Wichita Public Schools
Unified School District No. 259
Wichita, Kansas

April 10, 2023

Resolution 2023-16

RESOLUTION ADOPTING AN AMENDMENT TO THE UNIFIED SCHOOL DISTRICT NO. 259 DEFERRED COMPENSATION PLAN

Recitals

The District currently offers the Unified School District No. 259 Deferred Compensation Plan, commonly known as the 457(b) plan (the "Plan"), to give its employees the opportunity to save additional funds for retirement;

The District desires to amend the Plan, effective as of the dates specified in each Article;

The District received notification from the Plan's Third Party Administrator, Empower (formerly Mass Mutual), that the Plan would need to be amended to take advantage of provisions in the Further Consolidated Appropriations Act of 2019 ("FCAA") and the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE");

This amendment is intended as a good faith effort to comply with the requirements set forth in FCAA and SECURE acts and is to be construed in accordance with the same. This amendment will supersede any inconsistent Plan provisions;

There has been presented at the meeting copies of the proposed amendments to the Plan; and

IT I S RESOLVED that the Plan be amended substantially in the form presented below and that such amendments to the Plan are hereby adopted and approved by the Board, effective of the date of adoption:

INTERIM AMENDMENT for FCAA, SECURE, and BAMA
ARTICLE I PREAMBLE

1.1 Adoption of Amendment. The Employer identified on the execution page adopts this Amendment to implement provisions of the pension-related provisions of the Further Consolidated Appropriations Act of 2019 ("FCAA") in general, and Division O of that Act, the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE"), in specific. It also addresses a provision of the Bipartisan American Miners Act ("BAMA"), which is also part of FCAA. The provisions of this Amendment shall be interpreted and applied to be consistent with FCAA and IRS guidance issued in connection therewith, whether such guidance is issued before or after the date of this amendment. Each Article specifies the effective date of its provisions.

1.2 Plan. This Amendment applies to the Plan identified on the execution page of the Amendment.

1.3 General. This Amendment supersedes the provisions of the Plan identified below to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section,

or other numbering designations. 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). If the Employer previously amended the Plan after December 20, 2019 to implement a provision contained in one or more Articles of this Amendment, that prior amendment shall remain in effect and will not be superseded by this Amendment.

ARTICLE II ELECTIONS

2.1 Operating Elections. Articles III, V, and VI of this Amendment refer to elections appearing in this Article II. Each of Sections 2.2 through 2.4 refers to a corresponding Article. For example, Section 2.2 has the elections related to Article III. The definitions in those Articles apply to the elections in the corresponding Section of this Article II, and those elections have the same effective date as the corresponding Article. Each Section of this Article II lists the default provisions which will apply if no election is made. If you accept the default(s), there is no need to complete the Section. There are no elective provisions which apply to Articles IV and VII through IX.

2.2 Article III – Birth/Adoption Distributions. In the absence of an election below, Article III does NOT apply. To permit QBADs (Qualified Birth and Adoption Distributions), check (a). If QBADs are available, they apply to all accounts except as provided in Article III or in elections (b), (c), (d), or (e). *(Select all that apply.)*
(a) [ ] Article III is effective January 1, 2020 unless a later effective date is entered here: _____. (*Enter date after December 31, 2019.*)
(b) [ ] QBADs may only be made from accounts in which the Participant is fully vested.
(c) [ ] QBADs are only available from the following accounts *(select one or more):*
(1) [ ] Pre-Tax Elective Deferrals
(2) [ ] Roth Elective Deferrals
(3) [ ] Employer contributions
(4) [ ] Rollover contributions
(5) [ ] Transferred accounts
(6) [ ] Describe: _____ *(must be definitely determinable and not subject to discretion)*
(d) [ ] QBADs are not available if the Participant has severed employment.
(e) [ ] Describe additional limitations: _____
(must be definitely determinable and not subject to discretion)

2.3 Article V – 10-Year Rule for Beneficiary RMDs. RMDs to an Eligible Designated Beneficiary of a Participant who dies prior to the Participant's RBD will be made as elected below. In the absence of an election in Section 2.3, the Plan's provisions about Beneficiary elections with regard to the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule
(a) [ ] Beneficiary election. The Eligible Designated Beneficiary may elect application of the 10-Year Rule or the Life Expectancy rule. If the Beneficiary does not make a timely election *(Select one of (1) or (2))*:
(1) [ ] 10-year rule. The 10-year rule applies to the Eligible Designated Beneficiary.
(2) [ ] Life Expectancy Rule. The Life Expectancy rule applies to the Eligible Designated Beneficiary.
(b) [ ] 10-year rule. The 10-year rule applies to the Eligible Designated Beneficiary.
(c) [X] Life Expectancy rule. The Life Expectancy rule applies to the Eligible Designated Beneficiary.
(d) [ ] Shorter Period. The entire interest of the Eligible Designated Beneficiary will be distributed no later than December 31 of the _____ *(enter a number of years, not exceeding "tenth")* year following the year of the Participant's death.
(e) [ ] Other: _____
(Describe, e.g., the 10-Year Rule applies to all Beneficiaries other than a surviving spouse Beneficiary.)

2.4 Article VI – In-Service Distributions. In the absence of an election below, Article VI does NOT apply. To permit in-service distributions at age 59½, c*heck (a). Check (b) to specify an age greater than 59 ½.*
(a) [ ] Article VI applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is entered here: _____. (*Enter date on or after the first day of the first plan year beginning after December 31, 2019*.)
(b) [ ] Age at which in-service distributions are permitted _____.

ARTICLE III BIRTH/ADOPTION DISTRIBUTIONS

3.1 Effective Date. This Article III is effective as the date specified in Section 2.2(a).

3.2 Distribution Authorized**.** Except as limited by Section 2.2(b), (c), (e), a Participant may request a distribution of up to $5,000 (per child or Eligible Adoptee) as a QBAD. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.2(d) is selected. This $5,000 limit shall be reduced by QBADs to the Participant made with respect to the same child or Eligible Adoptee by other plans maintained by the Employer or a related employer described in Code §414(b), (c), (m), or (o). The Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions for QBADs.

3.3 Definitions**.** The following definitions apply for this Article III and Section 2.2:
(a) A "QBAD" is a Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning on the date on which a child of the Participant is born or on which the legal adoption of an Eligible Adoptee by the Participant is finalized.

(b) An "Eligible Adoptee" is an individual, other than a child of the Participant's spouse, who has not attained age 18 or is physically or mentally incapable of self-support. An individual is considered physically or mentally incapable of self-support if that individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. This provision shall be applied in a manner consistent with Part D of IRS Notice 2020-68.

3.4 Rollover. A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.

3.5 Reliance. The Administrator may rely on an individual's reasonable representation that the individual is eligible to receive a QBAD unless the Administrator has actual knowledge to the contrary.

3.6 Status**.** A QBAD is not an eligible rollover distribution for purpose of the obligation to permit a direct rollover under Code §401(a)(31), the notice requirement of Code §402(f), or the mandatory withholding rules of Code §3405(c)(1).

ARTICLE IV REQUIRED BEGINNING DATE

4.1 Effective Date. This Article IV is effective with regard to RMDs required to be made after December 31, 2019, with respect to Participants who attain age 70½ after such date. For purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2022 (or such later date as specified in applicable final regulations or guidance), the Administrator must apply the provisions of this Article IV consistent with proposed Treas. Reg §§1.401(a)(9)-1 through 1.401(a)(9)-9 issued on February 24, 2022 (or subsequent applicable final regulations).

4.2 Delay of Required Beginning Date. An Affected Participant's RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72. For purposes of determining an Affected Participant's RBD, an Affected Participant will be treated as a more than 5% owner if the Participant was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 72.

4.3 Spousal Distributions. If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 70½.

4.4 Definitions. The following definitions apply for this Article IV:
(a) A Participant is an "Affected Participant" if the Participant was born after June 30, 1949.

(b) An "RMD" is a Required Minimum Distribution as described in Code §401(a)(9).

(c) A Participant's "RBD" is the Participant's required beginning date as described in Code §401(a)(9)(C), as amplified by Section 4.2.

ARTICLE V BENEFICIARY RMDS

5.1 Effective Date. The Effective Date of this Article V is January 1, 2022. Article V applies to Participants who die on or after the Effective Date of this Article. See Section 5.4 regarding the limited application of this Article V to certain accounts of Participants who died before the Effective Date of this Article V.

5.2 Death before RBD. If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Account Balance not later than as follows:
(a) No Designated Beneficiary. If there is no designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule.

(b) Eligible Designated Beneficiary. If the distributee of a Participant's account is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule unless the 10-Year Rule applies. The Employer may elect application of the Life Expectancy rule or the 10-Year Rule in Section 2.3. In the absence of an election in Section 2.3, the Plan's provisions with regard to election of the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule. A permitted Beneficiary election must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(c) Other Designated Beneficiaries. If the distributee of the Participant's account is a designated Beneficiary who is not an Eligible Designated Beneficiary, then the Beneficiary's entire interest will be distributed under the 10-Year Rule.

(d) 10-Year Rule. If distribution of a deceased Participant's account thereof is subject to the "10-Year Rule," then the Plan will distribute the account in full no later than December 31 of the tenth year following the year of the Participant's death. No RMDs are required to be distributed from the account prior to that date.

5.3 Death after RBD. If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death to the extent provided by applicable guidance. If the Beneficiary is a designated Beneficiary that is not an Eligible Designated Beneficiary, the Plan will distribute the remaining account in full no later than December 31 of the tenth year following the year of the Participant's death.

5.4 Beneficiary Death. If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before receiving distribution of the Beneficiary's entire interest in the Participant's account, the Plan will distribute that interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article V, and the beneficiary died after such Effective Date, but prior to receiving full distribution of the beneficiary's interest, the Plan will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.

5.5 Age of Majority. If a child of the Participant was receiving distributions under the Life Expectancy rule, when the child reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary, such as a disabled or chronically ill individual.

5.6 Definitions; operating rules. The following definitions and operating rules apply for this Article V and Section 2.3:

(a) An "RMD" is a Required Minimum Distribution as described in Code §401(a)(9).

(b) A Participant's "RBD" is the Participant's required beginning date as described in Code §401(a)(9)(C) and the Plan. Also see Section 4.2.

(c) A distributee of a Participant's account is a "designated Beneficiary" if the distributee is an individual or trust who is a beneficiary of the account (whether pursuant to a designation by the Participant or application of the Plan terms) and who is a designated beneficiary under Code §401(a)(9) and applicable regulations.

(d) An individual is an "Eligible Designated Beneficiary" of a Participant if the individual qualifies as a designated Beneficiary and is (1) the Participant's spouse, (2) the Participant's child who has not reached the age of Majority, (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(c)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).

(e) Whether a child has reached the age of "Majority" is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder.

(f) The "Life Expectancy Rule" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.

(g) The "5-Year Rule" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(h) The "10-Year Rule" is described in Section 5.2(d).

(i) Shorter period. Section 2.3(d) may specify a shorter period to be used in place of the tenth year after the death of a Participant or Beneficiary.

(j) Separate share rule. All references in this Article to a Participant's Account Balance and a Beneficiary's interest in that account will be applied separately to each separate account determined under applicable regulations and Code §401(a)(9)(H)(iv).

ARTICLE VI IN-SERVICE DISTRIBUTIONS

6.1 Application. This Article VI will apply only if the Employer elects in Section 2.4 for this Article VI to apply, effective on the date specified in Section 2.4(a).

6.2 Distribution at 59½. A Participant can take an in-service distribution at age 59½, or, if later, the age (if any) specified in Section 2.4(b). Such a distribution will be limited to the vested portion of the Participant's Account Balance and will be subject to all Plan provisions related to in-service distributions. The Plan can operationally permit distributions as early as January 1 of the calendar year the Participant attains 59½ (or such later age).

ARTICLE VII DISTRIBUTIONS OF DISCONTINUED LIFETIME INCOME INVESTMENTS

7.1 Application. This Article VII is effective for Plan Years beginning after December 31, 2019.

7.2 Distributions authorized. The Administrator may authorize Participants to request, and as soon as practical after a Participant makes the request, the Plan will make, a distribution of a Discontinued Lifetime Income Investment. Distribution under this Article is limited to the 90-day period prior to the date on which the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. Such distribution will be in the form of a Qualified Distribution, or in the form of a Qualified Plan Distribution Annuity Contract, as determined by the Administrator. The Administrator will administer this section in a reasonable, nondiscriminatory manner, and may authorize distributions of some Discontinued Lifetime Income Investments and not others.

7.3 Definitions. The terms "Lifetime Income Investment," "Qualified Distribution" and "Qualified Plan Distribution Annuity Contract" have the meanings set forth in Code §401(a)(38)(B). A "Discontinued Lifetime Income Investment" is a Lifetime Income Investment which will no longer be authorized to be held as an investment option under the Plan.

ARTICLE VIII UPDATED LIFE EXPECTANCY TABLES

8.1 Application. This Article VIII is effective for distribution calendar years beginning on or after January 1, 2022.

8.2 New RMD Tables. Any Plan reference to the life expectancy tables detailed in Treas. Reg. §1.401(a)(9), such as the Uniform Life Table, the Single Life Table, or the Joint and Last Survivor Table, refers to these tables as published in Treas. Reg. §1.401(a)(9)-9 from time to time, and is subject to adjustment as described in Treas. Reg. §1.401(a)(9)-9(f).

ARTICLE IX DIFFICULTY OF CARE PAYMENTS

9.1 Application. This Article IX is effective for Plan Years beginning after December 31, 2015.

9.2 Inclusion in 415 Compensation. The amount of a Participant's Compensation for purposes of determining the annual addition limit under Code §415(c)(1)(B) is increased by the amount of Difficulty of Care Payments the Employer makes to the Participant.

9.3 Definition. A "Difficulty of Care Payment" is a payment described in Code §131(c)(1) made in connection with qualified foster individuals.

RESOLVED FURTHER, that a copy of the above-stated amendments to the Plan be made a part of the minutes of this meeting; and

FINALLY RESOLVED, that the Benefits Plan Committee (or its designee) is authorized and directed to execute and implement the amendments to the Plan substantially in the form presented to the meeting.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand and the seal of the Board this _____day of _____, 2023.

By_____
Sheril Logan, President of the Board
Unified School District No. 259 Board of Education

ATTEST:_____

By_____
Patrick Greene, Clerk of the Board