

RESOLUTION NO. 56-2017

A RESOLUTION OF THE CITY OF WESTWOOD, KANSAS, ADOPTING THE KPERS' SUPPLEMENTAL 401A DEFINED CONTRIBUTION PLAN

WHEREAS, the City of Westwood, Kansas, (hereinafter referred to as the "Participating Employer") has determined that in, the interest of attracting and retaining qualified employees, it wishes to offer a primary or a supplemental defined contribution plan in accordance with Section 401(a) of the Internal Revenue Code ("Code");

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering its employees the State of Kansas ("State") Public Employees Deferred Compensation Plan as authorized by K.S.A. 74-49b01, et seq., of the Kansas Statutes Annotated;

WHEREAS, the State's Public Employees Deferred Compensation Plan is intended to be an eligible deferred compensation plan in accordance with Code section 457(b) (the "457 Plan");

WHEREAS, the 457 Plan is administered by Kansas Public Employees Retirement System ("KPERS") Board of Trustees;

WHEREAS, on July 1, 2016, the State authorized KPERS to establish a qualified defined contribution plan under Code section 401(a) for local governmental units of the State to make defined contributions on behalf of their employees;

WHEREAS, accordingly, KPERS has established the KPERS' Supplemental Defined Contribution Plan (the "Plan") in which the local governmental units of the State may participate;

WHEREAS, the Plan is intended to be a qualified, governmental defined contribution plan in accordance with Code sections 401(a) and 414(d);

WHEREAS, the Plan is administered by KPERS;

WHEREAS, the Plan is only available to participating employers who also are participating in the State's 457 Plan;

WHEREAS, the Participating Employer has reviewed the Plan;

WHEREAS, the Participating Employer wishes to participate in the Plan to provide certain benefits to its employees, reduce overall administrative costs of offering a retirement plan to its employees, afford attractive investment opportunities to its employees, and encourage additional retirement savings by its employees;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

WHEREAS, the Participating Employer has executed an Adoption Agreement for the Plan;
and

WHEREAS, the City of Westwood is authorized by law to adopt this Resolution approving the Adoption Agreement on behalf of the Participating Employer;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS, AS FOLLOWS:

Section 1. The Participating Employer adopts the Plan and Trust Agreement for its Employees.

Section 2. The Participating Employer acknowledges that KPERS, including KPERS' Board of Trustees ("KPERS' Board"), are only responsible for this Plan, the 457 Plan established under K.S.A. 74-49b01, et seq. and the defined benefit retirement systems created under K.S.A. 74-4903. However, neither KPERS nor the KPERS Board shall have any responsibility for other employee benefit plans separately maintained and/or established by the Participating Employer. Further, the Participating Employer acknowledges and agrees that it assumes full responsibility for the operation and administration of its obligations under the Plan, in accordance with Section 4(c) of this Resolution, its status as a joint trustee of the Plan and the trust, including, but not limited to, as a party to the Trust Agreement with Wells Fargo Bank, National Association ("Trust Agreement") and any legal obligations thereunder. The participating employer also acknowledges and agrees that neither the State nor KPERS shall incur any liability by reason of this Resolution or the Adoption Agreement which is attached hereto and made a part of this Resolution ("Adoption Agreement");

Section 3. The Participating Employer hereby agrees to and adopts the terms of the Plan and the Adoption Agreement. The Plan and Adoption Agreement set forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement, so long as the amendment is not inconsistent with the Plan or applicable federal law including, but not limited to, Code section 401(a), or other applicable law and is approved by KPERS and the Plan's Administrative Service Provider.

Section 4.

- (a) The Participating Employer shall abide by the terms of the Plan and the Trust Agreement, including amendments to the Plan and the Trust Agreement, all investment, administrative, and other service agreements of the Plan and the Trust Agreement, and all applicable provisions of the Internal Revenue Code and other applicable law.
- (b) The Participating Employer accepts the administrative services to be provided by KPERS and any services provided by the Plan's Administrative Service Provider in accordance with the Trust Agreement. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Members' accounts.
- (c) The Participating Employer shall be a joint trustee with KPERS under the Trust Agreement.

- (d) The Participating Employer shall indemnify and hold harmless KPERS from and against any claims and/or damages arising from, or related to any actions taken by or information reported by the Participating Employer to either KPERS or the Administrative Services Provider, including, but not limited to, actions or information regarding the employment status and/or termination of an Employee.
- (e) The Participating Employer shall allow KPERS and/or the Administrative Services Provider reasonable access to Employees to assist with enrollment and/or retirement planning counseling.

Section 5.

- (a) The Participating Employer may terminate its participation in the Plan, if it takes the following actions:
 - (i) A resolution must be adopted terminating its participation in the Plan.
 - (ii) The resolution must specify when the participation will end.

KPERS shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Members will be made in accordance with the Plan.

- (b) The Participating Employer acknowledges that the Board may involuntarily terminate the Plan.
- (c) The Participating Employer acknowledges and agrees that it shall be responsible to fund any accrued liabilities under the Plan in the event of either: i) its voluntary termination of participation in the Plan, or ii) the involuntary termination of the Plan by KPERS.

Section 6. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Members and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and their Beneficiaries and for defraying reasonable expenses of the Plan. All contributions made pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred pursuant to the Trust Agreement to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 7. This Resolution and the Adoption Agreement shall be submitted to KPERS for its approval. KPERS shall determine whether the Resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the

Plan. KPERS may refuse to approve an Adoption Agreement by an Employer that does not have state statutory authority to participate in the Plan. The Participating Employer hereby acknowledges that it is responsible to assure that this Resolution and the Adoption Agreement are adopted and executed in accordance with the requirements of applicable law.

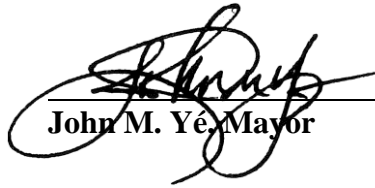
Section 8. This Resolution shall be in full force and effect from and after its adoption.

THIS RESOLUTION IS ADOPTED by the Governing Body of the City of Westwood, Kansas, this 13th day of April, 2017.

CITY OF WESTWOOD, KANSAS



(Seal)



John M. Ye, Mayor

ATTEST:



Frederick L. Sherman, City Clerk

APPROVED AS TO FORM ONLY:



Ryan Denk, City Attorney