

## **ORDINANCE NO. MEP-583,LL**

### **AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE OVERLAND PARK, KANSAS, MUNICIPAL EMPLOYEES PENSION PLAN AND TRUST AGREEMENT.**

**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 8<sup>th</sup> 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 of the United States Department of the Treasury 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 such amendment and restatement being by Ordinance No. MEP-583,KK, effective as of July 10, 2023; and

**WHEREAS**, the City now wishes to amend the Plan, effective as of March 4, 2024, by this Ordinance No. MEP-583,LL, for the principal purposes of clarifying (1) the governing law of the Plan and (2) the Trustee's authority and responsibilities under the Plan.

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

#### **SECTION I. ADOPTION OF AMENDMENT OF PLAN.**

There is hereby incorporated and adopted by reference herein, and made part of this Ordinance as if the same had been set out in full, the "Amendment Number One to the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of July 10, 2023)." Said amendment is set forth in Exhibit "A," attached hereto and designated "Exhibit 'A' Amendment Number One to the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of July 10, 2023)." Said amendment is hereby approved and accepted, and the Mayor and City Clerk are hereby authorized and directed to execute said amendment for and on behalf of the City of Overland Park, Kansas. Three copies of the amendment shall be marked "Official Copy as incorporated by reference" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

#### **SECTION 2. REPEAL OF PRIOR ORDINANCE**

Any provisions of Ordinance Nos. MEP-583,GG, HH, II, JJ, or KK inconsistent with either this Ordinance No. MEP-583,LL or the attached Amendment Number One of the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of July 10, 2023) are hereby repealed.

**SECTION 3. EFFECTIVE DATE OF PLAN RESTATEMENT**

This amendment of the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement shall have an effective date as specifically set forth in Exhibit "A."

**SECTION 4. PUBLICATION OF THIS ORDINANCE**

This ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the Governing Body this 4<sup>th</sup> day of March, 2024.

APPROVED by the Mayor this 4<sup>th</sup> day of March, 2024.

CITY OF OVERLAND PARK, KANSAS

(s) Curt Skoog \_\_\_\_\_  
Curt Skoog, Mayor

ATTEST:

(s) Elizabeth Kelley \_\_\_\_\_  
Elizabeth Kelley, City Clerk

APPROVED AS TO FORM:

(s) Michael Koss \_\_\_\_\_  
Michael Koss, City Attorney

EXHIBIT A

**AMENDMENT NUMBER ONE  
TO THE  
OVERLAND PARK, KANSAS, MUNICIPAL EMPLOYEES  
PENSION PLAN AND TRUST AGREEMENT**

**(Restated as of July 10, 2023)**

Section 10.01 of the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (the "Plan") provides that the City of Overland Park, Kansas, by action of its Governing Body, may modify, amend, or change any of the terms and provisions of the Plan at any time, provided that no such modification or amendment affect the Trustee's rights, duties, liabilities, protections, and responsibilities without its written consent.

In accordance with these provisions, the Plan is hereby amended as follows:

1. Section 7.04 "Payments to Incompetents" is hereby repealed in its entirety and a new Section 7.04 is hereby substituted to read as follows:

**Section 7.04 Payments to Incompetents.** In the event any Participant, Beneficiary, or other person entitled to benefits under this Plan is a minor or otherwise incompetent, the Plan Administrator may direct the Trustee to make payment directly to such person or to a third party for his or her benefit without the necessity of a guardian.

2. Section 13.09 "Governing Law" is hereby repealed in its entirety and a new Section 13.09 is hereby substituted to read as follows:

**Section 13.09. Governing Law.** The Plan Sponsor acknowledges that the Trustee is subject to the regulation and oversight of the Colorado Division of Banking. However, any claim arising under or related to this Agreement shall be subject to the exclusive jurisdiction of the federal and state courts located in Kansas.

3. Section 14.12 "Operating Rules" is hereby repealed in its entirety and a new Section 14.12 is hereby substituted to read as follows:

**Section 14.12 Operating Rules.** For purposes of this Article XIV, all defined contribution plans of the Employer, whether or not terminated, shall be treated as one defined contribution plan. The extent to which Annual Additions under the Plan shall be reduced, as compared with the extent to which the Annual Additions under any other defined contribution plan shall be reduced, in order to achieve compliance with the limitations of Code Section 415 shall be determined by the Plan Administrator, or its

delegee, in such a manner so as to maximize the aggregate benefits payable to Participants. If such reduction is made under this Plan, the Plan Administrator, or its delegee, shall advise the affected Participants of the limitation on their Annual Additions required by this Section.

4. Any reference in the Plan to "Great-West Trust Company, LLC" shall be replaced with "Empower Trust Company, LLC."

IN WITNESS WHEREOF, the City of Overland Park, Kansas, has caused this Amendment Number One to the Overland Park, Kansas, Municipal Employees Pension Plan and Trust Agreement (Restated as of July 10, 2023) to be executed on its behalf, and the Trustee has caused this Agreement to be executed on its behalf, this \_\_\_\_ day of \_\_\_\_\_, 2024, effective as of March 4, 2024.

*[Remainder of page intentionally left blank.]*

CITY OF OVERLAND PARK, KANSAS

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Curt Skoog, Mayor

ATTEST:

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Elizabeth Kelley, City Clerk

APPROVED AS TO FORM:

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Michael Koss, City Attorney

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Thomas R. Dowling, Stinson LLP

TRUSTEE:  
EMPOWER\_TRUST COMPANY,  
LLC

By: \_\_\_\_\_