

PENSION BOARD MEMORANDUM
#10-01

May 20, 2010

TO: Honorable Mayor Joyce Downing and City Council Members

FROM: General Employees' Pension Board
Police Pension Board

SUBJECT: Fourth Amendment to the City of Northglenn General Employees' Pension Plan and Trust Agreement and Third Amendment to the City of Northglenn Police Money Purchase Pension Plan

RECOMMENDATION:

The General Employees' Pension Board and the Police Pension Board are requesting approval of the attached Resolution, which, if approved, would authorize the Mayor to execute two amendments to the amended and restated City of Northglenn General Employees' Pension Plan and Trust Agreement and the amended and restated City of Northglenn Police Money Purchase Pension Plan.

BACKGROUND:

In January, 2010, at the request of several employees, the General Employees' Pension Board began discussions about offering loans to participants in the program. The Police Pension Board also began discussing this option during the first quarter of 2010. Several regular meetings and special meetings were held over the last few months between both boards and financial and legal advisors retained by both boards about the details of a loan program.

The General Employees Pension Board conducted an online poll and 84% of employees were favorable to the inclusion of a loan program. The Police Pension Board conducted a vote and received a 98% favorable response to the same question. This led both Boards to begin drafting amendments and resolving the details with our financial advisors and plan administrators at Charles Schwab. Both Boards have decided to advance these amendments for discussion by the City Council in a study session and at a regular meeting in May, 2010.

The information attached to this memorandum includes a copy of the proposed amendments to each plan. The following is a list of pros and cons with the loan program:

Pros

- Applying is simple, online through Schwab, and would not require Pension Board approval (HR would need to know for the revised payroll deductions)
- All principal and interest paid goes back into the employee's individual account and the loan is shown as an investment option for the participant's funds
- Interest rates are competitive (prime + 1%)
- The program does not require a credit check and loans are not reported to the credit bureaus (loans are limited to 50% of the participant's vested balance, so the entire loan amount is already designated as the employee's funds)
- An employee with an outstanding loan would have their net take home pay reduced by the amount of their loan payments, guaranteeing repayment as long as the employee remains with the City

- Employees would be able to borrow small amounts of money for major expenditures
- All IRS Guidelines for pension loans are adhered to with this program

Cons

- Interest paid is not tax deductible (like a home equity loan may be)
- Term is relatively short (5 years) compared to education loans or mortgages. However, a 15-year loan option will be available for home purchases.
- Once principal is taken out of an account, the employee loses any appreciation on the value of the loan, from other (i.e. stock market) investments while the loan is being repaid.
- If an employee leaves the City, the entire outstanding balance would be due within 90-180 days or they would face a 10% penalty plus additional income to claim on their tax return.

Due to the overwhelming support from the employees to offer such a program, extensive discussion amongst Board members, and the technical advice from legal and financial advisors, both Boards recommend these amendments be approved.

BUDGET IMPLICATION:

There is no budget impact to the City of Northglenn and all expenses related to the preparation and implementation of the amendments have been or will be paid by the respective Pension Boards. If individual loans are approved for participants, there will be no impact to the City of Northglenn or the City's share of individual, non-vested employee pension accounts. Any fees associated with the loans are paid by the individual participant requesting the loan.

STAFF REFERENCE:

If Council members have any questions they may contact Doug Pullen (General Employees' Pension Board Chairman) at 303-450-4000 or dpullen@northglenn.org or Jim May (Police Money Purchase Pension Board Chairman) at 303-450-8967 or jmay@northglenn.org

ATTACHMENTS:

Fourth Amendment to the Amended and Restated City of Northglenn General Employees' Pension Plan and Trust Agreement

Third Amendment to the Amended and Restated City of Northglenn Police Money Purchase Pension Plan

CR-XX – (Resolutions to approve the amendments)

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-88
Series of 2010

Series of 2010

A RESOLUTION ADOPTING THE THIRD AMENDMENT TO THE AMENDED AND RESTATED CITY OF NORTHGLENN POLICE MONEY PURCHASE PENSION PLAN

WHEREAS, the City Council of the City of Northglenn adopted the Amended and Restated City of Northglenn Police Money Purchase Pension Plan (the "Police Plan") by adoption of Ordinance No. 1378, Series of 2004, as amended by the First Amendment thereto by Ordinance No. 1505, Series of 2007, and the Second Amendment thereto by Ordinance No. 1538, Series of 2009;

WHEREAS, the Second Amendment authorized future amendments to be effectuated by Resolution; and

WHEREAS, the City deems it desirable to make the changes set forth in the attached Amendment.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Police Plan is hereby amended, effective immediately, as more particularly set forth in the Third Amendment, attached hereto as **Exhibit A**, and incorporated herein by this reference.

DATED at Northglenn, Colorado, this ____ day of _____, 2010.

SUSAN CLYNE
Mayor Pro Tem

ATTEST:

APPROVED AS TO FORM:

JOHANNA SMALL, CMC
City Clerk

COREY Y. HOFFMANN
City Attorney

**THIRD AMENDMENT
TO THE
AMENDED AND RESTATED
CITY OF NORTHGLENN POLICE MONEY PURCHASE PENSION PLAN**

WHEREAS, the City Council of the City of Northglenn by Ordinance No. 1378, Series of 2004, adopted the amended and restated City of Northglenn Police Money Purchase Pension Plan (the "Plan"), effective January 1, 2004, as amended by the First Amendment thereto by Ordinance No. 1505, Series of 2007, effective January 1, 2008, and by the Second Amendment thereto by Ordinance No. 1538, Series of 2009, effective January 1, 2008; and

WHEREAS, the City of Northglenn deems it desirable to further amend the Plan to provide that Participants in the Plan may take loans from their accounts, in accordance with certain limitations including those limitations imposed by the Internal Revenue Code.

WHEREAS, pursuant to § 11.1 of the Plan, the City of Northglenn has the authority to amend the Plan with the consent of at least sixty-five percent (65%) of the total votes cast by actively-employed eligible Employees and all former Employees who are entitled to a benefit from the Plan; and

NOW THEREFORE, the Plan is hereby amended, effective _____, 2010, as follows:

1. A new Section 6.10, Participant Loans, shall be added to the Plan, to read in its entirety as follows:

6.10 Participant Loans. The Employer and the Retirement Board authorize Participants to take loans from their Aggregate Accounts. Any such loan shall be made at the request of a Participant and shall be subject to the requirements set forth in this Section.

(a) Upon the request of a Participant, the Retirement Board may authorize a loan to such Participant from his or her Aggregate Accounts as of the Valuation Date coinciding with or immediately preceding the date of the loan. Such loans shall be made available to all Participants on a reasonably equivalent basis. A Participant may not have more than one loan outstanding at any time.

(b) Subject to such other rules and regulations as may from time to time be promulgated by the Retirement Board, the maximum amount of any loan to a Participant shall not exceed fifty percent (50%) of the balance of the Participant's vested Aggregate Accounts on the date the loan request is approved; provided, however, that the amount of such loan shall not exceed \$50,000 minus the balance of any outstanding loan(s) of the Participant from any other qualified plan maintained by the Employer on the date the loan request is approved. The Retirement Board reserves the right to charge a reasonable fee to cover the

administrative costs of processing any loans, such fee to be added to the amount of the loan and repaid over the term of the loan.

(c) Loans shall be made on such terms as the Retirement Board may prescribe, provided that any such loan shall be evidenced by a note, shall bear a rate of interest on the unpaid principal thereof at the rate in effect on the date the loan request is approved and shall be secured by the Participant's Aggregate Accounts. The interest rate shall be the prime lending rate (as published in the Wall Street Journal's bank survey on the date the loan request is approved) plus one percent (*i.e.* Prime Rate +1%).

(d) Loans shall be repaid by the Participant through payroll deductions or any other method approved by the Retirement Board that requires level amortization of principal and interest and repayments not less frequently than quarterly. Loans shall be repaid over a period not more than five (5) years, or fifteen (15) years for loans related to the purchase of a Participant's primary residence. A Participant may elect to prepay in full the entire outstanding principal on his loan without a prepayment penalty.

(e) Loans shall be made first from the Participant's Employee Contribution Account, then from his Employer Contribution Account, and then from his Rollover Account, and shall be held for the benefit of the Participant. In the event of a Participant's termination of employment, the unpaid balance of any loan, including any unpaid interest, shall be due and payable in full by no later than the last day of the quarter following the quarter in which the Participant's employment terminates. If a terminated Participant's loan is not paid in full by such date, the unpaid balance of the loan shall, as soon as administratively practicable, be charged against the Participant's Aggregate Accounts in the following order: first against the Participant's Employee Contribution Account, then against the Participant's Employer Contribution Account, and then against the Participant's Rollover Account.

(f) Notwithstanding any other provision of this Section, a Participant loan made pursuant to this Section is not in default if a Participant fails to make one or more loan repayments, provided that any such delinquency is cured by no later than the last day of the quarter following the quarter in which the delinquency occurs. Loan repayment delinquencies that are not cured within such timeframe shall be in default. Once the loan is in default, it shall become immediately due and payable. The Retirement Board may take any action it considers appropriate to collect the unpaid balance and accrued interest of the loan in default. Until a loan in default is satisfied, it shall continue to bear interest at the rate provided in the note plus additional interest of two percent (2%) per annum.

(g) Notwithstanding any provision of this Section 6.10 to the contrary, loans shall be administered with respect to periods of qualified military service of

Participants in accordance with Code § 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

(h) Loans shall be administered with respect to Participants' authorized periods of unpaid leave (including unpaid leave taken pursuant to the FMLA) in accordance with Code § 72(p). Interest payments shall be suspended during periods of authorized unpaid leave, and shall be added to the principal outstanding of the loan. Upon a Participant's return from authorized unpaid leave, the Participant's loan payments shall be recalculated over the term of the loan.

2. A new paragraph (c) is added to Section 8.3, Participant Direction of Investment, to read in its entirety as follows:

(c) The Retirement Board will treat a Plan loan made to a Participant under Section 6.10 as part of the Participant's direction of investment under this Section 8.3. Loans shall be deemed made pro rata from the separate investment funds in which such Participant's Aggregate Accounts are invested. The borrowing Participant's Aggregate Accounts shall bear any expense or loss incurred in connection with the loan. Loan principal and interest payments shall be allocated among the investment funds in the Participant's Aggregate Accounts in accordance with the Participant's direction of investment pursuant to this Section 8.3.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2010.

THE CITY OF NORTHGLENN

By: _____

Its: _____