



City of Grand Island

Tuesday, December 20, 2005

Council Session

Item G17

#2005-359 - Approving Amendment No. 3 to the Police and Firefighters Pension Plans

Staff Contact: David Springer

Council Agenda Memo

From: Dave Springer, Finance Director

Meeting: December 20, 2005

Subject: Approving Amendment No. 3 to Police and Firefighters Pension Plans

Item #'s: G-17

Presenter(s): Dave Springer, Finance Director

Background

The United States Congress passed the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), which changed the provisions of Federal law governing qualified retirement plans, including eliminating a plan's ability to distribute vested account balances of more than \$1,000 and not more than \$5,000 without the participant's express permission, and requiring that certain mandatory distributions be automatically rolled over to an individual retirement account (IRA) unless the participant makes an election to take cash or make a different rollover.

Discussion

Currently, if a participant left and failed to give directions regarding account balances not exceeding \$3,500, the Plan would simply make a lump sum payment of the entire balance directly to the Participant. Under EGTRRA, such lump sum payments will only be available for account balances that do not exceed \$1,000. If the Participant has more than \$3,500, the money will continue to stay in the Plan for the Participant's benefit. Balances between \$1,000 and \$3,500 will be rolled over into an IRA in the Participants name at Wells Fargo. The intent is to not subject the Participant to a taxable event. In order to be in compliance, the Plan needs to be amended before December 31.

Alternatives

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

1. Approve the Plan amendment

2. Disapprove the amendment

Recommendation

City Administration recommends that the Council approve the amendment to the Police and Firefighters pension plans.

Sample Motion

Approve Amendment No. 3 to the Police and Firefighters Pension plans.

LAW OFFICES

FITZGERALD, SCHORR, BARMETTLER & BRENNAN, P.C., L.L.O.

13220 CALIFORNIA STREET, SUITE 400
OMAHA, NEBRASKA 68154-5228
(402) 342-1000

facsimile: (402) 342-1025
e-mail: fitzlaw@fitzlaw.com
website: www.fitzlaw.com



ANDREW M. BATH
OF COUNSEL

WILLIAM J. BRENNAN
RETIRED

JAMES J. FITZGERALD, JR.
1903-1989

CHARLES A. SCHORR
1924-1998

December 12, 2005

*ALSO LICENSED TO PRACTICE IN IOWA

JOSEPH J. BARMETTLER
GREGORY B. MINTER
BRUCE D. VOSBURG
ROBERT T. CANNELLA
WILLIAM A. TINSTMAN
GERALD L. FRIEDRICHSEN
NICK R. TAYLOR*
MICHAEL D. MATEJKA
FRANK J. MIHULKA
MATTHEW F. HEFFRON*
THOMAS L. SALADINO
THOMAS G. McKEON
SUSAN J. SPAHN
THOMAS R. OSTDIEK
CARLA HEATHERSHAW RISCO*
ANDREW T. SCHLOSSER
CAMILLE R. HAWK
MATTHEW J. BOEVER
DUSTIN J. KESSLER

Ms. Tami Herald
HR Specialist
100 East 1st Street
PO Box 1968
Grand Island, Nebraska 68801

Re: *City of Grand Island's SPDs*

Dear Tami:

Enclosed please find documents relating to the Automatic Rollover Amendment for the City's Police and Firefighters' Retirement plans. This amendment is necessary for the plans to be in compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). There are two sets of documents enclosed – one for each of the plans – with each set containing three documents.

The first document is the Amendment itself. The effect of the amendment is that if a Participant whose account balance is between \$1,000 and \$3,500 leaves without providing direction to the Plan regarding what should be done with his or her account balance, the Plan will transfer the balance into an Individual Retirement Account with your IRA provider (whom I assume will be Wells Fargo). Prior to the amendment, if a Participant left and failed to give directions regarding account balances not exceeding \$3,500, the Plan would simply make a lump sum payment of the entire balance directly to the Participant. Under EGTRRA, such lump sum payments are now only available for account balances that do not exceed \$1,000. If a Participant leaves without providing the Plan any direction what to do with his or her account, and there is less than \$1,000 in his or her account, the Plan will continue to pay out the balance as a lump sum; if the Participant has more than \$3,500, the money will continue to stay in the Plan for the Participant's benefit. The Amendment affects only those balances between \$1,000 and \$3,500. And, of course, a Participant may, within the confines of the Plan, still give specific direction to the Plan regarding what should be done with his or her account.

Ms. Tami Herald
December 12, 2005
Page 2

The second document is an Ordinance (with a copy of the Amendment attached as "Exhibit A") adopting the Amendment. This should be on the agenda of the next City Council meeting as it needs to be adopted before December 31, 2005.

Once the City passes the Ordinance adopting the Amendment, the Plan will need to select a Provider for the Rollover IRAs and enter into a *Fiduciary-Provider Agreement* with the Provider. I understand that Wells Fargo has an Agreement that complies with this requirement, and Greg Anderson can provide you with the necessary information to complete the Notice document, which is the final document I have enclosed. Please note, passing the Ordinance and entering into the *Fiduciary-Provider Agreement* need to be completed by or before December 31st.

If you have any questions regarding the enclosed documents, please feel free to contact me.

Sincerely,



CARLA HEATHERSHAW RISKO
For the Firm

CHR:lsc
Enclosures

cc: Greg Anderson (letter only)

AMENDMENT NO. 3
MANDATORY DISTRIBUTION AMENDMENT
(Code Section 401(a)(31)(B))

Effective March 28, 2005 (or if later, the date that the Plan becomes subject to the automatic rollover requirements of § 401(a)(31)(B)), the City of Grand Island, Nebraska Firefighters' Retirement System Plan and Trust (the "Plan") is hereby amended as follows:

Notwithstanding any provision of the Plan to the contrary, in the event of a mandatory distribution greater than \$1,000 but less than \$3,500 that is made in accordance with the provisions of the Plan providing for an automatic distribution to a Participant without the Participant's consent, if the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a direct rollover (in accordance with the direct rollover provisions of the Plan) or to receive the distribution directly, then the Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator. The value of a Participant's interest in the Plan for such purpose shall include any rollover contributions (and earnings) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

IN WITNESS WHEREOF, this Amendment has been executed this _____, day of _____, 2005.

Name of Plan: CITY OF GRAND ISLAND, NEBRASKA FIREFIGHTERS' RETIREMENT SYSTEM PLAN AND TRUST
Name of Employer: City of Grand Island, Nebraska

By: _____

_____, _____
Printed Name Title

**CITY OF GRAND ISLAND, NEBRASKA FIREFIGHTERS' RETIREMENT
SYSTEM PLAN AND TRUST
NOTICE REGARDING AUTOMATIC ROLLOVER REQUIREMENTS**

***THIS NOTICE SUPPLEMENTS THE DISTRIBUTION FORMS PROVIDED TO YOU AND
SUPERCEDES ANY INCONSISTENT STATEMENT IN SUCH FORMS REGARDING PAYMENT
TO YOU IN A LUMP SUM IF YOU FAIL TO MAKE A DISTRIBUTION ELECTION***

As explained in the distribution forms you received from the City of Grand Island, Nebraska Firefighters' Retirement System Plan and Trust (the "Plan"), you may elect to receive a distribution from the Plan or to have this distribution rolled into an individual retirement account. However, due to a recent change in federal law, effective March 28, 2005, if you fail to elect either of these options and if your account balance under the Plan is in excess of \$1,000 but not more than \$3,500, the Plan is required to make a direct rollover of your distribution to an Automatic Rollover IRA.

The provider of the Automatic Rollover IRA will be _____
("the Provider"). You may contact the Provider for further information at any time by contacting:

Name: _____

Address: _____

Phone: _____

If you fail to make an election for your account within 60 days of receiving your distribution forms, the Plan will transfer your account to the Provider in accordance with Internal Revenue Code section 401(a)(31)(B) without contacting you further. The Provider will establish an Automatic Rollover IRA in your name. Such IRA shall be invested in products chosen by the Provider in a manner to preserve the principal of such account, provide a reasonable rate of return while preserving liquidity, and maintain the dollar value originally placed in the account; investment may be made into financial products or funds maintained by the Provider.

Fees may be assessed against your account for the continued maintenance of the account; provided, that, all fees and charges will not exceed fees charged to IRAs other than an Automatic Rollover IRA. Fees that may apply to an Automatic Rollover IRA include: _____

and shall be borne by _____

You may transfer the Automatic Rollover IRA funds at any time and at no cost to other investments or to another IRA or retirement plan that will accept such funds. For more information, please contact the Provider as indicated above.

AMENDMENT NO. 3
MANDATORY DISTRIBUTION AMENDMENT
(Code Section 401(a)(31)(B))

Effective March 28, 2005 (or if later, the date that the Plan becomes subject to the automatic rollover requirements of § 401(a)(31)(B)), the City of Grand Island, Nebraska Police Officers' Retirement System Plan and Trust (the "Plan") is hereby amended as follows:

Notwithstanding any provision of the Plan to the contrary, in the event of a mandatory distribution greater than \$1,000 but less than \$3,500 that is made in accordance with the provisions of the Plan providing for an automatic distribution to a Participant without the Participant's consent, if the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a direct rollover (in accordance with the direct rollover provisions of the Plan) or to receive the distribution directly, then the Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator. The value of a Participant's interest in the Plan for such purpose shall include any rollover contributions (and earnings) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

IN WITNESS WHEREOF, this Amendment has been executed this _____, day of _____, 2005.

Name of Plan: CITY OF GRAND ISLAND, NEBRASKA POLICE OFFICERS' RETIREMENT SYSTEM PLAN AND TRUST
Name of Employer: City of Grand Island, Nebraska

By: _____

Printed Name

Title

**CITY OF GRAND ISLAND, NEBRASKA POLICE OFFICERS' RETIREMENT
SYSTEM PLAN AND TRUST
NOTICE REGARDING AUTOMATIC ROLLOVER REQUIREMENTS**

***THIS NOTICE SUPPLEMENTS THE DISTRIBUTION FORMS PROVIDED TO YOU AND
SUPERCEDES ANY INCONSISTENT STATEMENT IN SUCH FORMS REGARDING PAYMENT
TO YOU IN A LUMP SUM IF YOU FAIL TO MAKE A DISTRIBUTION ELECTION***

As explained in the distribution forms you received from the City of Grand Island, Nebraska Police Officers' Retirement System Plan and Trust (the "Plan"), you may elect to receive a distribution from the Plan or to have this distribution rolled into an individual retirement account. However, due to a recent change in federal law, effective March 28, 2005, if you fail to elect either of these options and if your account balance under the Plan is in excess of \$1,000 but not more than \$3,500, the Plan is required to make a direct rollover of your distribution to an Automatic Rollover IRA.

The provider of the Automatic Rollover IRA will be _____
("the Provider"). You may contact the Provider for further information at any time by contacting:

Name: _____

Address: _____

Phone: _____

If you fail to make an election for your account within 60 days of receiving your distribution forms, the Plan will transfer your account to the Provider in accordance with Internal Revenue Code section 401(a)(31)(B) without contacting you further. The Provider will establish an Automatic Rollover IRA in your name. Such IRA shall be invested in products chosen by the Provider in a manner to preserve the principal of such account, provide a reasonable rate of return while preserving liquidity, and maintain the dollar value originally placed in the account; investment may be made into financial products or funds maintained by the Provider.

Fees may be assessed against your account for the continued maintenance of the account; provided, that, all fees and charges will not exceed fees charged to IRAs other than an Automatic Rollover IRA. Fees that may apply to an Automatic Rollover IRA include: _____

and shall be borne by _____

You may transfer the Automatic Rollover IRA funds at any time and at no cost to other investments or to another IRA or retirement plan that will accept such funds. For more information, please contact the Provider as indicated above.

RESOLUTION 2005-359

WHEREAS, the City of Grand Island maintains the City of Grand Island, Nebraska Firefighters' Retirement System Plan and Trust (the "Plan") to provide retirement benefits to its employees who may participate in the Plan upon meeting the eligibility requirements of the plan; and

WHEREAS, the City of Grand Island maintains the City of Grand Island, Nebraska Police Officers' Retirement System Plan and Trust (the "Plan") to provide retirement benefits to its employees who may participate in the Plan upon meeting the eligibility requirements of the plan; and

WHEREAS, the City, through its City Council, has the authority to amend the Plans under Plan Section 9.1; and

WHEREAS, the United States Congress passed the Economic Growth and Tax Relief Reconciliation Act of 2001, which changed the provisions of Federal law governing qualified retirement plans, including eliminating a plan's ability to distribute vested account balances of more than \$1,000 and not more than \$5,000 without the participant's express permission, and requiring that certain mandatory distributions be automatically rolled over to an individual retirement account unless the participant makes an election to take cash or make a different rollover; and

WHEREAS, the City of Grand Island desires to amend the above-mentioned Plans in a timely manner to comply with Federal law.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Amendment No. 3 to the Plans, in the form attached hereto as Exhibit "A" and Exhibit "B" and incorporated herein by this reference, is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute the approved amendment for the Plans and to take any and all other action on behalf of the City as is necessary or appropriate to carry out the actions approved in this Resolution and to maintain the qualified status of the Plan.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, December 20, 2005.

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
December 15, 2005	☐ City Attorney