

RESOLUTION NO. 60-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AMENDING THE PUBLIC AGENCY RETIREMENT SYSTEM (PARS) SECTION 457 FICA ALTERNATIVE RETIREMENT PLAN TRUST AGREEMENT.

WHEREAS, with the passage of Resolution No. 19-2005 on May 16, 2005, the City of Mesquite (the "City") adopted the Public Agency Retirement System ("PARS") Trust, including the PARS Section 457 FICA Alternative Retirement Plan, effective July 1, 2005, as the effective date for the benefit of part-time, seasonal and temporary employees on that date and hired thereafter; and


WHEREAS, the City reserved the right to amend the PARS Trust Agreement ("PARS-TA") from time to time in accordance with Section 7.1 of the PARS-TA; and

WHEREAS, it has been determined that an amendment to the PARS-TA is necessary that allows PARS to act as a Trustee and make distributions on behalf of the City to its participants.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

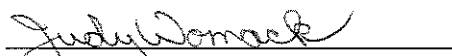
SECTION 1. That the City Manager is hereby authorized to execute the Amendment to the Public Agency Retirement System ("PARS") Section 457 FICA Alternative Retirement Plan Trust Agreement, attached hereto as Exhibit "A," on behalf of the City of Mesquite.


DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 18th day of September, 2006.


Mike Anderson
Mayor

ATTEST:

APPROVED:


Judy Womack
City Secretary


B. J. Smith
City Attorney

DATE 9.18.06

CITY SEC. _____

AMENDMENT
TO THE
TRUST AGREEMENT
BETWEEN
THE CITY OF MESQUITE
AND
UNION BANK OF CALIFORNIA, N.A.

WHEREAS, the City of Mesquite entered into a trust agreement with Union Bank of California, N.A.;

WHEREAS, the Public Agency Retirement Services ("PARS") has been providing trust administration services to the City of Mesquite and providing direction to Union Bank of California, N.A.; and

WHEREAS, the City of Mesquite has reserved the right to amend the Trust Agreement from time to time in accordance with Section 7.1.

NOW THEREFORE, the parties mutually agree to the following provisions:

By adding Public Agency Retirement Services as a party to the Trust Agreement in the introductory paragraph of the Trust Agreement as follows:

"This Trust Agreement (the "Trust Agreement") is made by and among City of Mesquite (the "Agency") as the sponsor of the PARS Benefit Trust FBO City of Mesquite PARS Section 457 FICA Alternative Retirement Plan Effective July 1, 2005 (the "Plan"), the Plan Administrator or the Plan's administrative committee (the "Plan Administrator"), Union Bank of California, N.A., a national banking association as Trustee ("Union Bank of California" or the "Trustee") and Public Agency Retirement Services as Trust Administrator (the "Trust Administrator")."

By adding Section 3.3 to the Trust Agreement as follows:

"3.3 Delegatee

The Plan Administrator may delegate certain authority, powers and duties to an entity to act in those matters specified in the delegation ("Delegatee"). Any such delegation must be in a writing that names and identifies the Delegatee, states the effective date of the delegation, specifies the authority and duties delegated, is executed by the Plan Administrator and is acknowledged in writing by the Delegatee, the Trust Administrator (if not the Delegatee) and the Trustee. Such delegation shall be effective until the Trustee and the Trust Administrator are directed in writing by the Plan Administrator that the delegation has been rescinded or modified."

By adding Section 3.4 to the Trust Agreement as follows:

"3.4 Directions to Trustee

Except as otherwise provided in this Trust Agreement, all directions to the Trustee from the Plan Administrator or Delegatee must be in writing and must be signed by the Plan Administrator or Delegatee, as the case may be. For all purposes of this Trust Agreement, direction shall include any certification, notice, authorization, application or instruction of the Plan Administrator, Delegatee or Trustee appropriately communicated. The above notwithstanding direction may be implied if the Plan Administrator or Delegatee has knowledge of the Trustee's intentions and fails to file written objection.

The Trustee shall have the power and duty to comply promptly with all proper direction of the Plan Administrator, or Delegatee, appointed in accordance with the provisions of this Trust Agreement. In the case of any direction deemed by the Trustee to be unclear or ambiguous the Trustee may seek written instructions from the Plan Administrator, the Agency or the Delegatee on such matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or the Delegatee should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust Agreement which may include not taking any action. The Trustee may request directions or clarification of directions received and may delay acting until clarification is received. In the absence of timely direction or clarification, or if the Trustee considers any direction to be a violation of the Trust Agreement or any applicable law, the Trustee shall in its sole discretion take appropriate action, or refuse to act upon a direction."

By adding Section 3.5 to the Trust Agreement as follows:

"3.5 Trust Administrator

The Plan Administrator has appointed PARS as the Trust Administrator. The Trust Administrator has accepted its appointment subject to the Plan Administrator's delegation of authority, to act as such, pursuant to Section 3.3 of this Trust Agreement. The Trust Administrator's duties involve the performance of the following services pursuant to the provisions of this Trust Agreement and the Agreement for Administrative Services:

- (a) Performing periodic accounting of the Trust;
- (b) Directing the Trustee to make distributions from the Trust to Participants pursuant to the provisions of the Plan and liquidate assets in order to make such distributions;
- (c) Notifying the Investment Fiduciary of the amount of Assets in the Trust available for further investment and management by the Investment Fiduciary;
- (d) Allocating contributions, earnings and expenses to the Trust;
- (e) Directing the Trustee to pay insurance premiums, to pay the fees of the Trust Administrator and to do such other acts as shall be appropriate to carry out the intent of the Trust.

- (f) Such other services as the Agency and the Trust Administrator may agree.”

By adding Section 3.6 to the Trust Agreement as follows:

“3.6 Additional Trust Administrator Services

The Plan Administrator may at any time retain the Trust Administrator as its agent to perform any act, keep any records or accounts and make any computations which are required of the Agency or the Plan Administrator by this Trust Agreement or by the Plan. The Trust Administrator shall be separately compensated for such service and such services shall not be deemed to be contrary to the Trust Agreement.”

By adding Section 3.7 to the Trust Agreement as follows:

“3.7 Trust Administrator's Compensation

As may be agreed upon from time to time by the Agency and Trust Administrator, the Trust Administrator will be paid reasonable compensation for services rendered or reimbursed for expenses properly and actually incurred in the performance of duties with respect to the Trust. However, nothing in this Trust Agreement is intended to alter or amend any agreement of Trust Administrator made in favor of the Agency or Plan in a separate document, including without limitation, an Administrative Services Agreement.”

By adding Section 3.8 to the Trust Agreement as follows:

“3.8 Resignation or Removal of Trust Administrator

The Trust Administrator may resign at any time by giving at least one hundred twenty (120) days written notice to the Plan Administrator and the Trustee.”

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the date(s) set forth below.

EMPLOYER

CITY OF MESQUITE

By: [Signature]

Its: CITY MANAGER

Date: SEPTEMBER 18, 2006

THE TRUSTEE

UNION BANK OF CALIFORNIA, N.A.

By: [Signature]

Title: Tracy Keveny
Trust Officer
Union Bank of California, N.A.

Date: 12-4-06

THE TRUST ADMINISTRATOR

PUBLIC AGENCY RETIREMENT SERVICES

By: [Signature]

Title: PRESIDENT

Date: 11/21/06