

ORDINANCE NO. MEP-583, BB

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION 2 OF ORDINANCE NO. MEP -583 AND FOR THE AMENDMENT OF SECTION 15.1 OF THE RESTATED OVERLAND PARK, KANSAS, MUNICIPAL EMPLOYEES PENSION PLAN AND TRUST AGREEMENT (RESTATED AS OF APRIL 1, 1996).

WHEREAS, the City of Overland Park, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas (the "City"), did, on the 8th day of December, 1969, create and establish by Ordinance No. MEP-583 the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (the "Plan"); and

WHEREAS, the Internal Revenue Service, Department of the Treasury, United States of America, has notified the City that the Plan is qualified under Section 401(a) of the Internal Revenue Code (the "Code") and therefore exempt from tax under Section 501(a) of the Code; and

WHEREAS, the City has from time to time amended and restated the Plan, the most recent restatement being adopted on April 1, 1996, through Ordinance No. MEP-583,S; and

WHEREAS, the April 1, 1996, Restated Plan was amended by Amendment Number One on October 12, 1998 (MEP-583,T), Amendment Number Two on February 1, 1999 (MEP-583,U), Amendment Number Three on November 20, 2000 (MEP-583,V), Amendment Number Four on December 2, 2002 (MEP-583, W), Amendment Number Five on August 11, 2003 (MEP-583, X), Amendment Number Six on August 1, 2005 (MEP-583,Y), Amendment Number Seven on August 8, 2006 (MEP-583, Z); and Amendment Number Eight on July 9, 2007(MEP-583,AA); and

WHEREAS, the City now wishes to amend Section 2 of Ordinance No. MEP-583 to eliminate the requirement that members of the Board of Trustees appointed by the Mayor be residents of the City of Overland Park, Kansas and to amend Section 15.1 of the Restated Plan by eliminating the language relating to the identification of current members.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. AMENDMENT OF SECTION 2. OF ORDINANCE NO. MEP-583.

Section 2 TRUSTEES, of Ordinance No. MEP-583 is hereby amended to read as follows:

Section 2. TRUSTEES

There shall be five trustees to act as provided in the trust agreement. The Mayor shall appoint three trustees, with the approval of the City Council. Two trustees shall be municipal employees, appointed by the City Manager. ~~The three trustees to be appointed by the Mayor with consent of council shall be residents of the City of Overland Park, Kansas.~~ All trustees shall serve for a period of one year and until their successors are appointed and qualified, and such successors shall be appointed in like manner as the original trustees for one year terms. The term of the original trustees shall commence the second Tuesday in December 1969, and thereafter the terms of the successor trustee shall commence on the second Tuesday of December of each year.

SECTION 2. ADOPTION AND INCORPORATION OF PLAN AMENDMENT.

There is hereby adopted and incorporated by reference, for the purpose of amending the Restated Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of April 1, 1996), Amendment Number Nine to the Restated Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of April 1, 1996), which is titled "Exhibit 'A,' Amendment Number Nine to the Restated Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of April 1, 1996)," prepared by the Law Department of the City and attached hereto. Upon passage and publication of this Ordinance not less than three (3) copies of said Amendment Number Nine to the Restated Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of April 1, 1996) shall be marked "Official Copy as adopted and incorporated by Ordinance No. MEP-583, BB," to which shall be attached a copy of Ordinance No. MEP-583, BB, and shall be filed with the City Clerk and open for inspection and available to the public at all reasonable business hours. The administrative departments charged with the enforcement of this ordinance shall be supplied at the cost of the City such numbers of official copies of Amendment Number Nine and the ordinance as may be deemed expedient.

SECTION 3. REPEAL.

- a. Section 2 of Ordinance No. MEP-583 is hereby repealed.
- b. Any provisions of the Restated Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of April 1, 1996) as amended that are inconsistent with Amendment Number Nine to the restated Overland Park, Kansas Pension Plan and Trust Agreement (Restated as of April 1, 1996) are hereby repealed.

SECTION 4. TAKE EFFECT.

This ordinance shall take effect and be in force from and after its publication in the official City newspaper, *The Overland Park Sun*.

PASSED by the Governing Body this ____ day of _____, 2008.

APPROVED by the Mayor this ____ day of _____, 2008

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Michael R. Santos
Deputy City Attorney

EXHIBIT "A"
AMENDMENT NUMBER NINE
TO THE RESTATED OVERLAND PARK, KANSAS
MUNICIPAL EMPLOYEES PENSION PLAN AND TRUST AGREEMENT
(Restated as of April 1, 1996)

INTRODUCTION

THIS AMENDMENT NUMBER NINE TO THE RESTATED OVERLAND PARK, KANSAS, MUNICIPAL EMPLOYEES PENSION PLAN AND TRUST AGREEMENT (Restated as of April 1, 1996) is made this _____ day of _____, 2008, by the City of Overland Park, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas (hereinafter referred to as the "Employer").

WITNESSETH

WHEREAS, the Employer did on February 16, 1970, establish the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (the "Plan") for the benefit of its Employees; and

WHEREAS, said Plan was restated on April 1, 1996, to incorporate all Amendments up to that time into one document; and

WHEREAS, the April 1, 1996, Restated Plan was amended by Amendment Number One on October 12, 1998 (MEP-583,T); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Two on February 1, 1999 (MEP-583,U); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Three on November 20, 2000 (MEP-583,V); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Four on December 2, 2002 (MEP-583,W); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Five on August 11, 2003 (MEP-583, X); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Six on August 1, 2005 (MEP-583,Y); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Seven on August 8, 2006 (MEP-583, Z); and

WHEREAS, the April 1, 1996, Restated Plan was further amended by Amendment Number Eight on July 9, 2007 (MEP-583,AA); and

WHEREAS, the Employer now wishes to further amend the Plan to make clear that the manner of appointment of members of the Trustee shall be as described in Ordinance MEP-583 and amendments thereto;

NOW, THEREFORE, in accordance with the authority granted in Article X of the Plan, the Plan is hereby further amended as follows:

Effective as of the date of this amendment, Section 15.1 is amended to read as follows:

15.1 **Appointment and Removal.** There shall be five (5) members of the Trustee under this Agreement, appointed in the manner described in Ordinance MEP-583 and amendments thereto. Any member may resign by delivering his or her written resignation to the Employer and the other members. The Employer may remove any member designated by it at any time by written notice to him or her and the other members.

IN WITNESS WHEREOF, this Amendment Number Nine was executed on the day and year first above written.

ATTEST

CITY OF OVERLAND PARK, KANSAS

Marian Cook, City Clerk

Carl Gerlach, Mayor

Approved as to form

Michael R. Santos, Deputy City Attorney