



McGuire/Sedky

**RESOLUTION NO. 6410**

**WHEREAS**, the Board of Directors of the Omaha Public Power District has adopted the Omaha Public Power District 401(k) Retirement Savings Plan (as amended and restated effective August 1, 2018) (the “Plan”);

**WHEREAS**, pursuant to Section 12.1 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**, 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, the Board of Directors desires to amend the Plan to permit Participants to contribute the dollar equivalent of unused vacation pay to the Plan, and to give the Chief Executive Officer of the District the power to make certain pre-authorized amendments to the Plan; and

**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 401(k) Retirement Savings Plan is hereby amended as provided in Exhibit “A” and Exhibit “B”, incorporated herein by this reference.

**EXHIBIT "A"**

**AMENDMENT TO  
OMAHA PUBLIC POWER DISTRICT 401(K) RETIREMENT SAVINGS PLAN  
EFFECTIVE MAY 1, 2020**

**AMENDMENT TO OMAHA PUBLIC POWER DISTRICT  
401(K) 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 14.8 of the Plan is hereby amended to read:

**14.8 Hardship Distributions**

A distribution under the Plan is hereby deemed to be on account of an immediate and heavy financial need of an Employee if the distribution is for one of the following or any other item permitted under Regulation Section 1.401(k)-1(d)(3)(iii)(B):

- (a) Expenses for (or necessary to obtain) medical care that would be deductible under Code Section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income).
- (b) Costs directly related to the purchase of a principal residence for the Employee (excluding mortgage payments).
- (c) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post secondary education for the Employee, the Employee's spouse, children, or dependents (as defined in Code Section 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code Section 152(b)(1), (b)(2), and (d)(1)(B)).
- (d) Payments necessary to prevent the eviction of the Employee from the Employee's principal residence or foreclosure on the mortgage on that residence.
- (e) Payments for burial or funeral expenses for the Employee's deceased parent, spouse, children or dependents (as defined in Code Section 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code Section 152(d)(1)(B)).

- (f) Expenses for the repair of damage to the Employee’s principal residence that would qualify for the casualty deduction under Code Section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).
- (g) Expenses or losses incurred due to a federally declared disaster if the Employee’s principal residence or principal place of employment is in an area designated by the Federal Emergency Management Agency (“FEMA”) as eligible for individual assistance.
- (h) Expenses for a “coronavirus-related distribution”. A "coronavirus-related distribution" means a distribution to:
  - (i) An individual who tests positive for SARS-CoV-2 or COVID-19;
  - (ii) An individual whose spouse or dependent tests positive for SARS-CoV-2 or COVID-19; or
  - (iii) 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.

An employee shall not be required to obtain the maximum amount of loans he or she may obtain from the Plan, and/or any other plan maintained by the District permitting loans, before receiving a distribution under this Plan on account of a hardship.

Hardship distributions may be made from any sub-account within an Employee's Member's Account.

This Amendment has been executed as of \_\_\_\_\_, 2020.

Name of Plan: **Omaha Public Power District 401(k) Retirement Savings Plan**

EMPLOYER:

**Omaha Public Power District**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Its: \_\_\_\_\_

**EXHIBIT "B"**

**AMENDMENT TO  
OMAHA PUBLIC POWER DISTRICT 401(K) RETIREMENT SAVINGS PLAN  
EFFECTIVE JANUARY 1, 2021**

**AMENDMENT TO OMAHA PUBLIC POWER DISTRICT  
401(K) 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 2.1(j) of the Plan is hereby amended to read:

(j) **"Contributions"** means any and all of the following contributions made under the Plan:

- (1) **"Pre-Tax Elective Deferral Contributions"** means the pre-tax elective deferral contributions made by the Employer on behalf of the Participant pursuant to his election to reduce his Compensation as described in section 4.1.
- (2) **"Pre-Tax Elective Deferral Unused Vacation Pay Amount Contributions"** means the pre-tax elective deferral contributions of Unused Vacation Pay amounts made by the Employer on behalf of the Participant pursuant to his election to reduce his Unused Vacation Pay as described in Section 4.9.
- (3) **"Roth Elective Deferral Contributions"** means the after-tax Roth elective deferral contributions made by the Employer on behalf of the Participant pursuant to his election to reduce his Compensation as described in section 4.1.
- (4) **"Roth Rollover Contributions"** means the completely unrestricted after-tax Roth rollover contributions made to the Plan on behalf of a Participant under Section 15.3
- (5) **"Roth In-Plan Conversion Contributions"** means the after-tax Roth in-plan conversion contributions that consist of sources of money that are completely unrestricted for distribution..

- (6) **"Roth RIPC I Contributions"** means the after-tax Roth in-plan conversion contributions that consist of sources of money that are restricted Employee contributions to the Plan.
- (7) **"Roth RIPC II Contributions"** means the after-tax Roth in-plan conversion contributions that consist of sources of money that are restricted Employer contributions to the Plan.
- (8) **"Matching Contributions"** means the matching contributions made by the Employer to the Plan on behalf of a Participant pursuant to section 4.2.
- (9) **"Discretionary Contributions"** means the discretionary (nonmatching) contributions made by the Employer to the Plan as described in section 4.4.
- (10) **"Rollover Contributions"** means the contributions described in section 4.7.

2.2 Section 2.1(jj) of the Plan is hereby amended to read:

- (jj) **"Unused Vacation Pay"** means a Participant's annual earned but unused vacation pay under the Employer's vacation pay plan.

2.3 Section 2.1(kk) of the Plan is hereby amended to read:

- (kk) **"Valuation Date"** means the last day of each calendar quarter, or such other dates as may be determined by the Plan Administrator.

2.4 Section 4.9 is hereby added to the Plan and reads as follows:

#### **4.9 Reduction of Unused Vacation Pay**

- (a) A Participant may elect to reduce all or part of the dollar equivalent of any Unused Vacation Pay that may not be carried over to the following year and have that amount contributed by the Employer to the Plan and allocated to the Participant's account prior to March 31, 2021, to the extent that the contribution (in combination with prior annual additions) does not exceed the applicable limitations under Section 415(c) and to the extent that the contributions (in combination with prior elective deferrals) do not exceed the applicable limitation under Section 401(a)(30).
- (b) Pre-Tax Elective Deferral Unused Vacation Pay Amount Contributions are in addition to other Contributions under the Plan and are treated as Pre-Tax Elective Deferral Contributions (for example, the same distribution restrictions apply). [The dollar equivalent of any Unused Vacation Pay that is not contributed to the Plan under the terms of the Plan shall be paid to the participant by March 31, 2021.] For these purposes, the dollar equivalent of the Unused Vacation Pay is determined as the number of hours of Unused Vacation Pay multiplied by the participant's hourly rate of compensation as of December 31, 2021.

2.5 Section 12.1 of the Plan is hereby amended to read:

**12.1 Amendments**

- (a) Except as otherwise provided in this Plan, the officers of the District are hereby 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.
- (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 12.1(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 12.1(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 401(k) 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 401(k) Retirement Savings Plan (the “Plan”)

### PURPOSE

Amendments of the Omaha Public Power District 401(k) Retirement Savings Plan to:

1. Comply with Required and Permitted Changes under the Coronavirus Aid, Relief and Economic Security (“CARES”) Act; and
2. To Permit Participants to Contribute the Dollar Equivalent of Unused Vacation Pay to the Plan, and to Give the Chief Executive Officer the Power to Make Certain Amendments.


### FACTS

- a. Pursuant to Section 12.1 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 May 1, 2020, the Board of Directors Desires to amend the Plan to comply with required and permitted changes under the CARES Act.
- c. Effective January 1, 2021, the Board of Directors desires to amend the Plan to permit Participants to contribute the dollar equivalent of unused vacation pay to the Plan, and to give the Chief Executive Officer of the District the power to make certain pre-authorized amendments to the Plan.
- d. General Counsel has prepared draft amendments to the Plan to reflect the desired changes.

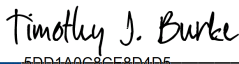
### ACTION

Board approval of the Amendments of the Omaha Public Power District 401(k) Retirement Savings Plan effective May 1, 2020, and January 1, 2021, as applicable.

#### RECOMMENDED:

DocuSigned by:  
  
0AC6CF8F91D3458  
Martha L. Sedky  
Vice President – Human Capital

#### APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:  
  
5DD1A0C6CE8D4D5  
Timothy J. Burke  
President and Chief Executive Officer

Attachments: Resolution