




GENERAL EMPLOYEE PENSION BOARD
MEMORANDUM #2013 – 01

DATE: April 8, 2013
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: David Willett, Acting City Manager 
Jason Loveland, Director of Finance 
General Employees Pension Plan Board 
SUBJECT: CR-38 First Amendment to the Amended and Restated City of Northglenn General Employees' Pension Plan and Trust Agreement

BACKGROUND

In order to ensure participants are receiving the highest quality service, it is the fiduciary responsibility of the pension boards to periodically assess the level of our service providers' performance. In February 2012, the General and Police employees' pension boards began the process of reviewing and comparing the performance, cost and available services of our then current plan record keeper, Charles Schwab, with that of other plan record keepers. The review process was extensive and included the use of a questionnaire, references of clients both locally and nationally, and oral interviews with both boards. The review was completed with assistance from Strategic Capital Advisors, Inc.

After completing the review, the boards unanimously decided to contract ICMA-RC to provide administration, participant education and record keeping functions related to our pension plans. As we progressed through the transition process, we found that neither the General nor Police plan matched the language necessary in ICMA-RC's loan provisions.

As the loan provision language between our current plans and ICMA-RC's is not the same, participants are unable to utilize the on-line loan tools. For an interim solution, participants may request loan forms over the phone and return them by mail. ICMA-RC then processes the loan by hand to accommodate our loan provisions. However, this solution increases the possibility for error. In order to allow plan participants to apply for loans on-line, both plans' loan provisions will require minor modifications. The attached documents are in redline format to display the exact changes that would be necessary to match our loan provisions with ICMA-RC's loan provisions without modifying the intent of the loan program.

The proposed First Amendment to the 2012 Amended and Restated Plan incorporates changes to the Plan's loan provisions which are necessary to accommodate ICMA's administrative system, and which the Retirement Board finds are reasonable and acceptable. The changes are:

- 1) (Paragraph 6.10(c)) The interest rate on participant loans would be reduced from (prime + 1%) to (prime + .5%).
- 2) (Paragraph 6.10(e)) To ensure compliance with Internal Revenue Code §72(p)(2)(A) which allows a participant to receive a nontaxable loan up to a maximum of 50% of his vested accrued benefit, this provision will state a participant's loan amount will be distributed pro rata from his or her vested account instead of drawing down from specified accounts.

- 3) (Paragraph 6.10(f)) Charles Schwab provisions regarding the repayment of loan balances at separation of service would be removed, as these provisions actually allowed a loan balance to become delinquent and thus subject to early withdrawal penalties. The language will change to make clear that when a Participant with a loan terminates employment, the loan becomes due and payable, and the Participant must arrange to pay off the loan or offset the loan from his or her account no later than the last day of the next calendar quarter.
- 4) (Paragraph 6.10(i) & 6.10(j)) Provides that existing loans can be re-amortized (*i.e.* modified to reset the interest rate), but that the term of the loan must remain no more than 5 years (15 years for principal residence loans) from the date of the original loan.
- 5) (Paragraph 6.10(k)) Clarifies that upon the death of a Participant with a loan, the loan will be offset and the beneficiaries cannot keep the loan in place by making payments.

BUDGET/TIME IMPLICATIONS

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.

RECOMMENDATION

Attached to this memorandum is a Resolution that, if approved, would authorize the Mayor to execute the attached amendments to the Amended and Restated City of Northglenn General Employees' Pension Plan and Trust Agreement. Staff recommends approval of this resolution.

STAFF REFERENCE

Pam Acre, General Employees Pension Board Chairperson
Joy Fulton, Plan Administrator

pacre@northglenn.org or 303-450-8792
jfulton@northglenn.org or 303-450-8963

ATTACHMENTS:

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

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-38
Series of 2013

Series of 2013

A RESOLUTION ADOPTING THE FIRST AMENDMENT TO THE AMENDED AND RESTATED CITY OF NORTHGLENN GENERAL EMPLOYEES' PENSION PLAN AND TRUST AGREEMENT

WHEREAS, the City Council of the City of Northglenn by Resolution No. 12-118, Series of 2012, adopted the Amended and Restated City of Northglenn General Employees' Pension Plan and Trust Agreement (the "Plan"), effective January 1, 2012; and

WHEREAS, the City of Northglenn desires to further amend the Plan to accommodate the loan guidelines and procedures of ICMA-RC, the Plan's third-party administrator.

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

Section 1. The General Employees' Pension Plan and Trust Agreement is hereby amended, as more particularly set forth in the First Amendment, attached hereto as **Exhibit A** and incorporated herein by this reference, to be effective January 1, 2013.

DATED at Northglenn, Colorado, this ____ day of _____, 2013.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

**FIRST AMENDMENT
TO THE
AMENDED AND RESTATED
CITY OF NORTHGLENN GENERAL EMPLOYEES' PENSION PLAN
AND TRUST AGREEMENT**

WHEREAS, the City Council of the City of Northglenn by Resolution No. 118, Series of 2012, adopted the Amended and Restated City of Northglenn General Employees' Pension Plan and Trust Agreement (the "Plan"), effective January 1, 2012; and

WHEREAS, the City of Northglenn deems it desirable to further amend the Plan to accommodate the loan guidelines and procedures of ICMA-RC, the Plan's third-party-administrator; and

WHEREAS, pursuant to § 11.1 of the Plan, the City of Northglenn has the authority to amend the Plan.

NOW THEREFORE, the Plan is hereby amended, effective January 1, 2013, as follows:

1. Plan Section 6.10, Participant Loans, shall be amended 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- and to the guidelines and procedures of the Plan's third-party-administrator.

(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 half of one percent (*i.e.* Prime Rate ~~++~~.5%).

(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~~pro-rata from the Participant's Employee Contribution Account, then from his Employer Contribution Account, and then from his Rollover AccountAccounts, and shall be held for the benefit of the Participant.

~~(f) In the event of a Participant's termination of employment separation from service, 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 upon 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. separation from service.~~

(fg) 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.

(gh) 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) and the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act").

(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~~ reamortized over the term of the loan.

(j) Any outstanding loan may be reamortized, but the term of a loan may not be extended beyond the date which is five (5) years from the date the loan was originally made (or fifteen (15) years for a loan to acquire a principal residence).

(k) In the event of the death of a Participant, any outstanding loan balance will be deducted from the Participant's account prior to distribution to Beneficiaries, subject to applicable income taxation rules.

IN WITNESS WHEREOF, the City of Northglenn hereby adopts this amendment on this _____ day of _____, 2013.

THE CITY OF NORTHGLENN

By: _____

Its: _____