

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
APRIL 3, 2007**

Subject:	Type:	Submitted By:
FIREFIGHTER DEFINED CONTRIBUTION PENSION PLAN AND TRUST	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	RITA M. RAMIREZ ASSISTANT CITY ADMINISTRATOR

SYNOPSIS

An ordinance has been prepared to adopt the Firefighter Defined Contribution Pension Plan and Trust.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval.

BACKGROUND

The addition of a paid Fire Chief position was approved in the current budget. The City Council has previously approved amendments to the Municipal Code and an updated job description in order to facilitate the hiring process. State Statute requires that pension plans for paid firefighters include specific provisions that do not apply to other City employees. Similarly, a separate pension plan is in place for the City's law enforcement personnel. The pension plan must be in place prior to the hiring of a Fire Chief.

A copy of the adoption agreement is included in the packet. The entire Plan and Trust Agreement 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 PROVIDE VEHICLES FOR PAID FIREFIGHTER RETIREMENT BENEFITS; TO ESTABLISH A FIREFIGHTERS RETIREMENT PLAN AND TRUST; TO APPOINT ICMA – RETIREMENT CORPORATION TO PROVIDE SERVICES FOR THE PLAN; TO APPOINT INVESTOR'S BANK AND TRUST COMPANY AS TRUSTEE OF THE PLAN; TO AUTHORIZE PAID FIREFIGHTER PARTICIPATION IN THE LA VISTA SUPPLEMENTAL 457 PLAN; TO AUTHORIZE THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE DOCUMENTS AND TAKE FURTHER ACTIONS; AND TO PROVIDE FOR SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1020 through and including 16-1042, the Mayor and City Council desire to establish a retirement plan for paid firefighters as may be hired from time to time by the City of La Vista. For this purpose, there has been prepared a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" to which is attached as an integral part thereof the "Basic Municipal Employees Plan and Trust Agreement" (together referred to herein as "Agreements"); which Agreements have been reviewed by legal counsel for the City and are presented at this meeting.

SECTION 2. Subject to acceptance by the Trustee, the City does hereby approve and adopt said Agreements as a retirement plan and trust agreement for employees of the City employed as paid firefighters, to be known as the "City of La Vista Firefighters Retirement Plan and Trust" ("Plan"), and hereby makes the designations and elections with respect to said Plan as indicated in said Agreements to be effective with respect to all contributions, service, benefits and rights accruing on or after the date that said Agreements are executed by the City and the Trustee.

SECTION 3. The Mayor is hereby authorized and directed to execute said Agreements on behalf of the City and to present the same to the Trustee for its written acceptance. Upon obtaining such written acceptance, the City Administrator is hereby authorized to cause said Agreements to be submitted, together with such supporting data as may be necessary, 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 the designations and elections under said Agreements which may be necessary, proper or desirable in order to obtain a favorable ruling, if the City Administrator determines that such a ruling shall be obtained.

SECTION 4. The current service provider for the City's retirement plans, ICMA – Retirement Corporation, is hereby appointed to provide or make arrangements for all investment, record keeping, administration and other services as necessary or appropriate for the Plan pursuant to the Administrative Services Agreement currently in effect between the City and ICMA. The City Administrator is hereby authorized and directed to prepare and execute any amendment to said Administrative Services Agreement or other documents as necessary or appropriate to provide for such services for the Plan.

SECTION 5. Investor's Bank and Trust Company is hereby appointed Trustee of the Plan and, upon the Trustee's acceptance of appointment, said Trustee is hereby authorized and directed to carry out the duties and responsibilities of trustee, subject to all applicable laws, rules, regulations, the Agreements and any other applicable documents.

SECTION 6. Paid firefighters of the City also shall be eligible to participate in the City of La Vista, Nebraska Supplemental 457 Plan along with other employees and elected officials of the City (with the exception of the City Administrator and Assistant City Administrator who participate in the La Vista City Administrator 457 Plan).

SECTION 7. The Mayor, City Clerk and other proper officers, officials or employees of the City are hereby authorized to take all further actions as are necessary or appropriate to carry out the actions approved in this Ordinance.

SECTION 8. 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 9. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 3RD DAY OF APRIL 2007.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ADOPTION AGREEMENT
CITY OF LAVISTA, NEBRASKA
FIREFIGHTERS RETIREMENT
PLAN AND TRUST
TO BE USED WITH
BASIC MUNICIPAL EMPLOYEES PLAN AND TRUST

THIS IS TO CERTIFY THAT:

The following resolutions were adopted by ordinance by the City of LaVista, by its City Council, at a meeting thereof duly called and held on the ____ day of _____, 2007:

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1020 through and including 16-1042, the Mayor and City Council desire to establish a retirement plan for paid firefighters as may be hired from time to time by the City of La Vista. For this purpose, there has been prepared a proposed retirement plan and trust embodied in an instrument entitled "Adoption Agreement" to which is attached as an integral part thereof the "Basic Municipal Employees Plan and Trust Agreement" (together referred to herein as "Agreements"); which Agreements have been reviewed by legal counsel for the City and are presented at this meeting.

SECTION 2. Subject to acceptance by the Trustee, the City does hereby approve and adopt said Agreements as a retirement plan and trust agreement for Employees of the City employed as paid firefighters, to be known as the "City of La Vista Firefighters Retirement Plan and Trust" ("Plan"), and hereby makes the designations and elections with respect to said Plan as indicated in said Agreements to be effective with respect to all contributions, service, benefits and rights accruing on or after the date that said Agreements are executed by the City and the Trustee.

SECTION 3. The Mayor is hereby authorized and directed to execute said Agreements on behalf of the City and to present the same to the Trustee for its written acceptance. Upon obtaining such written acceptance, the City Administrator is hereby authorized to cause said Agreements to be submitted, together with such supporting data as may be necessary, 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 the designations and elections under said Agreements which may be necessary, proper or desirable in order to obtain a favorable ruling, if the City Administrator determines that such a ruling shall be obtained.

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

A. ESTABLISHMENT, EFFECTIVE DATE, AND CITY DATA:

- (1) X establishes on _____, 2007, a Retirement Plan and Trust to be known as the City of LaVista Firefighters Retirement Plan and Trust ("Plan") effective _____, ____ (Effective Date).
- OR
- (2) _____ amends, restates and continues the _____ Plan and Trust ("Plan"), originally established on _____, _____. This amendment and restatement is effective _____, _____. (Supplemental Effective Date).
- (3) City's Address:
Street: 8116 Park View Boulevard
City, State, Zip Code: LaVista, Nebraska 68128
Attention: City Clerk
Telephone: (402)331-4343
- (4) Retirement Committee: Such individual as appointed pursuant to Reg. of NRS §16-1035.
- (5) Plan Administrator: Retirement or Pension Committee.
- (6) City's Taxpayer Identification No.: 47-6050031
- (7) City's Fiscal Year: October 1st – September 30th
- (8) The Plan serial number ("PN") assigned to this Plan by the City for reporting and disclosure purposes is: _____
- (9) The last day of the Plan Year shall be December 31st and the Annual Valuation Date shall be December 31st [Sections 1.1.26 and 1.1.4]
- (10) The last day of the Plan's Limitation Year shall be December 31st [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(1) is elected in which case this provision does not apply.) [Section 6.4.1]

 (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 ☒ 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) Compensation as that term is defined in Section 3.6.9(b) of the Plan, or

☐ (c) 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 C(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) Compensation as that term is defined in Section 3.6.9(b) of the Plan;
- ___ (c) Salary as that term is defined in Section 1.1.35(a) of the Plan (Police);
- X (d) Salary as that term is defined in Section 1.1.35(b) of the Plan (Fire); or
- ___ (e) 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

- ___ shall include (Police)
- X shall not include (Fire)

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. (Notwithstanding the foregoing, limited to pick-up contributions and deferrals under Sections 125 or 457 for police and fire plans.)

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

- ___ (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

☒ 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

☐ are not permitted

(2) Eligible rollover distribution [Section 7.12]

☐ must

☒ must 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 1.1.42] (Not Applicable for Police and Fire Plans).

___ Yes ___ No Plan Years prior to the Effective Date of this Plan or a predecessor Plan. [Yes, 1.1.43(c)(i); No, Section 1.1.43(c)(ii)]

___ 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 1.1.43]

- (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) 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 (Police and Fire)

 X Employer Accounts

The City agrees to indemnify the Trustee and hold it harmless for the Trustee's actions taken pursuant to such direction.

(b) Separate Investment Accounts (Police)

The City

___ may

___ may not

direct the establishment of separate investment accounts for each participating police officer to allow each police officer 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) City Investment Direction

(a) Subject to Section 10.11.1, the

___ City

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 defined contribution 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 to the maximum permissible amount, and will properly reduce any excess amounts, in a manner that precludes City discretion. (Use additional continuation pages if alternative limitation rules are to be specified.)

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 1.1.42], Eligibility Service [Section 1.1.9] and minimum annual service requirement to share in the City contribution made for a Plan Year [Section 3.2], 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.

☒ (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)
- ☒ (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).

[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]

- ___ (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. Unless the requirements of Code section 411(d)(6), as applicable, are met, the City may not eliminate optional forms of payment for benefits which have accrued prior to the date of Plan amendment).

- X (1) a single sum

- X (2) straight life annuity
- X (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) 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. 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 and incorporated herein by this reference as amended from time to time.

Q. INITIAL DEPOSIT

In the case of establishment of a new Plan, the City hereby delivers to the Trustee a sum determined to be a appropriate amount as its initial deposit to establish the Trust, and receipt of the stated sum is hereby acknowledged by the Trustee.

R. 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 this _____ day of _____, 2007.

THE CITY OF LA VISTA, NEBRASKA

By: _____
City Clerk

NOTICE TO ADOPTING CITY

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

Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O. will inform Adopting Cities of any amendments to the Plan or of discontinuance or abandonment of the Plan.

You may contact a Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O. representative at 13220 California Street, Suite 400 Omaha, NE 68154-5228, or by calling (402)342-1000.

In order to obtain reliance with respect to Plan qualification, the City must apply to the Key District Office for a determination letter.

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

CITY OF LAVISTA, NEBRASKA, Employer

By: _____

Printed Name

Title

_____, Trustee

By: _____

Printed Name

Title