

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
APRIL 18, 2023 AGENDA**

Subject:	Type:	Submitted By:
AMEND – FIREFIGHTERS RETIREMENT PLAN AND TRUST – FREEZE & TERMINATE	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	WENDY LOWERY HUMAN RESOURCES DIRECTOR

SYNOPSIS

An ordinance has been prepared to approve an amendment to freeze and terminate the City of La Vista Firefighters Retirement Plan and Trust.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The Firefighters Retirement Plan and Trust was established in 2007. Currently the city of Papillion employs all firefighters and provides fire protection for the City. The City does not employ any fulltime firefighters that would be eligible to participate in the plan. No plan assets or liabilities remain in the plan.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND, FREEZE AND TERMINATE THE CITY OF LA VISTA FIREFIGHTERS RETIREMENT 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 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 City of La Vista maintains the City of La Vista Firefighters Retirement Plan and Trust, established in 2007 and 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 Mayor and City Council are authorized and desire to amend and terminate the Plan. An amendment, titled "AMENDMENT (2023)", ("Amendment") is presented with this Ordinance for such purposes.

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment, effective on the date(s) set forth therein.

SECTION 4. The Mayor is authorized to execute said Amendment 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 Amendment 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 Amendment and other Plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or maintain the qualified status of the Plan.

SECTION 5. All ordinances and parts of ordinances as previously enacted to the extent 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, 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.

PASSED AND APPROVED THIS 18TH DAY OF APRIL 2023.

CITY OF LA VISTA

Kim J. Thomas, Acting Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**CITY OF LA VISTA
FIREFIGHTERS RETIREMENT PLAN AND TRUST
AMENDMENT (2023)**

**ARTICLE I
GENERAL**

- 1.1 **Plan.** Pursuant to Nebraska Statutes, Sections 16-1020 through and including 16-1042, the City of La Vista, Nebraska (“City” or “Employer”) maintains the City of La Vista Firefighters Retirement Plan and Trust, established in 2007 and 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”).
- 1.2 **Amendment.** The Mayor and City Council pursuant to Section 9 of the basic plan document are authorized to amend and terminate the Plan. The City of Papillion currently employs all firefighters and provides all fire protection within the City pursuant to an interlocal agreement of the Cities of La Vista and Papillion, and Papillion Rural Fire Protection District. The City does not employ (and for the foreseeable future does not anticipate employing) any paid firefighters who would be eligible to participate in the Plan. All participant Accounts and accrued benefits have been distributed from the Plan, and no Plan assets or liabilities remain. The Mayor and City Council desire to amend, freeze and terminate the Plan as provided in this Amendment.
- 1.3 **Effective Date.** The Mayor and City Council by separate Ordinance (“Companion Ordinance”) are adopting a separate amendment to amend the Plan before it terminates for changes in applicable laws or regulations. Except as otherwise expressly provided in this Amendment, the provisions of this Amendment shall be effective on the day immediately after the Companion Ordinance is effective (“Effective Date of Plan Termination”).
- 1.4 **Superseding of inconsistent provisions.** Provisions of this Amendment apply notwithstanding any provisions of the Plan to the contrary. To further specify and not limit the foregoing sentence, this Amendment supersedes provisions of the Plan that are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning as provided in this Amendment.
- 1.5 **Numbering.** Except as otherwise provided in this Amendment, any use of “Article”, “Section” or similar language in this Amendment is used for organizing the Amendment and not to reference particular articles, sections, or parts of the Plan.

**ARTICLE II
FREEZE, CONTRIBUTIONS, AND DISTRIBUTION**

- 2.1 **Freeze.** Effective immediately upon execution of this Amendment: (i) the Plan is frozen, (ii) no additional service or compensation will accrue or be credited under the Plan for any purpose, (iii) no additional employees shall become eligible, enter or participate in the Plan, (iv) accrued benefits under the Plan, if any, shall be frozen, such that no additional contributions shall be made or benefits accrued for any purpose, and (iv) any frozen accrued benefits shall be paid in accordance with the terms of the Plan. To clarify for purposes of the foregoing sentence, the City does not employ (and for the foreseeable future does not anticipate employing) any sworn firefighters who would become eligible under the Plan. All participant accounts and accrued benefits previously were distributed, and no Plan assets or liabilities remain.
- 2.2 **Termination.** The Plan is terminated as of the Effective Date of Plan Termination.
- 2.3 **Cessation of contributions.** The Plan has no participants, and no additional participants shall be or become eligible under or enter the Plan. Contributions are frozen pursuant to section 2.1 above, and no additional contributions will be made to the Plan.

- 2.4 **Distributions.** All participant accounts were previously distributed. The Plan has no assets. No further distributions shall be made or owing after the Effective Date of Plan Termination; though if any distributions remained to be made, they would be paid in accordance with the terms of the Plan.
- 2.5 **Plan Year.** The Plan Administrator will administer the Plan as though the Plan Year that includes the Effective Date of Plan Termination ends on the Effective Date of Plan Termination. This provision applies for all plan administration purposes, including the application of the limitation year under Code §415, and any applicable allocation conditions imposed by the Plan. Top heavy requirements do not apply to the Plan because it is a governmental plan.

This Amendment is hereby executed this 18th day of April 2023.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Kim J. Thomas, Acting Mayor