



McGuire/Sedky

RESOLUTION NO. 6411

WHEREAS, the Board of Directors of the Omaha Public Power District has adopted the Omaha Public Power District 457 Retirement Savings Plan (as amended and restated effective August 1, 2018) (the "Plan");

WHEREAS, effective May 1, 2020, the Board of Directors desires to amend the Plan to comply with required and permitted changes under the Coronavirus Aid, Relief and Economic Security ("CARES") Act;

WHEREAS, effective January 1, 2021, pursuant to Section 9.1 of the Plan, the officers of Omaha Public Power District (the "District") have been delegated the power to amend the Plan as they may determine to be necessary or appropriate to comply with the qualification requirements of the Internal Revenue Code or to provide for the efficient administration of the Plan;

WHEREAS, the Board of Directors, with the assistance of the District's General Counsel, has determined it is in its best interest to amend the Plan to give the Chief Executive Officer of the District the power to make certain pre-authorized amendments to the Plan;

WHEREAS, the Board of Directors desires to amend the Plan effective May 1, 2020, and January 1, 2021, as applicable, to reflect such changes as provided herein.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the District, as follows:

1. The Omaha Public Power District 457 Retirement Savings Plan is hereby amended effective May 1, 2020 and January 1, 2021 as provided in Exhibit "A" and Exhibit "B" and incorporated herein by this reference.

Exhibit A

**AMENDMENT TO
OMAHA PUBLIC POWER DISTRICT 457 RETIREMENT SAVINGS PLAN
EFFECTIVE MAY 1, 2020**

**AMENDMENT TO OMAHA PUBLIC POWER DISTRICT
457 RETIREMENT SAVINGS PLAN
EFFECTIVE MAY 1, 2020**

**ARTICLE I
PREAMBLE**

- 1.1 **Effective date of Amendment.** This Amendment is effective as of May 1, 2020.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

**ARTICLE II
AMENDMENT**

- 2.1 Section 6.2 of the Plan is hereby amended to read:

6.2 Entitlement to Benefits

Amounts payable under the Plan will be made available to Participants or Beneficiaries not earlier than when the Participant is separated from service with the District, faced with an unforeseeable emergency, death or after attainment of age 59 1/2.

- (a) **Termination.** A Participant who has a Termination of Service will receive or begin receiving the Participant's deferred amounts (including matching contributions under section 4.2), adjusted to take account of investment gains and losses determined under section 5.1 and any prior withdrawals under section 6.2(b), upon the later of April 1 following the year in which the Participant attains age 70 1/2 or the date that is as soon after the Participant's Termination of Service as the District determines to be administratively reasonable; provided, however, that—
- (1) receipt of benefits may be accelerated in accordance with section 6.5(a); and
 - (2) the minimum distribution requirements of section 6.7 will be satisfied.
- (b) **Death.** In the event of a Participant's death, the Participant's Beneficiary will be entitled to receive or begin receiving the Participant's deferred amounts (including matching contributions under section 4.2), adjusted to take account of investment gains and losses determined under section 5.1 and any prior withdrawals under section 6.2(b), at the time determined as follows:

- (1) if the Beneficiary is the Participant's surviving spouse, upon the later of the date on which the Participant would have attained age 70 1/2 or the date that is as soon after the Participant's death as the District determines to be administratively reasonable; or
- (2) if the Beneficiary is not the Participant's surviving spouse, one year after the Participant's death, if the Beneficiary receives the account in a form other than a lump-sum payment, or five years after the Participant's death if the Beneficiary receives the account in a lump-sum payment; provided that receipt of benefits may be accelerated in accordance with section 6.5(b) and the minimum distribution requirements of section 6.7 will be

A Participant may withdraw all or part (but not including any loan amount(s) and not less than \$1,000.00) of the Participant's Account after attaining age 59 1/2; provided, however, no more than one (1) withdrawal shall be permitted within a three (3) month period.

- (d) **Unforeseeable Emergency.** An unforeseeable emergency is severe financial hardship to a Participant resulting from a sudden and unexpected illness or accident of the Participant or a dependent (as defined in Code section 152(a)) of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the Participant's control. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case but, in any case, payment may not be made to the extent that the hardship is or may be relieved—
- (1) through reimbursement or compensation by insurance or otherwise;
 - (2) by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
 - (3) by cessation of deferrals under the Plan.

Examples of what are **not** considered to be unforeseeable emergencies include the need to send a Participant's child to college or the desire to purchase a home. Withdrawals of amounts because of an unforeseeable emergency will be permitted only to the extent reasonably necessary, in the view of the District, to satisfy the emergency need.

Participants shall be required to obtain the maximum amount of loans he or she may obtain from this Plan or any other plan maintained by the District permitting loans and take all permissible in-service withdrawals from this Plan or any other plan maintained by the District permitting in-service withdrawals before receiving a distribution under this Plan on account of an Unforeseeable Emergency and only to the extent such severe financial hardship cannot reasonably be met by other means.

- (e) **Coronavirus-Related Distribution.** A "coronavirus-related distribution" means a distribution to:

- (1) An individual who tests positive for SARS-CoV-2 or COVID-19;
- (2) An individual whose spouse or dependent tests positive for SARS-CoV-2 or COVID-19; or
- (3) An individual who experiences adverse financial consequences as a result of being quarantined, furloughed or laid off or having work hours reduced, or being unable to work due to lack of child care, or closing or reducing hours of a business owned or operated by the individual, all due to the virus or disease.

This Amendment has been executed effective as of _____, 2020.

Name of Plan: **Omaha Public Power District 457 Retirement Savings Plan**

EMPLOYER:

Omaha Public Power District

By: _____
Name: _____
Its: _____

Exhibit B

**AMENDMENT TO
OMAHA PUBLIC POWER DISTRICT 457 RETIREMENT SAVINGS PLAN
EFFECTIVE JANUARY 1, 2021**

**AMENDMENT TO OMAHA PUBLIC POWER DISTRICT
457 RETIREMENT SAVINGS PLAN
EFFECTIVE JANUARY 1, 2021**

**ARTICLE I
PREAMBLE**

- 1.1 **Effective date of Amendment.** This Amendment is effective as of January 1, 2021.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

**ARTICLE II
AMENDMENT**

- 2.1 Section 9.1 of the Plan is hereby amended to read:

9.1 Amendment

- (a) The District reserves the right to amend any provision of the Plan at any time to the extent it may deem advisable without the consent of any Participant or Beneficiary.
- (b) Except as otherwise provided in this Plan, the officers of the District are hereby delegated the power to amend this Plan as they may determine to be necessary or appropriate to comply with the qualification requirements of the Internal Revenue Code or to provide for the efficient administration of this Plan.
- (c) In addition to the foregoing, the Chief Executive Officer of the District shall have the power to amend the Plan without approval and/or direction from the Board of Directors in the following instances:
- (i) To amend the Plan to clarify provisions and modify administrative procedures so that the District can more efficiently serve Plan Participants; and
- (ii) To amend the Plan to comply with federal and state law.

This Section 9.1(c) will not apply to amendments that increase or decrease the value of benefits or that increase or decrease any liability under the Plan assumed by the District.

All plan amendments made under this Section 9.1(c) must be communicated to the Board of Directors within sixty (60) days of the amendment.

This Amendment has been executed as of _____, 2020.

Name of Plan: **Omaha Public Power District 457 Retirement Savings Plan**

EMPLOYER:

OMAHA PUBLIC POWER DISTRICT

Signature: _____

Print Name: _____

Title: _____



Board Action

BOARD OF DIRECTORS

December 8, 2020

ITEM

Omaha Public Power District 457 Retirement Savings Plan (the “Plan”)

PURPOSE

Amendment of the Omaha Public Power District 457 Retirement Savings Plan to Give the Chief Executive Officer the Power to Make Certain Amendments.

FACTS

- a. Pursuant to Section 9.1 of the Plan, the officers of Omaha Public Power District (the “District”) have the power to amend the Plan as they may determine to be necessary or appropriate to comply with the qualification requirements of the Internal Revenue Code or to provide for the efficient administration of the Plan.
- b. Effective January 1, 2021, the Board of Directors desires to amend the Plan to give the Chief Executive Officer of the District the power to make certain pre-authorized amendments to the Plan.
- c. General Counsel has prepared a draft amendment to the Plan to reflect the desired changes.

ACTION

Board approval of the Amendment of the Omaha Public Power District 457 Retirement Savings Plan effective January 1, 2021.

RECOMMENDED:

APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:

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Martha L. Sedky
Vice President – Human Capital

DocuSigned by:

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Timothy J. Burke
President and Chief Executive Officer

Attachments: Resolution