

RESOLUTON NO. 2023-3

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY ADMINISTRATOR TO AMEND THE CURRENT CITY OF WISNER 401(K) PLAN TO FREEZE ELIGIBILITY AND PARTICIPATION AND CONTRIBUTION AND BENEFIT ACCRUAL, TO MAKE A SUBMISSION TO THE INTERNAL REVENUE SERVICE VOLUNTARY CORRECTION PROGRAM REGARDING THE CITY OF WISNER 401(K) PLAN, TO ADOPT AN INTERNAL REVENUE CODE SECTION 457(B) PLAN FOR THE BENEFIT OF CITY EMPLOYEES AND EXECUTE RELATED PLAN DOCUMENTS, AND TO TAKE ALL OTHER NECESSARY ACTIONS ON BEHALF OF THE CITY OF WISNER TO ACCOMPLISH THOSE PURPOSES.

WHEREAS, the City of Wisner (the "City") currently sponsors the City of Wisner 401(k) Plan (the "401(k) Plan") for the benefit of its employees; and

WHEREAS, the City has been advised that it is ineligible to sponsor the 401(k) Plan and that a request for a compliance statement should be submitted to the Internal Revenue Service ("IRS") in relation to the 401(k) Plan pursuant to the IRS Voluntary Correction Program;

WHEREAS, the City desires to freeze participation and eligibility in the 401(k) Plan and to freeze contributions and benefit accruals to the 401(k) Plan as soon as administratively possible; and

WHEREAS, the City desires to implement a new retirement plan for the benefit of its employees that complies with both federal and state law.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF WISNER, NEBRASKA, that:

1. The City Administrator is authorized to sign an amendment to the 401(k) Plan to freeze participation and eligibility in the 401(k) Plan and to freeze contributions and benefit accruals to the 401(k) Plan as soon as is administratively possible and on such date the City Administrator determines is appropriate on the advice of counsel.

2. The City Administrator is authorized to execute such documents as may be necessary to submit to the IRS a request for a compliance statement in relation to the 401(k) Plan pursuant to the IRS Voluntary Correction Program.

3. The City Administrator is authorized and directed to take any and all actions as may be necessary or appropriate to carry out the intent and purposes of the foregoing resolutions, including, without limitation, the execution of any amendments, agreements, documents, resolutions, certificates and any related documentation required or recommended by counsel to address its sponsorship of the 401(k) Plan and to take such actions as necessary to ensure compliance with applicable law as advised by counsel.

4. The City Administrator is authorized to adopt an Internal Revenue Code § 457(b) plan for the benefit of its employees, pursuant to federal and state law requirements and upon the advice of counsel, effective on or about May 1, 2023, or such date as determined by the City Administrator on the advice of counsel.

5. The City Administrator is authorized and directed to execute the plan document for the 457(b) plan, along with such revisions as recommended by counsel, and such agreements, certifications, and other documents containing such terms and drafted in such form as the City Administrator may approve in his sole discretion, to allow, cause and facilitate the sponsorship of the plan.

6. The City Administrator is authorized and directed to take any and all actions as may be necessary or appropriate to carry out the intent and purposes of the foregoing resolutions, including, without limitation, the execution of any amendments, agreements, documents, resolutions, certificates and any related documentation required or recommended by counsel to implement the 457(b) plan and to ensure the plan's compliance with applicable law.

Passed and Approved this 17th Day of April, 2023.

Terry Soden, Mayor

Stephanie James, City Clerk/Treasurer