



**North Dakota
Public Employees Retirement System**
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Memorandum

2004-4

TO: Defined Benefit Plan Participating Political Subdivisions

**FROM: Rebecca Fricke, Benefit Services Specialist
NDPERS Benefits Division**

DATE: March 5, 2004

SUBJECT: Pre-tax Purchase Employer Agreement

NDPERS has recently received approval from the IRS to allow individuals that purchase service in the NDPERS Defined Benefit Plan to make monthly payroll deductions on a pre-tax basis. NDPERS is currently in the process of modifying our database and forms to accommodate this new option and hope to have it available to employees to utilize on May 1, 2004. However, in order for NDPERS to offer this provision to the employees of your political subdivision, the IRS requires that we obtain an employer agreement that verifies your election to offer this option. This agreement is enclosed for your review.

As you will notice, the IRS language requires that this option be referred to as an “employer pick-up”. This does not mean that the employer will be required to pay the purchase payment for the employee. This language allows the employee to have their monthly purchase payment deducted from their earnings before federal withholding is computed. An employer may only purchase service credit on behalf of its employees under limited circumstances and only in accordance to NDCC 54-52-27 and NDCC 54-52-29.

By completing and returning the attached agreement, you are authorizing NDPERS to offer any employees from your agency that elect to purchase service credit to have payments made on a monthly basis as a pre-tax (tax-deferred)

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deduction from their pay. Therefore, in order to make this option available, your payroll system would need to be able to accommodate this type of a deduction.

The IRS does require strict rules in order to keep the Plan in compliance. If an employer elects to make this option available and an employee elects to utilize it, the monthly pre-tax payroll deduction must continue for the duration of the contract as specified by NDPERS. The amount of the deduction CANNOT be increased, decreased, or suspended at any time unless due to the employee's disability, retirement, termination or death. Therefore, if an employee elects to utilize this option, you will be notified of the amount of the pre-tax deduction to initiate, when it is to begin and also when to cease this deduction. The employee or employer CANNOT change or discontinue the deduction prior to this notification. Also, the employee can not make additional payments or payroll deductions on an after-tax basis towards the purchase contract. NDPERS will provide you, the employer, with a copy of the employee's irrevocable agreement which provides the required information to set-up the deduction.

If you do not elect to complete and return the enclosed employer agreement, you will still be able to make this election in the future. However, you will need to contact the NDPERS office to receive information on the process and to ensure that the agreement has not been updated.

If you have any questions, please contact the NDPERS office at (800) 803-7377 or (701) 328-3900.

**EMPLOYER PARTICIPATION AGREEMENT IN THE
PRETAX SERVICE CREDIT PURCHASE PROGRAM THROUGH THE
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
RETIREMENT PLAN**

This agreement is entered into by and between _____(Employer)
, _____(City), North Dakota, as authorized by the resolution hereto attached,
and the NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM, as authorized
by the Retirement Board through its chairman and executive director, and shall be
effective on _____(Date).

Whereas, _____(Employer), _____ (City), North Dakota,
currently participates in the Public Employees Retirement System; and

Whereas, _____(Employer), _____ (City), North Dakota,
wishes to provide its employees the opportunity to purchase service credit in the Public
Employees Retirement System with pre-tax contributions; and

Whereas, _____(Employer), _____ (City), North Dakota, as
reflected by the resolution hereto attached, has affirmatively elected to pick up
contributions for its employees who elect to purchase service credit with pre-tax
contributions;

Now, therefore, it is agreed and understood that:

1. The requirements and restrictions found at N.D.C.C. § 54-52-05(3), and any rules adopted or further amended by the Board, apply to the purchase arrangement. _____(Employer), _____(City), North Dakota, understands and agrees that under a purchase arrangement it must specify that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee. As such, _____(Employer), _____ City), North Dakota, hereby specifies that any contributions it makes on behalf of its employees pursuant to this agreement are being paid by _____(Employer), _____ (City), North Dakota, in lieu of contributions by the employee;
2. The employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the pension plan;
3. An employee's election to participate is irrevocable, and can only terminate upon the employee's death, disability or termination of employment.

Executed at _____, North Dakota, this ____ day of _____, 20__.

EMPLOYER

By _____

By _____

Executed at Bismarck, North Dakota, this ____ day of _____, 20__.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT BOARD

By _____

Executive Director

