



McGuire/Sedky

RESOLUTION NO. 6409

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

WHEREAS, pursuant to Section 11.1 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 provide for administrative clarification and to correct certain scrivener's errors; and

WHEREAS, the Board of directors desires to amend the Plan effective January 1, 2021 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 Retirement Plan is hereby amended effective January 1, 2021 as provided in Exhibit "A" and incorporated herein by this reference.

Exhibit A

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

**AMENDMENT TO
OMAHA PUBLIC POWER DISTRICT RETIREMENT 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 Omaha Public Power District Retirement Plan (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 5.3 of the Plan is hereby amended to read:

5.3 Vested Deferred Retirement Allowance

- (a) **Eligibility.** A Member, who for reasons other than retirement or death, ceases to be employed by the District or who incurs a Change in Employment Status due to the Employee's classification as a part-time employee, shall be entitled to a vested deferred retirement Allowance or his Cash Balance Account if he had five years of Continuous Service.
- (b) **Amount Payable at Normal Retirement Age.** For a Member who has a benefit under the Plan calculated under an accrual method other than the Cash Balance Accruals method described in Section 5.14 and following, the vested deferred retirement Allowance shall be a deferred Allowance commencing on the Member's Normal Retirement Age and shall be computed as a normal retirement Allowance, in accordance with Section 5.1(c) on the basis of his Average Salary and Credited Service at the date of his termination of service and the benefit formula in effect on that date.

Amount Payable at Early Retirement Age. Notwithstanding the foregoing, for a Member who has a benefit under the Plan calculated under an accrual method other than the Cash Balance Accruals method described in Section 5.14 and following, the Member shall be eligible to receive a vested deferred retirement Allowance on his satisfaction of the early retirement Allowance age and service conditions of Section 5.2(a). The Allowance shall commence on the first day of the calendar month next following his satisfaction of Section 5.2(a), in an amount equal to the deferred Allowance commencing at his Normal Retirement Age

multiplied by a factor equal to 100 percent less one-half of 1 percent for every month by which the Benefit Commencement Date of his vested deferred retirement Allowance precedes his Normal Retirement Age.

No makeup payments will be made to a Member with a vested deferred retirement Allowance if such Member does not provide timely written application to the Plan Administrator of his intent to receive a reduced vested deferred retirement Allowance on his satisfaction of the early retirement Allowance age and service conditions of Section 5.2(a).

Notwithstanding the foregoing, as provided and limited in Section 5.3(d), a Member, other than an Employee who incurs a Change in Employment Status due to the Employee's classification as a part-time employee, with a vested deferred retirement Allowance (or such Member's Alternate Payee or Beneficiary) may elect to receive a lump sum distribution of such Member's Accumulated Contributions or, in the case of an Alternate Payee, the portion of such Member's Accumulated Contributions that equates to the proportionate share of such Member's benefit awarded to the Alternate Payee.

- (c) If vested, for a Member who has a benefit calculated under the Cash Balance Accruals method described in Section 5.14 and following, the benefit payable to the Member shall be 100% of the Member's Cash Balance Account.

For a Member who has a benefit under the Plan calculated under an accrual method other than the Cash Balance Accruals method described in Section 5.14 and following, if a Member who is entitled to a vested deferred retirement Allowance dies prior to the commencement of such retirement Allowance, an Allowance shall be payable to his surviving Spouse commencing on the Member's "earliest Benefit Commencement Date." "Earliest Benefit Commencement Date" shall be—

- (1) the first day of the month following the Member's date of death, if the Member (had he lived) could have begun to receive his retirement Allowance on such first day; or
- (2) the first day on which the Member could have begun to receive his retirement Allowance, if the Member had survived to such date determined pursuant to Section 5.2(a) as applicable to such Member.

The Allowance to the Spouse shall be equal to the Allowance which would have been payable to the Spouse had the Member's vested deferred retirement Allowance commenced on the Earliest Benefit Commencement Date in accordance with Section 5.3(b).

The Spouse referred to in the preceding paragraph shall be entitled to defer commencement to the deceased Member's Normal Retirement Age, in which event the Allowance to the Spouse shall be equal to the Allowance which would have been payable to the Spouse had the Member's vested deferred retirement Allowance commenced on the Member's Normal Retirement Age in accordance with Section 5.3(b).

If the present value of the Spouse's Allowance is less than the Member's Accumulated Contributions with interest to his date of death, the Spouse may elect to receive such Accumulated Contributions in a single sum in lieu of the Spouse's Allowance. Interest does not accrue after the Member's termination of employment.

For a Member who has a benefit calculated under the Cash Balance Accruals method described in Section 5.14 and following, the benefit payable to the Member's Spouse or Beneficiary shall be 100% of the Member's Cash Balance Account.

For an Alternate Payee of a Member who has a benefit under the Plan calculated under an accrual method other than the Cash Balance Accruals method described in Section 5.14 and following, if an Alternate Payee of a Member who is entitled to a vested deferred retirement Allowance dies prior to the commencement of such retirement Allowance, the Beneficiary of such Alternate Payee shall be entitled to a return of the portion of the Member's Accumulated Contributions that equates to the proportionate share of such Member's benefit awarded to the Alternate Payee. Interest does not accrue on the proportionate share of the Member's benefit awarded to the Alternate Payee.

- (d) If the Member or Alternate Payee of a Member who has a benefit under the Plan calculated under an accrual method other than the Cash Balance Accruals method; and the Member is not retirement eligible under either Section 5.1 or 5.2, is not deceased or disabled, and is not incurring a Change in Employment Status due to the Employee's classification as a part-time employee; but has completed at least five years of Continuous Service before such Member is eligible to receive "immediate" annuity, as described in Section 5.2(a); such Member or Alternate Payee of such Member may have his Accumulated Contributions distributed to him and forfeit any retirement benefit from the Retirement Plan.

In order for a Member or Alternate Payee of a Member to receive a distribution of Accumulated Contributions:

- (1) The Member must have terminated employment with the District for at least 31 consecutive days;
- (2) The Member or Alternate Payee must file an application for his Accumulated Contributions with the Plan Administrator;
- (3) The Member or Alternate Payee must not be eligible to receive an immediate annuity from the Retirement Plan; and
- (4) Distribution of Accumulated Contributions would not end a court-ordered right of any Spouse to future benefits based upon the Member's service. Note that a court-ordered right of any Spouse to future benefits based upon the Member's service shall not be ended if the Member with a vested deferred retirement Allowance has a qualified domestic relations order on file that provides for the separate interest approach, as determined in writing by the Company's legal counsel. This provision also applies to the Alternate Payee of a Member where a qualified domestic relations order

is on file that provides for the separate interest approach, as determined in writing by the Company's legal counsel.

If the Member or Alternate Payee withdraws his Accumulated Contributions under the above conditions, his receipt of the distribution voids any future Retirement Plan benefits unless the Member is later re-employed under the Retirement Plan and works long enough to earn new retirement rights. Only the amount of the Member's Accumulated Contributions will be distributed if the election under the Section 5.3(d) is made. Any benefit attributed to the District's contributions (or earnings thereon) are forfeited and remain in the Retirement Plan.

Interest accumulates at the rate of 5.5%, compounded annually, to the date the Member terminates employment. Interest does not accrue after the Member's termination of employment. The Member or Alternate Payee may apply for a refund of his Accumulated Contributions at any time after 31 days following the Member's termination of employment.

This Section 5.3(d) was not effective as to Members who had a vested deferred retirement Allowance prior to January 1, 2013. Effective as of such date, Section 5.3(d) shall be extended to such Members as well as current and future Members.

2.2 Section 5.7 of the Plan is hereby amended to read:

5.7 Return of Contributions and Death Benefits

- (a) **Return of Contributions.** Any Member who has not met the eligibility requirements for a vested deferred retirement Allowance, who has met the eligibility requirements for but who has not elected a vested deferred retirement Allowance, or who has not vested in his Cash Balance Account, upon ceasing to be employed by the District for any cause other than death or retirement under the Plan, may elect to receive in one sum, within six months thereafter, the amount of his Accumulated Contributions at the time such Member ceased to be so employed.

If he makes an election under this subsection and is later rehired by the District, in order to have his prior Credited Service and Continuous Service reinstated, he must redeposit such Accumulated Contributions together with interest at 5.5 percent per annum compounded annually within the "applicable period". For purposes of this subsection, "applicable period" means the period ending on the earlier of—

- (1) five years after the first date the Member is subsequently reemployed by the District; and
- (2) the close of the first period of five consecutive Changes in Employment Status commencing after the distribution.

The preceding sentence shall not apply to any Member who, upon rehire, refuses to become a Member as described in Section 4.2(e).

Effective March 28, 2005, if the amount of any lump sum to be distributed to the Participant under this paragraph exceeds \$1,000 and the Participant does not elect to have such distribution paid directly to an eligible

retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a direct rollover to an individual retirement account designated by the Administrator in accordance with Code §401(a)(31)(B).

- (b) **Death Benefit.** Upon receipt of proof, satisfactory to the Plan Administrator, of the death of a Member or former Member prior to commencement of his retirement Allowance, payment of his Cash Balance Account or receipt of his Accumulated Contributions, provided no other benefit, except a dependent survivors' benefit under Section 5.8, is payable on his account, the amount of his Accumulated Contributions at the time of his death shall be payable in one sum to his designated Beneficiary, if living; otherwise to such former Member's legal representatives.
- (c) **Beneficiary Designation.** A Member's Beneficiary must be designated by him in writing, duly acknowledged, and filed with the Plan Administrator. A Member may change his Beneficiary by similar written designation. A designation, revocation, or change of the Contingent Annuitant may be made only as provided in Section 5.4(a)(8).
- (d) **Deferred Return of Contributions.** Any former Member who, at the time of his termination of employment, did not elect to receive a return of his Accumulated Contributions under subsection (a) above, and who was not otherwise eligible for a vested deferred retirement Allowance, shall, upon attaining his Normal Retirement Date, receive his Accumulated Contributions. Interest accumulates at the rate of 5.5%, compounded annually, to the date the Member terminates employment. Interest does not accrue after the Member's termination of employment.

2.3 Section 11.1 of the Plan is hereby amended to read:

11.1 Amendments

- (a) 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.
- (b) 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 11.1(b) 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 11.1(b) 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 Retirement Plan**

EMPLOYER:

OMAHA PUBLIC POWER DISTRICT

Signature: _____

Print Name: _____

Title: _____



Board Action

BOARD OF DIRECTORS

December 8, 2020

ITEM

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

PURPOSE

Amendment of the Omaha Public Power District Retirement Plan to Provide Administrative Clarification, Correct Scrivener’s Errors, and Give the Chief Executive Officer the Power to Make Certain Amendments.

FACTS

- a. Pursuant to Section 11.1 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 provide for administrative clarification, to correct scrivener’s errors, and 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 Retirement Plan effective January 1, 2021.

RECOMMENDED:

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Martha L. Sedky
Vice President – Human Capital

APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:

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Timothy J. Burke
President and Chief Executive Officer

Attachments: Resolution