator restores the forfeited account.

**V. Plan Administrator's Right to Amend or Terminate Policy**

The Plan Administrator hereby reserves the right to amend or terminate this Policy at any time and for any reason except as prohibited by the Plan or applicable law. The Plan Administrator acknowledges that Union Bank may provide Plan Administrator with proposed amendments to the Policy from time to time, and that if the Plan Administrator does not notify Union Bank in writing within 30 days of its objection to such amendment, Plan Administrator acknowledges that it shall be deemed to have approved such amendment, and hereby directs Union Bank to act in accordance with such amendment.

**VI. Terms of Applicable Law and Plan Govern**

To the extent any provision of this Policy conflicts or is inconsistent with applicable law or any Plan provision, the terms of such applicable law or Plan shall control.

**VII. Execution**

The Plan Administrator hereby certifies and represents it has authority to adopt this Policy and that such Policy is authorized pursuant to the terms of the Plan.

**Adopted:**

City of Grand Island, Nebraska  
*Plan Administrator*

City of Grand Island, Nebraska Firefighters' Retirement System Plan & Trust  
*Plan Name*

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Effective Date: April 1, 2016

# AUTOMATIC ROLLOVER IRA PROVIDER AGREEMENT

This Agreement is made by and between Union Bank & Trust Company (“IRA Provider”) and *City of Grand Island, Nebraska* (the “Employer”), acting as the Plan Administrator of the *City of Grand Island, Nebraska Firefighters’ Retirement System Plan & Trust* (the “Plan”), with respect to the automatic rollover of certain benefit payments from the Plan.

## WITNESSETH

**WHEREAS**, the Plan has been established pursuant to Sections 401(a) and 501 of the Internal Revenue Code;

**WHEREAS**, IRA Provider provides individual retirement plans within the meaning of Section 7701(a)(37) of the Internal Revenue Code; and

**WHEREFORE**, Employer wishes to enter into a written agreement with IRA Provider on behalf of its participants to provide for the automatic rollover of certain mandatory distributions in accordance with Section 401(a)(31)(B) of the Internal Revenue Code;

**NOW, THEREFORE**, in consideration of the above-recital and the covenants contained herein, the parties agree as follows:

1. Definitions.
  - 1.1 Cash-Out Distributions. “Cash-Out Distributions” mean mandatory distributions from the Plan that exceeds \$1,000 but do not exceed the limit imposed by Sections 411(a)(11) and 417(e) of the Internal Revenue Code, disregarding the amount of a prior rollover contribution and earnings related to such rollover contribution if the Plan so provides.
  - 1.2 IRA. “IRA” means an individual retirement plan within the meaning of section 7701(a)(37) of the Internal Revenue Code.
  - 1.3 Investment Product. “Investment Product” means any investment product designed to preserve principal and provide a reasonable rate of return, which seeks to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the IRA. Investment Product may include a mutual fund for which IRA Provider or its affiliate(s) provides investment advice or other services for compensation, as disclosed to Employer.
2. Automatic Rollover of Cash-Out Distributions. Cash-Out Distributions shall be directly rolled over into IRAs provided by IRA Provider.
3. IRA Investment. Cash-Out Distributions shall be invested in an Investment Product.
4. Representation of IRA Sponsor. IRA Provider certifies that it is a state or federally regulated financial institution which is a bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation; a credit union, the member accounts of which are insured within the meaning of Section 101(7) of the Federal Credit Union Act; an insurance company, the products of which are protected by state guaranty associations; or an investment company registered under the Investment Company Act of 1940.
5. Fees and Expenses. IRA Provider may be paid reasonable fees and expenses for services performed for the IRA directly from the IRA. Such fees and expenses, including establishment and maintenance fees, investment expenses, and termination costs may not exceed the fees and expenses charged by IRA Provider for comparable services to individual retirement plans established for reasons other than for the receipt of mandatory distributions subject to the provisions of Section 401(a)(31)(B) of the Internal Revenue Code.

6. Third Party Beneficiary. A Plan participant on whose behalf an IRA is established pursuant to the terms of this Agreement shall have the right to enforce the terms of the contractual agreement establishing the IRA, with regard to the Cash-Out Distribution, against IRA Provider.
7. Amendment and Termination. This Agreement may be amended at any time in writing in such manner as may be mutually agreed upon by IRA Provider and Employer. It may be terminated at any time by IRA Provider or Employer upon thirty days written notice to the other or as otherwise agreed by the parties. For purposes of this provision, notice to IRA Provider may be given to the Union Bank & Trust Company administrator assigned to the Plan.
8. Electronic Signature and Counterparts. This Agreement may be executed electronically by any party, which shall be deemed to be as effective as a signature executed by such party by its own hand. This Agreement may be executed in counterparts, any of which need not contain the signature of more than one party, but all of which taken together will be one and the same Agreement.
9. Severability. If any provisions of this Agreement are held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Agreement shall be construed and enforced as if such provisions had not been included.
10. Assignment. No assignment of this Agreement shall be made by either party without written consent of the other. This Agreement shall bind the successors and assigns of Employer and IRA Provider. Notwithstanding this provision, in providing services to the IRA, IRA Provider may delegate certain functions (e.g., functions including, but not limited to, tax reporting and custodianship functions) to be performed by other entities.
11. Section Headings. The headings of sections in this Agreement are inserted for convenience and reference and shall not be deemed to be a part of or used in the construction of this Agreement.
12. Governing Law. To the extent not preempted by ERISA, this Agreement and all transactions hereunder shall be governed by, interpreted, construed and enforced in accordance with the laws of the State of Nebraska.
13. Application. This Agreement shall apply to any Cash-Out Distributions made on or after March 28, 2005 or such later date as permitted by the rules and regulations governing Cash-Out Distributions, or as determined under the provisions of the Plan.

*IN WITNESS WHEREOF*, the parties have executed this Agreement.

City of Grand Island, Nebraska

**Employer**

Date \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Union Bank & Trust Company

**IRA Provider**

Date \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

RESOLUTION 2016-71

WHEREAS, the City of Grand Island approved a contract for Administrative Service for Retirement Plans for the Police and Fire Plans with Union Bank and Trust Company; and

WHEREAS, the plan under IRS guidelines is a “qualified plan”; and

WHEREAS, to maintain the plan as “qualified” certain polices need to be in place; and

WHEREAS, the Lost Participant Policy and Automatic Rollover IRA Provider Agreement with Union Bank and Trust Company will put these policies in place.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to approve the Lost Participant Policy and Automatic Rollover IRA provider Agreement with Union Bank and Trust Company for the Fire Pension Plan

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Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2016.

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Jeremy L. Jensen, Mayor

Attest:

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RaNae Edwards, City Clerk

Approved as to Form	☒ _____
March 18, 2016	☒ City Attorney