

RESOLUTION NO. 3769

A RESOLUTION AMENDING AND RESTATING THE CITY OF OVERLAND PARK DEFERRED COMPENSATION PLAN, ADMINISTERED BY THE ICMA RETIREMENT CORPORATION; ESTABLISHING THAT THE ASSETS OF THE PLAN SHALL BE HELD IN TRUST; ESTABLISHING THE CITY AS TRUSTEE OF THE PLAN TRUST; ESTABLISHING THE ELIGIBILITY REQUIREMENTS FOR CITY APPOINTED OR ELECTED OFFICER OR EMPLOYEE PARTICIPATION IN THE PLAN; ADOPTING THE ADMINISTRATIVE SERVICES AGREEMENT AND ESTABLISHING THE ICMA RETIREMENT CORPORATION AS THE ADMINISTRATOR OF THE PLAN; ESTABLISHING THE DIRECTOR OF HUMAN RESOURCES AS THE COORDINATOR OF THE PLAN AND RESCINDING PRIOR RESOLUTIONS NO. 3575 AND NO. 3630.

WHEREAS, the City of Overland Park has in its employment and as appointed or elected officers and officials, individuals who provide valuable services to the City, and

WHEREAS, the City has established a deferred compensation plan for such employees and appointed or elected officers and officials (the "Plan"), which serves the interests of the City by enabling it to provide an opportunity for reasonable retirement security for such individuals, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the City has determined that the continuance of the Plan will serve the interests set forth above; and

WHEREAS, regulations have been issued under the Internal Revenue Code that permit or require changes to the Plan; and

WHEREAS, the Governing Body of the City, at its regularly scheduled meeting of March 5, 2007, amended and restated the Plan, which is administered by the ICMA Retirement Corporation, by agreeing to the adoption without changes of the ICMA Retirement Corporation Deferred Compensation Plan and Trust model plan as amended and restated effective January 1, 2006; and

WHEREAS, the ICMA Retirement Corporation has notified the City in a letter dated May, 2009, that based on its receipt of a favorable private letter ruling from the Internal Revenue Service regarding the ICMA-RC 457 Deferred Compensation Plan and Trust document, it was making available an updated and restated model plan document and an amendment related to certain legislative and regulatory changes.

NOW THEREFORE BE IT RESOLVED that the City hereby further amends and restates the Plan by adopting without changes that certain document known as the "ICMA Retirement Corporation Deferred Compensation Plan and Trust as amended and restated effective January 1, 2006," including certain changes required by an Internal Revenue private letter ruling dated June 25, 2008 and as amended to reflect certain legislative and regulatory changes, effective as of July 1, 2009, and thereby adopting the group trust created under the Declaration of Trust executed by

VantageTrust Company on May 19, 2001 (“VantageTrust”). A copy of said amended and restated Plan is attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the City accepts the recommendation of the ICMA Retirement Corporation that the Plan offer in-service distributions to participants age 70½ and older.

BE IT FURTHER RESOLVED that the City accepts the recommendation of the ICMA Retirement Corporation that the Plan not permit in-service distributions of rollover assets.

BE IT FURTHER RESOLVED that the City hereby agrees to continue serving as Trustee of the Plan as amended and restated.

BE IT FURTHER RESOLVED that the City hereby continues to make eligible and allow to participate in the Plan any individual employee, except an employee classified as temporary, or any appointed or elected officer who performs services for the City for which compensation is paid.

BE IT FURTHER RESOLVED that the City hereby renews its designation of the ICMA Retirement Corporation as the “Administrator” of the Plan, for the purposes of carrying out certain non-discretionary administrative functions described in the Plan.

BE IT FURTHER RESOLVED that the City hereby reaffirms the Administrative Services Agreement attached hereto as Exhibit B and fully incorporated herein, which provides for the designation of the ICMA Retirement Corporation as the Administrator of the Plan, the duties and responsibilities of the Administrator and provisions for payment of fees for said administrative services.

BE IT FURTHER RESOLVED that the Director of Human Resources shall continue to be the “Coordinator” of the Plan and shall receive necessary reports, notices, etc. from the ICMA Retirement Corporation, the Administrator of the Plan, and shall cast on behalf of the City any required votes under VantageTrust. The Coordinator’s duties shall also include but not be limited to approval of applications by Plan participants for distribution of Plan assets to satisfy “unforeseeable emergency” needs. Administrative duties to carry out the Plan may be assigned to persons designated by the Director of Human Resources. The Coordinator is also hereby directed and empowered to execute the documents necessary to implement the City’s directives as set forth in this Resolution No. 3769.

Resolution No. 3575 and Resolution No. 3630 are hereby rescinded.

ADOPTED by the City Council of the City of Overland Park, Kansas, this 21st day of September, 2009.

Carl Gerlach, Mayor

ATTEST:

APPROVED AS TO FORM

Marian Cook
City Clerk

Michael R. Santos
Deputy City Attorney