
ARTICLE 2-64 Employees' ~~Pension~~Retirement Plan and Trust Agreement

~~Division 1. Name and Purpose of Plan and Trust~~

Sec. 2-64-10. Title and intent.

The City does hereby restate its qualified deferred money purchase ~~pension~~retirement plan known as the City of Brighton Employees' ~~Pension~~Retirement Plan. The plan is created for the exclusive benefit of the City's eligible employees who qualify as participants and their beneficiaries. The plan is intended to qualify under Section 401(A) of the Internal Revenue Code, the trust created pursuant to the plan is intended to be exempt under Section 501(A) of such Code, and all provisions of this plan shall be constructed in accordance with this intention.

~~Division 2. Contributions by City, State and Participants~~

Sec. 2-64-50. Determination of contribution by City.

The City shall contribute and pay into the trust fund monthly, or more frequently as the City may determine, to the credit of each employee's account, an amount equal to at least nine percent (9%) of the employee's compensation, or such greater amount as established by the City Manager and appropriated by City Council in the annual budget process.

Sec. 2-64-60. Time and method of payment of contribution by City.

The contribution of the City for any month shall be paid in cash to the trustee within ten business (10) days following the end of the pay date.

Sec. 2-64-70. Contributions by participants.

- (a) Mandatory contributions. Each employee must contribute to the trust fund at least nine percent (9%) of ~~his or her~~their compensation for each month and such may be increased by City Council resolution but may not exceed the City's contribution. Each regular full-time and part-time employee of the City who is eligible to participate in this plan, as a condition to ~~his or her~~their employment, shall be deemed to have authorized the City to make a payroll deduction of such amount from each ~~of his or her~~ paychecks and to transmit such amount directly to the trustee.
- (b) Voluntary contributions. In addition to the mandatory contributions required in Subparagraph (a), each participant may contribute to the trust fund on a voluntary basis such amount as he or she may elect, subject to the regulations and restrictions in the plan. No participant shall have any obligation to make any voluntary contribution.
- (c) The City shall pay all amounts contributed by participants to the trustee as soon as is reasonably convenient and in no event less often than monthly.

~~Division 3. Determination and Vesting of Participants' Interests~~

~~Sec. 2-64-130. Vesting upon termination of plan or discontinuance of contributions.~~

~~Notwithstanding the provisions of Sections 2-64-110 and 2-64-120, upon the termination of the plan or upon the complete discontinuance of contributions under the plan to the trust, the interests of all participants shall become fully and completely vested for all purposes.~~

~~Division 4. Retirement Date; Designation of Beneficiary~~

Sec. 2-64-140. Retirement age.

The normal retirement age for each participant shall be as defined in the retirement plan sixty-five (65), and on the last day of the month in which his or her seventieth birthday occurs, he or she may retire. Until actual retirement, a participant shall continue to participate in the plan.

~~Division 5. Distribution From Trust Fund~~

~~Division 6. Administration Board~~

Sec. 2-64-260. Appointment.

The ~~Administration Retirement~~ Board shall consist of five (5) members; one (1) shall be the currently acting ~~City Treasurer~~ Finance Director, one (1) shall be appointed by the City Manager to serve at his or her pleasure, and a minimum of three (3) and up to five (5) shall be participants elected by the participating employees. The three (3) ~~to five (5) to be elected~~ shall be elected for three-year staggered terms, with terms as set forth in the bylaws ~~the term of one (1) such member expiring in December of each year. The procedure to be followed in initially electing such members shall be established by the City Treasurer.~~ After the first year, the election procedures shall be established by the Board and set forth in their bylaws. The Human Resources Director shall attend Retirement Board meetings and act as the Plan Administrator, carrying out the direction of the Board and the duties described in the plan for the Plan Administrator.

Sec. 2-64-270. Duties and powers.

- (a) The Board shall be charged with the administration of this plan and trust and shall decide all questions arising in the administration, interpretation and application of the plan and trust agreement, including all questions relating to eligibility, vesting and distribution. The decisions of the Board shall be conclusive and binding on all parties.
- (b) The Board shall, from time to time, direct the trustee concerning the payments to be made out of the trust fund pursuant to this plan. The Board shall also have the power to direct the trustee with respect to all investments and reinvestments of the trust fund, and shall have such other powers respecting the administration of the trust fund as may be conferred upon it hereunder. The Board may employ for the trust fund an investment advisor and may rely on such advisor's recommendation with respect to the investment of all or a portion of the trust fund. If the Board shall employ an investment advisor, it shall execute any letters or agreements necessary for the employment of such advisor, or it may direct the trustee to execute any such letters or agreement. The fees of such investment advisor shall be paid from the trust fund as an expense of the trust. ~~The trustee shall be fully protected from any action of such investment advisor and~~

~~shall not be liable to any person or organization for any investments made by such advisor or for any acts or omissions made upon the direction or recommendation of such advisor.~~

- (c) ~~The Board shall have the power to direct the trustee to enter into such contracts as are determined by the Board for the investment of the trust funds, and any such contract shall then become a part of this plan and trust and all other provisions of this plan and trust and particularly the provisions of Division 5 relating to the allocation of earnings and losses. The provisions of Division 9, relating to the trustee, shall be construed accordingly. The Board shall have the further power to direct the trustee to terminate such contract at any time subject to the provisions of such contract.~~

Sec. 2-64-280. Organization and operation.

The Board may adopt such procedures as it deems necessary for the conduct of its affairs, appoint one (1) of its own members chair ~~man~~ person, and appoint a secretary or other agents, none of whom need be a member of the Board, but any of whom may be, but need not be, an officer or employee of the City. It may delegate to any agent such duties and powers, both ministerial and discretionary, as it deems appropriate, excepting only that all matters involving investment of funds, interpretation of the plan and settlement of disputes shall be determined by the Board. Any determination of the Board shall be made by a majority of the Board at a meeting thereof ~~, or without a meeting by a resolution or memorandum signed by all members,~~ and shall be final and conclusive on the City, the trustee, all participants and beneficiaries claiming any rights hereunder, and as to all third parties dealing with the Board or with the trustee. All notices, directions, information and other communications from the Board to the trustee shall be in writing.

Sec. 2-64-310. Records.

The Board shall keep track of all of its proceedings and shall keep or cause to be kept all such books of account, records and other data as may be necessary or advisable in its judgment for the administration of this plan and trust and properly to reflect the affairs thereof, and to determine the amount of vested and/or forfeitable interests of the respective participants in the trust fund, and the amount of all benefits hereunder. ~~As a part thereof, it shall maintain or cause to be maintained separate accounts for each participant as provided for in Section 2-64-100(c).~~ Any person dealing with the Board may rely on, and shall incur no liability in relying on, a decision voted upon by the Board and recorded in Board minutes ~~certificate or memorandum in writing signed by the secretary of the Board or by a majority of the members of the Board~~ as evidence of any action taken or resolution adopted by the Board.

Sec. 2-64-340. Authorization of loans to participants.

- (a) ~~Availability of loans. The City may permit participant loans at its option which shall be communicated to participants in writing if loans are permitted. Any such loan shall be made at the request of the participant and shall be subject to the requirements set forth in the qualified deferred money purchase pension/retirement plan loan guidelines. To the extent loans are made available, such loans shall be available to all participants on a reasonably equivalent and nondiscriminatory basis.~~
- (b) ~~Limitations on amount of loans. Any loan, when combined with the principal balance due on all other loans made to the participant by any retirement plan maintained by the employer, shall not exceed the lesser of fifty thousand dollars (\$50,000.00), or fifty percent (50%) of such participant's vested account balance. Notwithstanding the foregoing, any participant shall be permitted to borrow from his or her vested interest~~

~~an amount which, when combined with the principal balance due on all other loans to the participant from any retirement plan maintained by the employer, does not exceed ten thousand dollars (\$10,000.00).~~

~~(c) Repayment of loans. Any loan shall be repaid within five (5) years unless such loan is for the purpose of the purchase, construction or reconstruction of a principal residence for the participant or a member of the participant's family. Such a loan for a residence must be repaid over no more than ten (10) years.~~

~~(d) Interest rate. Participant loans shall bear a reasonable rate of interest.~~

~~Division 7. Powers and Duties of Trustee~~

Sec. 2-64-410. Records and accounts.

The ~~Board shall select the trustee who~~ trustee shall keep all records and accounts which may be necessary in the administration and conduct of this trust.

~~Division 8. Continuance, Termination and Amendment of Plan and Trust~~

(b) Notwithstanding anything herein to the contrary, however, the plan and trust agreement may be amended at any time from time to time, if necessary, to conform to the provisions and requirements of the Internal Revenue Code or any amendments thereto, and no such amendment shall be considered prejudicial to the interest of any participant or beneficiary hereunder.

(Ord. 1184 Art. 10 §10.4, 1985)

~~Division 9 Miscellaneous~~