



City of Grand Island

Tuesday, December 17, 2013

Council Session

Item F-1

#9463 - Consideration to Amend and Restate the City of Grand Island, Nebraska Police Officers' Retirement System Plan and Trust

Staff Contact: Jaye Monter, Finance Director

Council Agenda Memo

From: Jaye Monter, Finance Director

Meeting: December 17, 2013

Subject: Consideration to Amend and Restate the City of Grand Island, Nebraska Police Officer's and Firefighter's Retirement System Plan and Trust

Item #'s: F-1 & F-2

Presenter(s): Jaye Monter, Finance Director, Greg Anderson, Vice President and Trust Officer, Wells Fargo and William Bradshaw, Attorney from Fitzgerald, Schorr, Barmettler and Brennan, P.C., L.L.O.

Background

Wells Fargo is the administrator of the City Of Grand Island's Police Officer's and Firefighter's Retirement System Plan and Trust. As administrators of this plan, Wells Fargo is charged with making sure the plans stay in compliance with all federal and state retirement plan laws. The plans are scheduled to be restated every five years pursuant to IRS Revenue Procedure 2007-44. A restatement must incorporate into the plan documents all changes in the federal tax and state retirement plan laws and regulations since the last restatement.

Discussion

Attached is a synopsis of the changes since the plans were last restated by Council with Ordinances 9195 and 9196 on October 28, 2008. The synopsis and plan document changes were prepared by Thomas McKeon, Attorney at law from Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O in Omaha. Adoption of these changes will insure required compliance of each plan.

A copy of both 120 page plan documents and both 23 page Adoption Agreements along with red-line versions is available at the City Clerk's office for review.

Alternatives

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve to amend and restate the Police Officer's and Firefighter's Retirement System Plan and Trust.

Sample Motion

Move to approve to amend and restate the Police Officer's and Firefighter's Retirement System Plan and Trust.

Municipal Retirement Plans 2013 Restatement

Synopsis of Changes

The IRS has placed all retirement plans on a staggered restatement schedule. Under the schedule, governmental plans were required to be restated to incorporate all amendments and changes in tax and other laws and related guidance, and if desired filed with the IRS for a determination letter, by January 31, 2009; and then every five years thereafter. In accordance with this schedule, the plan documents again have been restated to incorporate all amendments and changes in tax and other laws and related guidance, and if desired filed with the IRS for a determination letter, by January 31, 2014. Following is a synopsis of some of the primary changes to the restated basic plan document and accompanying adoption agreements since they were last restated.

1. Incorporate changes to tax laws, including the Pension Protection Act of 2006, Heroes Earnings Assistance and Relief Tax Act of 2008 (“HEART Act”) and the Worker, Retiree, and Employer Recovery Act of 2008 (“WRERA”) and IRS guidance.
2. Changes include:
 - Permissible retirement dates for distributions pursuant to federal law.
 - Reference revised qualified plan IRS correction procedure.
 - Federal law changes to applicable mortality table and interest rate for benefit calculations and limitations.
 - HEART Act of 2008 provisions regarding treatment of plan participants who die or become disabled while performing qualified military service.
 - Additional revisions regarding:
 - Benefit limitation pursuant to Internal Revenue Code section 415.
 - Expanded rollovers between plans pursuant to IRS guidance.
 - Domestic relations orders not disqualified by certain timing issues.
 - Specify basis for exemption of governmental plans from certain qualified plan requirements.
3. Update various plan provisions consistent with latest IRS guidance regarding desired language as found in IRS listings of required modifications and cumulative list.
4. Incorporate changes made by the Nebraska Legislature in 2012 to statutory provisions governing police retirement systems (LB 1082).
5. Other revisions to eliminate superseded provisions or integrate the foregoing changes into the adoption agreements and basic plan document.

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ORDINANCE NO. 9463

An ordinance of the Mayor and City Council of the City of Grand Island, Nebraska to amend and restate the City of Grand Island, Nebraska Police Officers' Retirement System Plan and Trust; to authorize further actions; and to provide for repeal of conflicting Ordinances, severability and the effective date hereof.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

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

SECTION 2. The Plan is required by applicable tax law to be amended and restated into a restated plan document incorporating prior amendments and changes to tax laws, regulations and other guidance, including the Pension Protection Act of 2006, Heroes, Earnings Assistance and Relief Tax Act of 2008, and Worker, Retiree, and Employer Recovery Act of 2008, and changes to the Police Retirement Plan Statutes. For this purpose, there has been presented to the City a proposed retirement plan and trust embodied in instruments entitled "Adoption Agreement" together with a "Basic Municipal Employees Plan and Trust Agreement" ("Basic Plan Document") as an integral part thereof (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.

Approved as to Form	▣ _____
December 13, 2013	▣ City Attorney

ORDINANCE NO. 9463 (Cont.)

SECTION 3. The City does hereby approve and adopt said Agreements as the amendment and restatement of the Plan, and 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 this 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 the City Administrator determines necessary or appropriate to obtain a favorable ruling or as otherwise required for the qualified status of the Plan.

SECTION 5. 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. 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,

ORDINANCE NO. 9463 (Cont.)

clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

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

Enacted: December 17, 2013.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk