

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
JULY 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
AMENDMENT TO PENSION PLANS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAM BUETHE CITY CLERK

**SYNOPSIS**

A resolution has been prepared to authorize amendments to the City's employee pension plans. The amendments are necessary to appoint a new trustee for the plans and maintain their qualified status.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval

**BACKGROUND**

The City's pension plans (four 401 plans and two 457 plans) are currently administered by ICMA-RC, which has a service agreement with Vantage Trust Company to serve as the trustee of the City's pension plan trusts. We have received notification that this service agreement will expire on July 31, 2012 and Vantage Trust Company will resign as trustee effective July 31, 2012. A new trustee for the plan trusts must be appointed and ICMA-RC has offered the services of Wilmington Trust Retirement and Institutional Services Company, a Delaware trust company. The two 457 plans are not affected by this current action.

The existing trustee of the Plan, as well as any entity appointed as successor trustee, is a directed trustee and performs primarily administrative functions to carry out the investment instructions of plan participants. The trustee has no legal obligation to oversee management of plan assets.

It is recommended that we appoint Wilmington Trust Retirement and Institutional Services Company to serve as the trustee for the City's pension plan trusts.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING APPOINTMENT OF WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY AS SUCCESSOR TRUSTEE OF CERTAIN CITY RETIREMENT PLANS AND AUTHORIZING CORRESPONDING DOCUMENT AMENDMENTS.

WHEREAS, the City maintains the following retirement plans and trusts for the exclusive benefit of plan participants and their beneficiaries pursuant to Section 401(a) of the Internal Revenue Code and applicable Nebraska law:

Plan No. 107200 - The City of La Vista General Employees Defined Contribution Pension Plan and Trust,  
Plan No. 106162 - The City of La Vista City Administrators' Defined Contribution Pension Plan and Trust,  
Plan No. 106442 - The City of La Vista Firefighters Retirement Plan and Trust, and  
Plan No. 107185 - The City of La Vista Police Officers Retirement Plan and Trust,

(collectively the "Plans"); and

WHEREAS, Vantage Trust Company, LLC is directed trustee of the Plans; and

WHEREAS, The City also maintains two additional plans - Plan No. 300510 - The City of La Vista City Administrators' 457 Deferred Compensation Plan and Trust, and Plan No. 304703 - The City of La Vista Civilian Employees Supplemental 457 Deferred Compensation Plan and Trust - for which the City of La Vista serves as trustee, which duties are carried out by the City Treasurer; and

WHEREAS, the City has been notified that the Vantage Trust Company, LLC will resign as directed trustee of the Plans effective as of July 31, 2012; and

WHEREAS, ICMA Retirement Corporation provides administrative and investment services to the Plans and has established a relationship with Wilmington Trust Retirement and Institutional Services Company, a Delaware trust company to serve as successor directed trustee, if desired by the City; and

WHEREAS, the City desires to appoint the Wilmington Trust Retirement and Institutional Services Company to serve as successor directed trustee of the Plans, effective as of July 31, 2012.

NOW, THEREFORE, BE IT RESOLVED, that the City accepts the resignation of Vantage Trust Company, LLC effective as of July 31, 2012, subject to acceptance of appointment of successor trustee and any required accountings or transfers of assets satisfactory to the City Administrator.

BE IT FURTHER RESOLVED that the Wilmington Trust Retirement and Institutional Services Company is hereby appointed to serve as successor directed trustee of the Plans effective as of July 31, 2012, subject to any due diligence and acceptance of appointment in writing satisfactory to the City Administrator.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized to execute

such amendments to the Plans or corresponding trust agreements or other documentation or instruments, obtain any desired accountings and take any and all other actions on behalf of the City, as necessary or appropriate to carry out the actions approved in this Resolution and to maintain the qualified status of the Plans, in form and content satisfactory to the City Administrator.

PASSED AND APPROVED THIS 3RD DAY OF JULY, 2012.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

I, Pamela A. Buethe, City Clerk of the City of La Vista, Nebraska, hereby certify that the foregoing Resolution having been presented in its entirety and read by title, Council Member \_\_\_\_\_ moved its passage, which motion was seconded by Council Member \_\_\_\_\_. After consideration, the following members voted in favor of the passage and adoption of said Resolution: . The following members voted against the same:\_\_\_\_\_.

The following members were absent or did not vote:

The passage of said Resolution having been consented to by a majority of the members of the City Council, the Mayor declared the Resolution duly passed and adopted.

DATED this 3rd day of July, 2012.

{SEAL}

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**TRUSTEE ACCEPTANCE OF APPOINTMENT**

Wilmington Trust Retirement and Institutional Services Company hereby accepts appointment as successor directed trustee of the following qualified retirement plans:

Plan No. 107200 - The City of La Vista General Employees Defined Contribution Pension Plan and Trust,

Plan No. 106162 - The City of La Vista City Administrators' Defined Contribution Pension Plan and Trust,

Plan No. 106442 - The City of La Vista Firefighters Retirement Plan and Trust, and

Plan No. 107185 - The City of La Vista Police Officers Retirement Plan and Trust,

and agrees to carry out its duties as trustee in accordance with all applicable plan and trust documents, agreements and laws, rules and regulations.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

**WILMINGTON TRUST RETIREMENT  
AND INSTITUTIONAL SERVICES COMPANY**

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

**TRUSTEE (or SUCCESSOR TRUSTEE) APPOINTMENT  
AMENDMENT OF TRUST AGREEMENT**

*THIS AMENDMENT OF TRUST AGREEMENT ("Agreement") is entered Into by and between the employer named on the signature page hereof (the "Employer") and Wilmington Trust Retirement and Institutional Services Company ("WTRISC"), as non-discretionary trustee (the "Trustee") for the CITY OF LAVISTA Plan 107200 – The City of La Vista General Employees Defined Contribution Pension Plan and Trust (the "Plan") and is entered into as of this **31st** day of **July, 2012**.*

**PRELIMINARY STATEMENTS**

WHEREAS, the Trustee is a trust company that is subject to supervision of the United States or a State;

WHEREAS, the Employer is a governmental entity;

WHEREAS, the Employer is adopting or has heretofore adopted the above referenced Plan;

WHEREAS, in connection with the adoption of the Plan, the Employer Is entering Into or has entered into a trust agreement or a combined plan and trust agreement (the "Trust Agreement");

WHEREAS, the Employer has duly appointed WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable, under the Trust Agreement, and WTRISC is willing to serve as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable; and

WHEREAS, the Employer is entering (or has entered) Into an Administrative Services Agreement with ICMA Retirement Corporation ("Plan Administrator").

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound, the Employer and WTRISC hereby mutually agree as follows

1. The Employer hereby appoints WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee as applicable, and WTRISC hereby accepts such appointment subject to applicable law, regulations and other guidance and the terms of the governing Plan documents and Trust Agreement, as modified by this Agreement. The Employer hereby represents and warrants that the Plan is and, during the term of this Agreement, shall remain a "governmental plan" as defined In Section 3(32) of the Employee Retirement Income security Act of 1974, as amended ("ERISA") and pursuant to Section 4(b) of ERISA Is exempt from Title I of ERISA, and the Employer hereby agrees That it shall notify WTRISC immediately If the Plan Is or will no longer be exempt therefrom. To the extent applicable, the Employer agrees that it has or shall have in place internal controls commensurate with the risk to ensure compliance with U.S. economic sanctions programs administered by the Departments of Treasury and State, as well as controls (i) sufficient to ensure that funds flowing to Trustee or a third party with custody of Trust assets are not from suspect sources, and (ii) that meet all applicable U.S. anti-money laundering, anti-terrorism finance, and anti-corruption requirements.
2. The Employer and WTRISC agree that the following provisions are added to the Trust Agreement and shall control the interpretation thereof, notwithstanding anything to the contrary now or hereafter contained therein or in any other document governing the Plan:
  - (a) Unless and until otherwise agreed in writing between the Employer and the Trustee, the Trustee shall have no discretionary Investment responsibility with respect to the trust fund, it being the intent of the parties that the Trustee be a directed trustee, and such discretionary investment responsibility shall be exercised by the Employer, the Participants, or one or more Investment Managers or other named fiduciary for the Plan (each, an "Instructing Party") (it being agreed that the Trustee shall have no responsibility for conveying investment instructions to any person or entity so long as it does not have custody of Trust assets); and further, the Trustee shall have no obligations or responsibilities with respect to developing a funding policy, any financial control functions (Including, without limitation, account reconciliation, money movement or settlement

## WILMINGTON

### Trust

and participant disbursements), participant review for Office of Foreign Asset Control activity, complying with the accounting requirements of the Plan, the design or monitoring of the participant loan program, ensuring compliance with Section 404(c) of ERISA, If applicable, selecting or monitoring the selection of plan investments. The Employer or its designee agrees to notify the Trustee immediately in the event of any changes regarding plan investments.

- (b) The Trust Agreement is incorporated herein by this reference and, as modified by this Agreement, shall be construed and enforced against the Trustee according to the laws of the state of the Employer's residence, to the extent not preempted by ERISA, if applicable. The foregoing provisions shall control the Interpretation of the Trust Agreement notwithstanding anything to the contrary contained herein or in any other document governing the Plan.
- (c) Administrative Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise In Its sole discretion:
  - (i) With advance notice to and written consent of the Employer:
    - (a) To engage attorneys (who may also serve as counsel for the Employer or the Trustee), accountants and other professional advisors, and, anything contained herein to the contrary notwithstanding, to engage In legal or administrative proceedings as the Trustee deems reasonably required in connection with the administration of the Trust, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Trustee deems reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Trust and may be paid from the Trust with prior notice to the Employer and shall in no event be deducted from any compensation payable to the Trustee.
    - (b) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Employer or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder.
  - (ii) Judicial Settlement. With at least 10 days advance notice to and written consent of the Employer, the Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for Instructions. The only necessary party defendant to any such action shall be the Plan Administrator, but the Trustee may, If It so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be a charge against the Trust with prior notice to the Employer.
  - (iii) Compensation. The Trustee shall receive compensation for the performance of Its services in the amount of \$850 per calendar year, with the first year's fee being prorated based on the number of days remaining in the current calendar year after the effective date of this Agreement as indicated above. In the event that the Trustee shall be called upon to render any extraordinary services, It shall be entitled to additional compensation as agreed in advance in writing by Employer and Trustee. To the extent not paid by Employer or another person or entity in its stead or on its behalf, such compensation shall constitute a charge against the Trust.

- (iv) Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust with prior notice to and written approval of the Employer.
- (d) Designation of Plan Administrator, Authorized Persons and Investment Manager. The Plan Administrator, Authorized Person and Investment Manager may be designated by providing the name and signatures of such person(s) to the Trustee. The Trustee shall be entitled to rely entirely, without having to make further inquiry, and shall not be held liable for any actions taken in assuming, that the Identity and duties of such persons so designated are valid until such time as it is otherwise notified in writing. Notice of authorization or removal of the Plan Administrator shall be accompanied by evidence of proper action of the Employer approving such instruction.
- (e) Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon Instructions appearing to be instructions from any person designated as the Employer, Plan Administrator, Investment Manager or Authorized Person. Instructions given by an Authorized Person in accordance with this Agreement shall be treated for all purposes hereof as instructions from the party appointing the Authorized Person. The Trustee shall be deemed to have received proper instructions upon receipt of written Instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- (f) Conflicting Instructions. In the event of any ambiguous or conflicting Instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such Instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting Instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (i) have been resolved and it has been notified in writing thereof or (ii) have finally been determined in a court of competent jurisdiction.
- (g) Reliance on Professional Advisors. The Trustee may consult with a professional advisor who may also be an advisor for the Employer, and the Trustee shall be fully protected in respect of any action taken or suffered by the Trustee in good faith and in accordance with the advice or opinion of such professional advisor.
- (h) Bond. The Trustee shall not be required to give any bond or other security for the faithful performance of the Trustee's duties under this Agreement, except as may be required by Applicable Law,
- (i) Action By Employer. Except as otherwise agreed by Trustee, any action by Employer pursuant to any of the provisions of this Agreement, the Plan, or Applicable Law shall be, (i) in the case of a corporation, partnership or similar organization, evidenced by (1) a resolution of its governing body certified to the Trustee over the signature of its secretary or assistant secretary or other duly authorized agent under seal, if there be one, or (2) by appropriate written authorization of any person or committee to which the governing body had delegated the authority to take such action, and (ii) in the case of a sole proprietorship or any other entity, evidenced by written certification of a duly and legally authorized agent, individual or entity. The Trustee shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- (j) Bankruptcy. Trustee shall have no duty, in the event of the Employer's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- (k) Scope of Trustee's Liability. To the full extent permitted by Applicable Law, the Trustee shall not be liable for assets that are not included in the Trust or for losses of any kind that may result (i) by reason of any action taken by it in accordance with the instructions of the Employer, the Plan Administrator, the Investment Manager, or Authorized Person, (ii) by reason of any failure to act as a result of the absence of, or ambiguity of instructions, or (iii) by reason of any actions taken by any prior trustee, additional trustee, successor trustee or Appointed Custodian; provided,



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- (l) however, the Trustee shall be liable for any losses arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees (as defined below), or any of them. The Trustee has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.
- (l) General Indemnity. The Employer shall, to the full extent permitted by Applicable Law, and subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, Indemnify and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates ("Trustee Indemnitees") from and against any and all damages, losses, costs, judgments, fines, penalties, and expenses (including attorney's fees and disbursements) of any kind or nature (collectively, "Losses") imposed on or incurred by the Trustee Indemnitees, by reason of its or their service pursuant to this Agreement, including any Losses arising out of any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including any such action by or in the right of the Employer), except to the extent such Losses were caused by the negligence or willful misconduct of the Trustee or the Trustee Indemnitees, or any of them. Reasonable expenses incurred in defending any such claim, action, suit or proceeding shall be paid by the Employer upon a final disposition of such claim, action, suit, or proceeding, upon presentation of statements therefore by the Trustee.
- (m) Specific Indemnities. In addition to and not in derogation of any other Indemnification or hold harmless provisions in this Agreement, the Employer, subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, agrees to indemnify and hold the Trustee Indemnitees harmless from and against any liability that it or they may incur because of:
- (i) The Employer's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan.
  - (ii) Actions taken or omitted by the Trustee pursuant to any instructions from the Employer, Plan Administrator, Investment Manager or Authorized Person, as the case may be, or actions not taken in the absence of any such instruction.
  - (iii) The application of any part of the Trust by the Trustee in accordance with the instructions of the Employer, Plan Administrator, Investment Manager or Authorized Person.
  - (iv) The failure of an individually directed account or participant loan to satisfy the requirements of the Plan and Applicable Law,
- Provided, however, the Trustee shall be liable for any liability arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees, or any of them.
- (n) Waiver. The Trustee or Employer shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Trustee or Employer, as the case may be, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Trustee or Employer of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.
- (o) No Affiliation. The Trustee is not affiliated with the recordkeeper and there is no agency, partnership or joint venture relationship between the Trustee and the recordkeeper.

- (p) Removal or Resignation. The Trustee may be removed by the Employer at any time by written notice to the Trustee and the Trustee may resign at any time by written notice to the Employer; provided that, unless otherwise agreed, the effective date of such removal or resignation shall be sixty (60) days from the date that said written notice is given. Notice of removal shall be accompanied by evidence of proper action of the Employer approving such removal or shall be given by an Authorized Person or by any successor in office of an Authorized Person. -
- (q) Successor. The Employer shall appoint a successor trustee to act hereunder within sixty (60) days after notice provided. If within sixty (60) days after such notice the Employer has not designated a successor trustee, which has accepted such appointment, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or may appoint an employee of Employer as successor trustee in accordance with Applicable Law. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, Trustee shall provide Employer advance notice of any such merger, conversion, consolidation or successor.
- (r) Powers of Successor. Each successor trustee shall have the powers and duties conferred upon the Trustee in the Trust Agreement, as modified by this Agreement, and the term "Trustee" as used in this Agreement shall be deemed to include any successor trustee.
- (s) Notices. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Employer, the Plan Administrator, the Investment Manager(s) or any Authorized Person shall be in writing and deemed to have been duly given to the Investment Manager(s) when received at its principal place of business, and shall be deemed to have been given to the Employer, Plan Administrator or any Authorized Person when received at the address below:

City of La Vista  
Attention: City Clerk  
La Vista City Hall  
8116 Park View Blvd  
La Vista, NE 68128

. Except as the parties may otherwise agree in writing, all instructions, notices, objections and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at its office below:

Wilmington Trust Retirement and Institutional Services Company  
P.O. Box 52129  
Phoenix, AZ 85072-2129  
Attn: Vice President — Client Services

Or, if by overnight mail:

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900  
Phoenix, AZ 85004  
Attn: Vice President — Client Services

- (t) Inspections/Audits. Trustee's records and statements are to be open for inspection and audit by the Employer from time to time upon request. The Employer shall exercise such right with reasonable prior written notice to the Trustee, and except as required by applicable law, any such audit rights shall be exercised by the Employer not more frequently than annually.

**WILMINGTON  
Trust**

- (u) Force Majeure. The Trustee or Employer shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement when such delays result from events beyond its reasonable control, including without limitation, interruption of the business of the Trustee or Employer, as the case may be, due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work stoppages due to slow-downs), unauthorized access to its systems that may breach its reasonable protection against such access, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption,
  - (v) Entire Agreement. This Agreement, including all Appendices hereto, the Account Application, and the Authorized Persons List, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
3. Except as amended and modified hereby, the terms and provisions of the Trust Agreement are hereby ratified, approved and confirmed.
4. Services to be Performed by Plan Administrator. The Employer has (or will) delegate to the Plan Administrator the sole responsibility to perform certain ministerial and administrative services to the extent set forth in the Administrative Services Agreement between the Employer and the Plan Administrator, and if so provided in the Administrative Services Agreement the Employer hereby instructs Trustee that Trustee shall relinquish any responsibility for the performance of said duties that it would otherwise have pursuant to the Trust Agreement as set forth below:
- (a) Receive contributions directly from the Employer or its Plan Committee;
  - (b) Make distributions at the Employer's directions, in accordance with the terms of the Plan and the Trust Agreement;
  - (c) Perform the accounting for all assets including cash, as well as contributions, loans and withdrawals and the allocation of credited interest and allocate all income, gains and losses;
  - (d) Remit fees for services rendered to the Plan as directed by the Employer, subject to the prohibited transactions provisions of ERISA, if applicable;
  - (e) Render reports to the Employer and the Trustee with respect to assets held as required or reasonably requested (e.g., SOC-1 or similar reports);
  - (f) Perform tax reporting and withholding in compliance with applicable Federal and State law in connection with payments to participants or beneficiaries and in accordance with instructions and directions provided by the Employer;
  - (g) Collect or cause to be collected all income, distributions, and proceeds relating to Plan assets and to invest the same and all contributions as directed by the Employer or another Instructing Party;
  - (h) Process or cause to be processed dividends, including reinvestment and/or payment, if applicable; and
  - (i) Forward or cause to be forwarded to the Employer all applicable proxies, corporate actions and other notices relating to the Plan assets, which the Employer shall process.

[Remainder of page intentionally left blank]

WILMINGTON  
Trust

WTRISC is required to provide the name, address and share position(s) or the beneficial holder of securities to the issuing company unless the beneficial holder objects in writing to the provision of such information. Unless you check the box provided below, WTRISC will provide such information to the issuing company for all securities held in the account today and in the future.

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☒ Employer requests that Wilmington Trust Retirement and Institutional Services Company withhold providing its name, address and share positions(s) to issuing companies.

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IN WITNESS WHEREOF, the Employer and Trustee have executed this Amendment as of the date first written above.

Agreed To By:

TRUSTEE:  
WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMPLOYER:  
CITY OF IAVISTA

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

[Corporate Seal]

**AUTHORIZED PERSON LIST**

In accordance with the provisions of the Amendment of Trust entered into by and between **Wilmington Trust Retirement and Institutional Services Company ("WTRISC")**, and **CITY OF LAVISTA**, as plan sponsor for the **CITY OF LAVISTA** (the "Plan"), WTRISC may accept and act upon instructions on behalf of the Plan received from:

(Please select one):

- ☐ Any gag of the Individuals
- ☐ By each and every one of the individuals
- ☐ By Insert Number of Individuals, if applicable of the individuals shown below:
- ☐

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Wilmington Trust Retirement and Institutional Services Company  
2000 North Central Avenue, Suite 900 Phoenix, Arizona 85004 (602) 955-8373 (800) 458-9269

## Document Requirements

WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

- ☐ WTRISC Account Application (please complete)

\_\_\_\_\_

- ☐ WTRISC Appointment/Trust Amendment (please complete and execute)

\_\_\_\_\_

- ☐ WTRISC Authorized Person List (please complete and execute)

\_\_\_\_\_

\*Please return executed original documents and keep a copy for your records

\_\_\_\_\_

- ☐ Most current Asset Statement

\_\_\_\_\_

- ☐ IRS Determination Letter (If applicable)

\_\_\_\_\_

- ☐ Copy of executed Plan and Trust Document of prototype, copy of executed Adoption Agreement is also required)

- ☐ USA PATRIOT Act Customer Identification Program requirements (applicable to plans not Subject to Title I of ERISA)

In order to help the government fight the funding of terrorism and money laundering activities, law requires all financial Institutions to obtain, verify and record certain information that identifies each person or institution that opens a new account. We may request certain information and documentation. The documentation is standard, and in some circumstances we may be required to ask for additional information.

- ☐ IRS Form W-9  
☐ Proof of Entity Status (i.e., copy at Certified Articles of Incorporation, Government Issued Business License, Secretary of State Filing, Certificate of Good Standing (issued within the last 6 months), Partnership Agreement, etc.)

\_\_\_\_\_

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900 Phoenix, Arizona 86004 • (602) 955-8373 • (800) 458-9269

**TRUSTEE (or SUCCESSOR TRUSTEE) APPOINTMENT  
AMENDMENT OF TRUST AGREEMENT**

*THIS AMENDMENT OF TRUST AGREEMENT ("Agreement") is entered Into by and between the employer named on the signature page hereof (the "Employer") and Wilmington Trust Retirement and Institutional Services Company ("WTRISC"), as non-discretionary trustee (the "Trustee") for the CITY OF LAVISTA Plan 106162- The City of La Vista City Administrators' Defined Contribution Pension Plan and Trust (the "Plan") and is entered into as of this **31st** day of **July, 2012**.*

**PRELIMINARY STATEMENTS**

WHEREAS, the Trustee is a trust company that is subject to supervision of the United States or a State;

WHEREAS, the Employer is a governmental entity;

WHEREAS, the Employer is adopting or has heretofore adopted the above referenced Plan;

WHEREAS, in connection with the adoption of the Plan, the Employer Is entering Into or has entered into a trust agreement or a combined plan and trust agreement (the "Trust Agreement");

WHEREAS, the Employer has duly appointed WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable, under the Trust Agreement, and WTRISC is willing to serve as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable; and

WHEREAS, the Employer is entering (or has entered) Into an Administrative Services Agreement with ICMA Retirement Corporation ("Plan Administrator").

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound, the Employer and WTRISC hereby mutually agree as follows

1. The Employer hereby appoints WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee as applicable, and WTRISC hereby accepts such appointment subject to applicable law, regulations and other guidance and the terms of the governing Plan documents and Trust Agreement, as modified by this Agreement. The Employer hereby represents and warrants that the Plan is and, during the term of this Agreement, shall remain a "governmental plan" as defined In Section 3(32) of the Employee Retirement Income security Act of 1974, as amended ("ERISA") and pursuant to Section 4(b) of ERISA Is exempt from Title I of ERISA, and the Employer hereby agrees That it shall notify WTRISC immediately If the Plan Is or will no longer be exempt therefrom. To the extent applicable, the Employer agrees that it has or shall have in place internal controls commensurate with the risk to ensure compliance with U.S. economic sanctions programs administered by the Departments of Treasury and State, as well as controls (i) sufficient to ensure that funds flowing to Trustee or a third party with custody of Trust assets are not from suspect sources, and (ii) that meet all applicable U.S. anti-money laundering, anti-terrorism finance, and anti-corruption requirements.
2. The Employer and WTRISC agree that the following provisions are added to the Trust Agreement and shall control the interpretation thereof, notwithstanding anything to the contrary now or hereafter contained therein or in any other document governing the Plan:
  - (a) Unless and until otherwise agreed in writing between the Employer and the Trustee, the Trustee shall have no discretionary Investment responsibility with respect to the trust fund, it being the intent of the parties that the Trustee be a directed trustee, and such discretionary investment responsibility shall be exercised by the Employer, the Participants, or one or more Investment Managers or other named fiduciary for the Plan (each, an "Instructing Party") (it being agreed that the Trustee shall have no responsibility for conveying investment instructions to any person or entity so long as it does not have custody of Trust assets); and further, the Trustee shall have no obligations or responsibilities with respect to developing a funding policy, any financial control functions (Including, without limitation, account reconciliation, money movement or settlement



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and participant disbursements), participant review for Office of Foreign Asset Control activity, complying with the accounting requirements of the Plan, the design or monitoring of the participant loan program, ensuring compliance with Section 404(c) of ERISA, If applicable, selecting or monitoring the selection of plan investments. The Employer or its designee agrees to notify the Trustee immediately in the event of any changes regarding plan investments.

- (b) The Trust Agreement is incorporated herein by this reference and, as modified by this Agreement, shall be construed and enforced against the Trustee according to the laws of the state of the Employer's residence, to the extent not preempted by ERISA, if applicable. The foregoing provisions shall control the Interpretation of the Trust Agreement notwithstanding anything to the contrary contained herein or in any other document governing the Plan.
- (c) Administrative Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise In Its sole discretion:
  - (i) With advance notice to and written consent of the Employer:
    - (a) To engage attorneys (who may also serve as counsel for the Employer or the Trustee), accountants and other professional advisors, and, anything contained herein to the contrary notwithstanding, to engage In legal or administrative proceedings as the Trustee deems reasonably required in connection with the administration of the Trust, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Trustee deems reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Trust and may be paid from the Trust with prior notice to the Employer and shall in no event be deducted from any compensation payable to the Trustee.
    - (b) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Employer or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder.
  - (ii) Judicial Settlement. With at least 10 days advance notice to and written consent of the Employer, the Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for Instructions. The only necessary party defendant to any such action shall be the Plan Administrator, but the Trustee may, If It so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be a charge against the Trust with prior notice to the Employer.
  - (iii) Compensation. The Trustee shall receive compensation for the performance of Its services in the amount of \$850 per calendar year, with the first year's fee being prorated based on the number of days remaining in the current calendar year after the effective date of this Agreement as indicated above. In the event that the Trustee shall be called upon to render any extraordinary services, It shall be entitled to additional compensation as agreed in advance in writing by Employer and Trustee. To the extent not paid by Employer or another person or entity in its stead or on its behalf, such compensation shall constitute a charge against the Trust.

- (iv) Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust with prior notice to and written approval of the Employer.
- (d) Designation of Plan Administrator, Authorized Persons and Investment Manager. The Plan Administrator, Authorized Person and Investment Manager may be designated by providing the name and signatures of such person(s) to the Trustee. The Trustee shall be entitled to rely entirely, without having to make further inquiry, and shall not be held liable for any actions taken in assuming, that the Identity and duties of such persons so designated are valid until such time as it is otherwise notified in writing. Notice of authorization or removal of the Plan Administrator shall be accompanied by evidence of proper action of the Employer approving such instruction.
- (e) Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon Instructions appearing to be instructions from any person designated as the Employer, Plan Administrator, Investment Manager or Authorized Person. Instructions given by an Authorized Person in accordance with this Agreement shall be treated for all purposes hereof as instructions from the party appointing the Authorized Person. The Trustee shall be deemed to have received proper instructions upon receipt of written Instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- (f) Conflicting Instructions. In the event of any ambiguous or conflicting Instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such Instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting Instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (i) have been resolved and it has been notified in writing thereof or (ii) have finally been determined in a court of competent jurisdiction.
- (g) Reliance on Professional Advisors. The Trustee may consult with a professional advisor who may also be an advisor for the Employer, and the Trustee shall be fully protected in respect of any action taken or suffered by the Trustee in good faith and in accordance with the advice or opinion of such professional advisor.
- (h) Bond. The Trustee shall not be required to give any bond or other security for the faithful performance of the Trustee's duties under this Agreement, except as may be required by Applicable Law,
- (i) Action By Employer. Except as otherwise agreed by Trustee, any action by Employer pursuant to any of the provisions of this Agreement, the Plan, or Applicable Law shall be, (i) in the case of a corporation, partnership or similar organization, evidenced by (1) a resolution of its governing body certified to the Trustee over the signature of its secretary or assistant secretary or other duly authorized agent under seal, if there be one, or (2) by appropriate written authorization of any person or committee to which the governing body had delegated the authority to take such action, and (ii) in the case of a sole proprietorship or any other entity, evidenced by written certification of a duly and legally authorized agent, individual or entity. The Trustee shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- (j) Bankruptcy. Trustee shall have no duty, in the event of the Employer's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- (k) Scope of Trustee's Liability. To the full extent permitted by Applicable Law, the Trustee shall not be liable for assets that are not included in the Trust or for losses of any kind that may result (i) by reason of any action taken by it in accordance with the instructions of the Employer, the Plan Administrator, the Investment Manager, or Authorized Person, (ii) by reason of any failure to act as a result of the absence of, or ambiguity of instructions, or (iii) by reason of any actions taken by any prior trustee, additional trustee, successor trustee or Appointed Custodian; provided,

**WILMINGTON**  
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- (l) however, the Trustee shall be liable for any losses arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees (as defined below), or any of them. The Trustee has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.
- (l) General Indemnity. The Employer shall, to the full extent permitted by Applicable Law, and subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, Indemnify and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates ("Trustee Indemnitees") from and against any and all damages, losses, costs, judgments, fines, penalties, and expenses (including attorney's fees and disbursements) of any kind or nature (collectively, "Losses") imposed on or incurred by the Trustee Indemnitees, by reason of its or their service pursuant to this Agreement, including any Losses arising out of any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including any such action by or in the right of the Employer), except to the extent such Losses were caused by the negligence or willful misconduct of the Trustee or the Trustee Indemnitees, or any of them. Reasonable expenses incurred in defending any such claim, action, suit or proceeding shall be paid by the Employer upon a final disposition of such claim, action, suit, or proceeding, upon presentation of statements therefore by the Trustee.
- (m) Specific Indemnities. In addition to and not in derogation of any other Indemnification or hold harmless provisions in this Agreement, the Employer, subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, agrees to indemnify and hold the Trustee Indemnitees harmless from and against any liability that it or they may incur because of:
- (i) The Employer's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan.
  - (ii) Actions taken or omitted by the Trustee pursuant to any instructions from the Employer, Plan Administrator, Investment Manager or Authorized Person, as the case may be, or actions not taken in the absence of any such instruction.
  - (iii) The application of any part of the Trust by the Trustee in accordance with the instructions of the Employer, Plan Administrator, Investment Manager or Authorized Person.
  - (iv) The failure of an individually directed account or participant loan to satisfy the requirements of the Plan and Applicable Law,
- Provided, however, the Trustee shall be liable for any liability arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees, or any of them.
- (n) Waiver. The Trustee or Employer shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Trustee or Employer, as the case may be, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Trustee or Employer of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.
- (o) No Affiliation. The Trustee is not affiliated with the recordkeeper and there is no agency, partnership or joint venture relationship between the Trustee and the recordkeeper.

- (p) Removal or Resignation. The Trustee may be removed by the Employer at any time by written notice to the Trustee and the Trustee may resign at any time by written notice to the Employer; provided that, unless otherwise agreed, the effective date of such removal or resignation shall be sixty (60) days from the date that said written notice is given. Notice of removal shall be accompanied by evidence of proper action of the Employer approving such removal or shall be given by an Authorized Person or by any successor in office of an Authorized Person. -
- (q) Successor. The Employer shall appoint a successor trustee to act hereunder within sixty (60) days after notice provided. If within sixty (60) days after such notice the Employer has not designated a successor trustee, which has accepted such appointment, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or may appoint an employee of Employer as successor trustee in accordance with Applicable Law. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, Trustee shall provide Employer advance notice of any such merger, conversion, consolidation or successor.
- (r) Powers of Successor. Each successor trustee shall have the powers and duties conferred upon the Trustee in the Trust Agreement, as modified by this Agreement, and the term "Trustee" as used in this Agreement shall be deemed to include any successor trustee.
- (s) Notices. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Employer, the Plan Administrator, the Investment Manager(s) or any Authorized Person shall be in writing and deemed to have been duly given to the Investment Manager(s) when received at its principal place of business, and shall be deemed to have been given to the Employer, Plan Administrator or any Authorized Person when received at the address below:

City of La Vista  
Attention: City Clerk  
La Vista City Hall  
8116 Park View Blvd  
La Vista, NE 68128

. Except as the parties may otherwise agree in writing, all instructions, notices, objections and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at its office below:

Wilmington Trust Retirement and Institutional Services Company  
P.O. Box 52129  
Phoenix, AZ 85072-2129  
Attn: Vice President — Client Services

Or, if by overnight mail:

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900  
Phoenix, AZ 85004  
Attn: Vice President — Client Services

- (t) Inspections/Audits. Trustee's records and statements are to be open for inspection and audit by the Employer from time to time upon request. The Employer shall exercise such right with reasonable prior written notice to the Trustee, and except as required by applicable law, any such audit rights shall be exercised by the Employer not more frequently than annually.

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- (u) Force Majeure. The Trustee or Employer shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement when such delays result from events beyond its reasonable control, including without limitation, interruption of the business of the Trustee or Employer, as the case may be, due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work stoppages due to slow-downs), unauthorized access to its systems that may breach its reasonable protection against such access, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption,
  - (v) Entire Agreement. This Agreement, including all Appendices hereto, the Account Application, and the Authorized Persons List, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
3. Except as amended and modified hereby, the terms and provisions of the Trust Agreement are hereby ratified, approved and confirmed.
4. Services to be Performed by Plan Administrator. The Employer has (or will) delegate to the Plan Administrator the sole responsibility to perform certain ministerial and administrative services to the extent set forth in the Administrative Services Agreement between the Employer and the Plan Administrator, and if so provided in the Administrative Services Agreement the Employer hereby instructs Trustee that Trustee shall relinquish any responsibility for the performance of said duties that it would otherwise have pursuant to the Trust Agreement as set forth below:
- (a) Receive contributions directly from the Employer or its Plan Committee;
  - (b) Make distributions at the Employer's directions, in accordance with the terms of the Plan and the Trust Agreement;
  - (c) Perform the accounting for all assets including cash, as well as contributions, loans and withdrawals and the allocation of credited interest and allocate all income, gains and losses;
  - (d) Remit fees for services rendered to the Plan as directed by the Employer, subject to the prohibited transactions provisions of ERISA, if applicable;
  - (e) Render reports to the Employer and the Trustee with respect to assets held as required or reasonably requested (e.g., SOC-1 or similar reports);
  - (f) Perform tax reporting and withholding in compliance with applicable Federal and State law in connection with payments to participants or beneficiaries and in accordance with instructions and directions provided by the Employer;
  - (g) Collect or cause to be collected all income, distributions, and proceeds relating to Plan assets and to invest the same and all contributions as directed by the Employer or another Instructing Party;
  - (h) Process or cause to be processed dividends, including reinvestment and/or payment, if applicable; and
  - (i) Forward or cause to be forwarded to the Employer all applicable proxies, corporate actions and other notices relating to the Plan assets, which the Employer shall process.

[Remainder of page intentionally left blank]

WILMINGTON  
Trust

WTRISC is required to provide the name, address and share position(s) or the beneficial holder of securities to the issuing company unless the beneficial holder objects in writing to the provision of such information. Unless you check the box provided below, WTRISC will provide such information to the issuing company for all securities held in the account today and in the future.

---

☒ Employer requests that Wilmington Trust Retirement and Institutional Services Company withhold providing its name, address and share positions(s) to issuing companies.

---

IN WITNESS WHEREOF, the Employer and Trustee have executed this Amendment as of the date first written above.

Agreed To By:

TRUSTEE:  
WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMPLOYER:  
CITY OF IAVISTA

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

[Corporate Seal]

**AUTHORIZED PERSON LIST**

In accordance with the provisions of the Amendment of Trust entered into by and between **Wilmington Trust Retirement and Institutional Services Company** ("WTRISC"), and **CITY OF LAVISTA**, as plan sponsor for the **CITY OF LAVISTA** (the "Plan"), WTRISC may accept and act upon instructions on behalf of the Plan received from:

(Please select one):

- ☐ Any gag of the Individuals
- ☐ By each and every one of the individuals
- ☐ By Insert Number of Individuals, if applicable of the individuals shown below:
- ☐

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Wilmington Trust Retirement and Institutional Services Company  
 2000 North Central Avenue, Suite 900 Phoenix, Arizona 85004 (602) 955-8373 (800) 458-9269



**Document Requirements**

**WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY**

- ☐ WTRISC Account Application (please complete)

\_\_\_\_\_

- ☐ WTRISC Appointment/Trust Amendment (please complete and execute)

\_\_\_\_\_

- ☐ WTRISC Authorized Person List (please complete and execute)

\_\_\_\_\_

\*Please return executed original documents and keep a copy for your records

\_\_\_\_\_

- ☐ Most current Asset Statement

\_\_\_\_\_

- ☐ IRS Determination Letter (if applicable)

\_\_\_\_\_

- ☐ Copy of executed Plan and Trust Document of prototype, copy of executed Adoption Agreement is also required)

- ☐ USA PATRIOT Act Customer Identification Program requirements (applicable to plans not Subject to Title I of ERISA)

In order to help the government fight the funding of terrorism and money laundering activities, law requires all financial Institutions to obtain, verify and record certain information that identifies each person or institution that opens a new account. We may request certain information and documentation. The documentation is standard, and In some circumstances we may be required to ask for additional information.

- ☐ IRS Form W-9

- ☐ Proof of Entity Status (i.e., copy at Certified Articles of Incorporation, Government Issued Business License, Secretary of State Filing, Certificate of Good Standing (issued within the last 6 months), Partnership Agreement, etc.)

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900 Phoenix, Arizona 86004 • (602) 955-8373 • (800) 458-9269

**TRUSTEE (or SUCCESSOR TRUSTEE) APPOINTMENT  
AMENDMENT OF TRUST AGREEMENT**

*THIS AMENDMENT OF TRUST AGREEMENT ("Agreement") is entered into by and between the employer named on the signature page hereof (the "Employer") and Wilmington Trust Retirement and Institutional Services Company ("WTRISC"), as non-discretionary trustee (the "Trustee") for the CITY OF LAVISTA Plan 106442 – The City of La Vista Firefighters Retirement Plan and Trust (the "Plan") and is entered into as of this **31st** day of **July, 2012**.*

**PRELIMINARY STATEMENTS**

WHEREAS, the Trustee is a trust company that is subject to supervision of the United States or a State;

WHEREAS, the Employer is a governmental entity;

WHEREAS, the Employer is adopting or has heretofore adopted the above referenced Plan;

WHEREAS, in connection with the adoption of the Plan, the Employer is entering into or has entered into a trust agreement or a combined plan and trust agreement (the "Trust Agreement");

WHEREAS, the Employer has duly appointed WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable, under the Trust Agreement, and WTRISC is willing to serve as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable; and

WHEREAS, the Employer is entering (or has entered) into an Administrative Services Agreement with ICMA Retirement Corporation ("Plan Administrator").

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound, the Employer and WTRISC hereby mutually agree as follows

1. The Employer hereby appoints WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee as applicable, and WTRISC hereby accepts such appointment subject to applicable law, regulations and other guidance and the terms of the governing Plan documents and Trust Agreement, as modified by this Agreement. The Employer hereby represents and warrants that the Plan is and, during the term of this Agreement, shall remain a "governmental plan" as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and pursuant to Section 4(b) of ERISA is exempt from Title I of ERISA, and the Employer hereby agrees that it shall notify WTRISC immediately if the Plan is or will no longer be exempt therefrom. To the extent applicable, the Employer agrees that it has or shall have in place internal controls commensurate with the risk to ensure compliance with U.S. economic sanctions programs administered by the Departments of Treasury and State, as well as controls (i) sufficient to ensure that funds flowing to Trustee or a third party with custody of Trust assets are not from suspect sources, and (ii) that meet all applicable U.S. anti-money laundering, anti-terrorism finance, and anti-corruption requirements.
2. The Employer and WTRISC agree that the following provisions are added to the Trust Agreement and shall control the interpretation thereof, notwithstanding anything to the contrary now or hereafter contained therein or in any other document governing the Plan:
  - (a) Unless and until otherwise agreed in writing between the Employer and the Trustee, the Trustee shall have no discretionary investment responsibility with respect to the trust fund, it being the intent of the parties that the Trustee be a directed trustee, and such discretionary investment responsibility shall be exercised by the Employer, the Participants, or one or more Investment Managers or other named fiduciary for the Plan (each, an "Instructing Party") (it being agreed that the Trustee shall have no responsibility for conveying investment instructions to any person or entity so long as it does not have custody of Trust assets); and further, the Trustee shall have no obligations or responsibilities with respect to developing a funding policy, any financial control functions (including, without limitation, account reconciliation, money movement or settlement

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and participant disbursements), participant review for Office of Foreign Asset Control activity, complying with the accounting requirements of the Plan, the design or monitoring of the participant loan program, ensuring compliance with Section 404(c) of ERISA, If applicable, selecting or monitoring the selection of plan investments. The Employer or its designee agrees to notify the Trustee immediately in the event of any changes regarding plan investments.

- (b) The Trust Agreement is incorporated herein by this reference and, as modified by this Agreement, shall be construed and enforced against the Trustee according to the laws of the state of the Employer's residence, to the extent not preempted by ERISA, if applicable. The foregoing provisions shall control the Interpretation of the Trust Agreement notwithstanding anything to the contrary contained herein or in any other document governing the Plan.
- (c) Administrative Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise In Its sole discretion:
  - (i) With advance notice to and written consent of the Employer:
    - (a) To engage attorneys (who may also serve as counsel for the Employer or the Trustee), accountants and other professional advisors, and, anything contained herein to the contrary notwithstanding, to engage In legal or administrative proceedings as the Trustee deems reasonably required in connection with the administration of the Trust, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Trustee deems reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Trust and may be paid from the Trust with prior notice to the Employer and shall in no event be deducted from any compensation payable to the Trustee.
    - (b) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Employer or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder.
  - (ii) Judicial Settlement. With at least 10 days advance notice to and written consent of the Employer, the Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for Instructions. The only necessary party defendant to any such action shall be the Plan Administrator, but the Trustee may, If It so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be a charge against the Trust with prior notice to the Employer.
  - (iii) Compensation. The Trustee shall receive compensation for the performance of Its services in the amount of \$850 per calendar year, with the first year's fee being prorated based on the number of days remaining in the current calendar year after the effective date of this Agreement as indicated above. In the event that the Trustee shall be called upon to render any extraordinary services, It shall be entitled to additional compensation as agreed in advance in writing by Employer and Trustee. To the extent not paid by Employer or another person or entity in its stead or on its behalf, such compensation shall constitute a charge against the Trust.

- (iv) Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust with prior notice to and written approval of the Employer.
- (d) Designation of Plan Administrator, Authorized Persons and Investment Manager. The Plan Administrator, Authorized Person and Investment Manager may be designated by providing the name and signatures of such person(s) to the Trustee. The Trustee shall be entitled to rely entirely, without having to make further inquiry, and shall not be held liable for any actions taken in assuming, that the Identity and duties of such persons so designated are valid until such time as it is otherwise notified in writing. Notice of authorization or removal of the Plan Administrator shall be accompanied by evidence of proper action of the Employer approving such instruction.
- (e) Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon Instructions appearing to be instructions from any person designated as the Employer, Plan Administrator, Investment Manager or Authorized Person. Instructions given by an Authorized Person in accordance with this Agreement shall be treated for all purposes hereof as instructions from the party appointing the Authorized Person. The Trustee shall be deemed to have received proper instructions upon receipt of written Instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- (f) Conflicting Instructions. In the event of any ambiguous or conflicting Instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such Instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting Instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (i) have been resolved and it has been notified in writing thereof or (ii) have finally been determined in a court of competent jurisdiction.
- (g) Reliance on Professional Advisors. The Trustee may consult with a professional advisor who may also be an advisor for the Employer, and the Trustee shall be fully protected in respect of any action taken or suffered by the Trustee in good faith and in accordance with the advice or opinion of such professional advisor.
- (h) Bond. The Trustee shall not be required to give any bond or other security for the faithful performance of the Trustee's duties under this Agreement, except as may be required by Applicable Law,
- (i) Action By Employer. Except as otherwise agreed by Trustee, any action by Employer pursuant to any of the provisions of this Agreement, the Plan, or Applicable Law shall be, (i) in the case of a corporation, partnership or similar organization, evidenced by (1) a resolution of its governing body certified to the Trustee over the signature of its secretary or assistant secretary or other duly authorized agent under seal, if there be one, or (2) by appropriate written authorization of any person or committee to which the governing body had delegated the authority to take such action, and (ii) in the case of a sole proprietorship or any other entity, evidenced by written certification of a duly and legally authorized agent, individual or entity. The Trustee shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- (j) Bankruptcy. Trustee shall have no duty, in the event of the Employer's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- (k) Scope of Trustee's Liability. To the full extent permitted by Applicable Law, the Trustee shall not be liable for assets that are not included in the Trust or for losses of any kind that may result (i) by reason of any action taken by it in accordance with the instructions of the Employer, the Plan Administrator, the Investment Manager, or Authorized Person, (ii) by reason of any failure to act as a result of the absence of, or ambiguity of instructions, or (iii) by reason of any actions taken by any prior trustee, additional trustee, successor trustee or Appointed Custodian; provided,

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- (l) however, the Trustee shall be liable for any losses arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees (as defined below), or any of them. The Trustee has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.
- (l) General Indemnity. The Employer shall, to the full extent permitted by Applicable Law, and subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, Indemnify and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates ("Trustee Indemnitees") from and against any and all damages, losses, costs, judgments, fines, penalties, and expenses (including attorney's fees and disbursements) of any kind or nature (collectively, "Losses") imposed on or incurred by the Trustee Indemnitees, by reason of its or their service pursuant to this Agreement, including any Losses arising out of any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including any such action by or in the right of the Employer), except to the extent such Losses were caused by the negligence or willful misconduct of the Trustee or the Trustee Indemnitees, or any of them, Reasonable expenses incurred in defending any such claim, action, suit or proceeding shall be paid by the Employer upon a final disposition of such claim, action, suit, or proceeding, upon presentation of statements therefore by the Trustee.
- (m) Specific Indemnities. In addition to and not in derogation of any other Indemnification or hold harmless provisions in this Agreement, the Employer, subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, agrees to indemnify and hold the Trustee Indemnitees harmless from and against any liability that it or they may incur because of:
  - (i) The Employer's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan.
  - (ii) Actions taken or omitted by the Trustee pursuant to any instructions from the Employer, Plan Administrator, Investment Manager or Authorized Person, as the case may be, or actions not taken in the absence of any such instruction.
  - (iii) The application of any part of the Trust by the Trustee in accordance with the instructions of the Employer, Plan Administrator, Investment Manager or Authorized Person.
  - (iv) The failure of an individually directed account or participant loan to satisfy the requirements of the Plan and Applicable Law,Provided, however, the Trustee shall be liable for any liability arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees, or any of them.
- (n) Waiver. The Trustee or Employer shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Trustee or Employer, as the case may be, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Trustee or Employer of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.
- (o) No Affiliation. The Trustee is not affiliated with the recordkeeper and there is no agency, partnership or joint venture relationship between the Trustee and the recordkeeper.

- (p) Removal or Resignation. The Trustee may be removed by the Employer at any time by written notice to the Trustee and the Trustee may resign at any time by written notice to the Employer; provided that, unless otherwise agreed, the effective date of such removal or resignation shall be sixty (60) days from the date that said written notice is given. Notice of removal shall be accompanied by evidence of proper action of the Employer approving such removal or shall be given by an Authorized Person or by any successor in office of an Authorized Person. -
- (q) Successor. The Employer shall appoint a successor trustee to act hereunder within sixty (60) days after notice provided. If within sixty (60) days after such notice the Employer has not designated a successor trustee, which has accepted such appointment, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or may appoint an employee of Employer as successor trustee in accordance with Applicable Law. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, Trustee shall provide Employer advance notice of any such merger, conversion, consolidation or successor.
- (r) Powers of Successor. Each successor trustee shall have the powers and duties conferred upon the Trustee in the Trust Agreement, as modified by this Agreement, and the term "Trustee" as used in this Agreement shall be deemed to include any successor trustee.
- (s) Notices. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Employer, the Plan Administrator, the Investment Manager(s) or any Authorized Person shall be in writing and deemed to have been duly given to the Investment Manager(s) when received at its principal place of business, and shall be deemed to have been given to the Employer, Plan Administrator or any Authorized Person when received at the address below:

City of La Vista  
Attention: City Clerk  
La Vista City Hall  
8116 Park View Blvd  
La Vista, NE 68128

. Except as the parties may otherwise agree in writing, all instructions, notices, objections and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at its office below:

Wilmington Trust Retirement and Institutional Services Company  
P.O. Box 52129  
Phoenix, AZ 85072-2129  
Attn: Vice President — Client Services

Or, if by overnight mail:

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900  
Phoenix, AZ 85004  
Attn: Vice President — Client Services

- (t) Inspections/Audits. Trustee's records and statements are to be open for inspection and audit by the Employer from time to time upon request. The Employer shall exercise such right with reasonable prior written notice to the Trustee, and except as required by applicable law, any such audit rights shall be exercised by the Employer not more frequently than annually.

## WILMINGTON

### Trust

- (u) Force Majeure. The Trustee or Employer shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement when such delays result from events beyond its reasonable control, including without limitation, interruption of the business of the Trustee or Employer, as the case may be, due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work stoppages due to slow-downs), unauthorized access to its systems that may breach its reasonable protection against such access, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption,
  - (v) Entire Agreement. This Agreement, including all Appendices hereto, the Account Application, and the Authorized Persons List, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
3. Except as amended and modified hereby, the terms and provisions of the Trust Agreement are hereby ratified, approved and confirmed.
4. Services to be Performed by Plan Administrator. The Employer has (or will) delegate to the Plan Administrator the sole responsibility to perform certain ministerial and administrative services to the extent set forth in the Administrative Services Agreement between the Employer and the Plan Administrator, and if so provided in the Administrative Services Agreement the Employer hereby instructs Trustee that Trustee shall relinquish any responsibility for the performance of said duties that it would otherwise have pursuant to the Trust Agreement as set forth below:
- (a) Receive contributions directly from the Employer or its Plan Committee;
  - (b) Make distributions at the Employer's directions, in accordance with the terms of the Plan and the Trust Agreement;
  - (c) Perform the accounting for all assets including cash, as well as contributions, loans and withdrawals and the allocation of credited interest and allocate all income, gains and losses;
  - (d) Remit fees for services rendered to the Plan as directed by the Employer, subject to the prohibited transactions provisions of ERISA, if applicable;
  - (e) Render reports to the Employer and the Trustee with respect to assets held as required or reasonably requested (e.g., SOC-1 or similar reports);
  - (f) Perform tax reporting and withholding in compliance with applicable Federal and State law in connection with payments to participants or beneficiaries and in accordance with instructions and directions provided by the Employer;
  - (g) Collect or cause to be collected all income, distributions, and proceeds relating to Plan assets and to invest the same and all contributions as directed by the Employer or another Instructing Party;
  - (h) Process or cause to be processed dividends, including reinvestment and/or payment, if applicable; and
  - (i) Forward or cause to be forwarded to the Employer all applicable proxies, corporate actions and other notices relating to the Plan assets, which the Employer shall process.

[Remainder of page intentionally left blank]



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Trust

WTRISC is required to provide the name, address and share position(s) or the beneficial holder of securities to the issuing company unless the beneficial holder objects in writing to the provision of such information. Unless you check the box provided below, WTRISC will provide such information to the issuing company for all securities held in the account today and in the future.

---

☒ Employer requests that Wilmington Trust Retirement and Institutional Services Company withhold providing its name, address and share positions(s) to issuing companies.

---

IN WITNESS WHEREOF, the Employer and Trustee have executed this Amendment as of the date first written above.

Agreed To By:

TRUSTEE:

WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMPLOYER:  
CITY OF IAVISTA

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

[Corporate Seal]

**AUTHORIZED PERSON LIST**

In accordance with the provisions of the Amendment of Trust entered into by and between **Wilmington Trust Retirement and Institutional Services Company** ("WTRISC"), and **CITY OF LAVISTA**, as plan sponsor for the **CITY OF LAVISTA** (the "Plan"), WTRISC may accept and act upon instructions on behalf of the Plan received from:

(Please select one):

- ☐ Any gag of the Individuals
- ☐ By each and every one of the individuals
- ☐ By Insert Number of Individuals, if applicable of the individuals shown below:
- ☐

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Wilmington Trust Retirement and Institutional Services Company  
2000 North Central Avenue, Suite 900 Phoenix, Arizona 85004 (602) 955-8373 (800) 458-9269

**Document Requirements**

**WTRISC Account Application (please complete)**

- ☐ WTRISC Account Application (please complete)

- ☐ WTRISC Appointment/Trust Amendment (please complete and execute)

- ☐ WTRISC Authorized Person List (please complete and execute)

\*Please return executed original documents and keep a copy for your records

- ☐ Most current Asset Statement

- ☐ IRS Determination Letter (If applicable)

- ☐ Copy of executed Plan and Trust Document of prototype, copy of executed Adoption Agreement is also required)

- ☐ USA PATRIOT Act Customer Identification Program requirements (applicable to plans not Subject to Title I of ERISA)

In order to help the government fight the funding of terrorism and money laundering activities, law requires all financial Institutions to obtain, verify and record certain information that identifies each person or institution that opens a new account. We may request certain information and documentation. The documentation is standard, and in some circumstances we may be required to ask for additional information.

- ☐ IRS Form W-9
- ☐ Proof of Entity Status (i.e., copy of Certified Articles of Incorporation, Government Issued Business License, Secretary of State Filing, Certificate of Good Standing (issued within the last 6 months), Partnership Agreement, etc.)

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900 Phoenix, Arizona 86004 • (602) 955-8373 • (800) 458-9269

**TRUSTEE (or SUCCESSOR TRUSTEE) APPOINTMENT  
AMENDMENT OF TRUST AGREEMENT**

*THIS AMENDMENT OF TRUST AGREEMENT ("Agreement") is entered into by and between the employer named on the signature page hereof (the "Employer") and Wilmington Trust Retirement and Institutional Services Company ("WTRISC"), as non-discretionary trustee (the "Trustee") for the CITY OF LAVISTA Plan 107185 – The City of La Vista Police Officers Retirement Plan and Trust (the "Plan") and is entered into as of this 31st day of July, 2012.*

**PRELIMINARY STATEMENTS**

WHEREAS, the Trustee is a trust company that is subject to supervision of the United States or a State;

WHEREAS, the Employer is a governmental entity;

WHEREAS, the Employer is adopting or has heretofore adopted the above referenced Plan;

WHEREAS, in connection with the adoption of the Plan, the Employer is entering into or has entered into a trust agreement or a combined plan and trust agreement (the "Trust Agreement");

WHEREAS, the Employer has duly appointed WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable, under the Trust Agreement, and WTRISC is willing to serve as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable; and

WHEREAS, the Employer is entering (or has entered) into an Administrative Services Agreement with ICMA Retirement Corporation ("Plan Administrator").

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound, the Employer and WTRISC hereby mutually agree as follows

1. The Employer hereby appoints WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee as applicable, and WTRISC hereby accepts such appointment subject to applicable law, regulations and other guidance and the terms of the governing Plan documents and Trust Agreement, as modified by this Agreement. The Employer hereby represents and warrants that the Plan is and, during the term of this Agreement, shall remain a "governmental plan" as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and pursuant to Section 4(b) of ERISA is exempt from Title I of ERISA, and the Employer hereby agrees that it shall notify WTRISC immediately if the Plan is or will no longer be exempt therefrom. To the extent applicable, the Employer agrees that it has or shall have in place internal controls commensurate with the risk to ensure compliance with U.S. economic sanctions programs administered by the Departments of Treasury and State, as well as controls (i) sufficient to ensure that funds flowing to Trustee or a third party with custody of Trust assets are not from suspect sources, and (ii) that meet all applicable U.S. anti-money laundering, anti-terrorism finance, and anti-corruption requirements.
2. The Employer and WTRISC agree that the following provisions are added to the Trust Agreement and shall control the interpretation thereof, notwithstanding anything to the contrary now or hereafter contained therein or in any other document governing the Plan:
  - (a) Unless and until otherwise agreed in writing between the Employer and the Trustee, the Trustee shall have no discretionary investment responsibility with respect to the trust fund, it being the intent of the parties that the Trustee be a directed trustee, and such discretionary investment responsibility shall be exercised by the Employer, the Participants, or one or more Investment Managers or other named fiduciary for the Plan (each, an "Instructing Party") (it being agreed that the Trustee shall have no responsibility for conveying investment instructions to any person or entity so long as it does not have custody of Trust assets); and further, the Trustee shall have no obligations or responsibilities with respect to developing a funding policy, any financial control functions (including, without limitation, account reconciliation, money movement or settlement

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and participant disbursements), participant review for Office of Foreign Asset Control activity, complying with the accounting requirements of the Plan, the design or monitoring of the participant loan program, ensuring compliance with Section 404(c) of ERISA, If applicable, selecting or monitoring the selection of plan investments. The Employer or its designee agrees to notify the Trustee immediately in the event of any changes regarding plan investments.

- (b) The Trust Agreement is incorporated herein by this reference and, as modified by this Agreement, shall be construed and enforced against the Trustee according to the laws of the state of the Employer's residence, to the extent not preempted by ERISA, if applicable. The foregoing provisions shall control the Interpretation of the Trust Agreement notwithstanding anything to the contrary contained herein or in any other document governing the Plan.
- (c) Administrative Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise In Its sole discretion:
  - (i) With advance notice to and written consent of the Employer:
    - (a) To engage attorneys (who may also serve as counsel for the Employer or the Trustee), accountants and other professional advisors, and, anything contained herein to the contrary notwithstanding, to engage In legal or administrative proceedings as the Trustee deems reasonably required in connection with the administration of the Trust, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Trustee deems reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Trust and may be paid from the Trust with prior notice to the Employer and shall in no event be deducted from any compensation payable to the Trustee.
    - (b) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Employer or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder.
  - (ii) Judicial Settlement. With at least 10 days advance notice to and written consent of the Employer, the Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for Instructions. The only necessary party defendant to any such action shall be the Plan Administrator, but the Trustee may, If It so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be a charge against the Trust with prior notice to the Employer.
  - (iii) Compensation. The Trustee shall receive compensation for the performance of Its services in the amount of \$850 per calendar year, with the first year's fee being prorated based on the number of days remaining in the current calendar year after the effective date of this Agreement as indicated above. In the event that the Trustee shall be called upon to render any extraordinary services, It shall be entitled to additional compensation as agreed in advance in writing by Employer and Trustee. To the extent not paid by Employer or another person or entity in its stead or on its behalf, such compensation shall constitute a charge against the Trust.

- (iv) Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust with prior notice to and written approval of the Employer.
- (d) Designation of Plan Administrator, Authorized Persons and Investment Manager. The Plan Administrator, Authorized Person and Investment Manager may be designated by providing the name and signatures of such person(s) to the Trustee. The Trustee shall be entitled to rely entirely, without having to make further inquiry, and shall not be held liable for any actions taken in assuming, that the Identity and duties of such persons so designated are valid until such time as it is otherwise notified in writing. Notice of authorization or removal of the Plan Administrator shall be accompanied by evidence of proper action of the Employer approving such instruction.
- (e) Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon Instructions appearing to be instructions from any person designated as the Employer, Plan Administrator, Investment Manager or Authorized Person. Instructions given by an Authorized Person in accordance with this Agreement shall be treated for all purposes hereof as instructions from the party appointing the Authorized Person. The Trustee shall be deemed to have received proper instructions upon receipt of written Instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- (f) Conflicting Instructions. In the event of any ambiguous or conflicting Instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such Instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting Instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (i) have been resolved and it has been notified in writing thereof or (ii) have finally been determined in a court of competent jurisdiction.
- (g) Reliance on Professional Advisors. The Trustee may consult with a professional advisor who may also be an advisor for the Employer, and the Trustee shall be fully protected in respect of any action taken or suffered by the Trustee in good faith and in accordance with the advice or opinion of such professional advisor.
- (h) Bond. The Trustee shall not be required to give any bond or other security for the faithful performance of the Trustee's duties under this Agreement, except as may be required by Applicable Law,
- (i) Action By Employer. Except as otherwise agreed by Trustee, any action by Employer pursuant to any of the provisions of this Agreement, the Plan, or Applicable Law shall be, (i) in the case of a corporation, partnership or similar organization, evidenced by (1) a resolution of its governing body certified to the Trustee over the signature of its secretary or assistant secretary or other duly authorized agent under seal, if there be one, or (2) by appropriate written authorization of any person or committee to which the governing body had delegated the authority to take such action, and (ii) in the case of a sole proprietorship or any other entity, evidenced by written certification of a duly and legally authorized agent, individual or entity. The Trustee shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- (j) Bankruptcy. Trustee shall have no duty, in the event of the Employer's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- (k) Scope of Trustee's Liability. To the full extent permitted by Applicable Law, the Trustee shall not be liable for assets that are not included in the Trust or for losses of any kind that may result (i) by reason of any action taken by it in accordance with the instructions of the Employer, the Plan Administrator, the Investment Manager, or Authorized Person, (ii) by reason of any failure to act as a result of the absence of, or ambiguity of instructions, or (iii) by reason of any actions taken by any prior trustee, additional trustee, successor trustee or Appointed Custodian; provided,

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- (l) however, the Trustee shall be liable for any losses arising out of or resulting from the negligence, acts or omissions or Trustee or Trustee Indemnitees (as defined below), or any of them. The Trustee has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.
- (l) General Indemnity. The Employer shall, to the full extent permitted by Applicable Law, and subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, Indemnify and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates ("Trustee Indemnitees") from and against any and all damages, losses, costs, judgments, fines, penalties, and expenses (including attorney's fees and disbursements) of any kind or nature (collectively, "Losses") imposed on or incurred by the Trustee Indemnitees, by reason of its or their service pursuant to this Agreement, including any Losses arising out of any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including any such action by or in the right of the Employer), except to the extent such Losses were caused by the negligence or willful misconduct of the Trustee or the Trustee Indemnitees, or any of them. Reasonable expenses incurred in defending any such claim, action, suit or proceeding shall be paid by the Employer upon a final disposition of such claim, action, suit, or proceeding, upon presentation of statements therefore by the Trustee.
- (m) Specific Indemnities. In addition to and not in derogation of any other Indemnification or hold harmless provisions in this Agreement, the Employer, subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, agrees to indemnify and hold the Trustee Indemnitees harmless from and against any liability that it or they may incur because of:
- (i) The Employer's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan.
  - (ii) Actions taken or omitted by the Trustee pursuant to any instructions from the Employer, Plan Administrator, Investment Manager or Authorized Person, as the case may be, or actions not taken in the absence of any such instruction.
  - (iii) The application of any part of the Trust by the Trustee in accordance with the instructions of the Employer, Plan Administrator, Investment Manager or Authorized Person.
  - (iv) The failure of an individually directed account or participant loan to satisfy the requirements of the Plan and Applicable Law,
- Provided, however, the Trustee shall be liable for any liability arising out of or resulting from the negligence, acts or omissions or Trustee or Trustee Indemnitees, or any of them.
- (n) Waiver. The Trustee or Employer shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Trustee or Employer, as the case may be, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Trustee or Employer of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.
- (o) No Affiliation. The Trustee is not affiliated with the recordkeeper and there is no agency, partnership or joint venture relationship between the Trustee and the recordkeeper.

- (p) Removal or Resignation. The Trustee may be removed by the Employer at any time by written notice to the Trustee and the Trustee may resign at any time by written notice to the Employer; provided that, unless otherwise agreed, the effective date of such removal or resignation shall be sixty (60) days from the date that said written notice is given. Notice of removal shall be accompanied by evidence of proper action of the Employer approving such removal or shall be given by an Authorized Person or by any successor in office of an Authorized Person. -
- (q) Successor. The Employer shall appoint a successor trustee to act hereunder within sixty (60) days after notice provided. If within sixty (60) days after such notice the Employer has not designated a successor trustee, which has accepted such appointment, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or may appoint an employee of Employer as successor trustee in accordance with Applicable Law. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, Trustee shall provide Employer advance notice of any such merger, conversion, consolidation or successor.
- (r) Powers of Successor. Each successor trustee shall have the powers and duties conferred upon the Trustee in the Trust Agreement, as modified by this Agreement, and the term "Trustee" as used in this Agreement shall be deemed to include any successor trustee.
- (s) Notices. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Employer, the Plan Administrator, the Investment Manager(s) or any Authorized Person shall be in writing and deemed to have been duly given to the Investment Manager(s) when received at its principal place of business, and shall be deemed to have been given to the Employer, Plan Administrator or any Authorized Person when received at the address below:

City of La Vista  
Attention: City Clerk  
La Vista City Hall  
8116 Park View Blvd  
La Vista, NE 68128

. Except as the parties may otherwise agree in writing, all instructions, notices, objections and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at its office below:

Wilmington Trust Retirement and Institutional Services Company  
P.O. Box 52129  
Phoenix, AZ 85072-2129  
Attn: Vice President — Client Services

Or, if by overnight mail:

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900  
Phoenix, AZ 85004  
Attn: Vice President — Client Services

- (t) Inspections/Audits. Trustee's records and statements are to be open for inspection and audit by the Employer from time to time upon request. The Employer shall exercise such right with reasonable prior written notice to the Trustee, and except as required by applicable law, any such audit rights shall be exercised by the Employer not more frequently than annually.



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- (u) Force Majeure. The Trustee or Employer shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement when such delays result from events beyond its reasonable control, including without limitation, interruption of the business of the Trustee or Employer, as the case may be, due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work stoppages due to slow-downs), unauthorized access to its systems that may breach its reasonable protection against such access, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption,
  - (v) Entire Agreement. This Agreement, including all Appendices hereto, the Account Application, and the Authorized Persons List, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
3. Except as amended and modified hereby, the terms and provisions of the Trust Agreement are hereby ratified, approved and confirmed.
4. Services to be Performed by Plan Administrator. The Employer has (or will) delegate to the Plan Administrator the sole responsibility to perform certain ministerial and administrative services to the extent set forth in the Administrative Services Agreement between the Employer and the Plan Administrator, and if so provided in the Administrative Services Agreement the Employer hereby instructs Trustee that Trustee shall relinquish any responsibility for the performance of said duties that it would otherwise have pursuant to the Trust Agreement as set forth below:
- (a) Receive contributions directly from the Employer or its Plan Committee;
  - (b) Make distributions at the Employer's directions, in accordance with the terms of the Plan and the Trust Agreement;
  - (c) Perform the accounting for all assets including cash, as well as contributions, loans and withdrawals and the allocation of credited interest and allocate all income, gains and losses;
  - (d) Remit fees for services rendered to the Plan as directed by the Employer, subject to the prohibited transactions provisions of ERISA, if applicable;
  - (e) Render reports to the Employer and the Trustee with respect to assets held as required or reasonably requested (e.g., SOC-1 or similar reports);
  - (f) Perform tax reporting and withholding in compliance with applicable Federal and State law in connection with payments to participants or beneficiaries and in accordance with instructions and directions provided by the Employer;
  - (g) Collect or cause to be collected all income, distributions, and proceeds relating to Plan assets and to invest the same and all contributions as directed by the Employer or another Instructing Party;
  - (h) Process or cause to be processed dividends, including reinvestment and/or payment, if applicable; and
  - (i) Forward or cause to be forwarded to the Employer all applicable proxies, corporate actions and other notices relating to the Plan assets, which the Employer shall process.

[Remainder of page intentionally left blank]

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Trust

WTRISC is required to provide the name, address and share position(s) or the beneficial holder of securities to the issuing company unless the beneficial holder objects in writing to the provision of such information. Unless you check the box provided below, WTRISC will provide such information to the issuing company for all securities held in the account today and in the future.

☒ Employer requests that Wilmington Trust Retirement and Institutional Services Company withhold providing its name, address and share positions(s) to issuing companies.

IN WITNESS WHEREOF, the Employer and Trustee have executed this Amendment as of the date first written above.

Agreed To By:

TRUSTEE:

WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMPLOYER:  
CITY OF IAVISTA

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

[Corporate Seal]

**AUTHORIZED PERSON LIST**

In accordance with the provisions of the Amendment of Trust entered into by and between **Wilmington Trust Retirement and Institutional Services Company ("WTRISC")**, and **CITY OF LAVISTA**, as plan sponsor for the **CITY OF LAVISTA** (the "Plan"), WTRISC may accept and act upon instructions on behalf of the Plan received from:

(Please select one):

- ☐ Any gag of the Individuals
- ☐ By each and every one of the individuals
- ☐ By Insert Number of Individuals, if applicable of the individuals shown below:
- ☐

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
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By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Wilmington Trust Retirement and Institutional Services Company  
 2000 North Central Avenue, Suite 900 Phoenix, Arizona 85004 (602) 955-8373 (800) 458-9269

**Document Requirements**

WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

- ☐ WTRISC Account Application (please complete)

- ☐ WTRISC Appointment/Trust Amendment (please complete and execute)

- ☐ WTRISC Authorized Person List (please complete and execute)

\*Please return executed original documents and keep a copy for your records

- ☐ Most current Asset Statement

- ☐ IRS Determination Letter (If applicable)

- ☐ Copy of executed Plan and Trust Document of prototype, copy of executed Adoption Agreement is also required)

- ☐ USA PATRIOT Act Customer Identification Program requirements (applicable to plans not Subject to Title I of ERISA)

In order to help the government fight the funding of terrorism and money laundering activities, law requires all financial Institutions to obtain, verify and record certain information that identifies each person or institution that opens a new account. We may request certain information and documentation. The documentation is standard, and In some circumstances we may be required to ask for additional information.

- ☐ IRS Form W-9

- ☐ Proof of Entity Status (i.e., copy at Certified Articles of Incorporation, Government Issued Business License, Secretary of State Filing, Certificate of Good Standing (issued within the last 6 months), Partnership Agreement, etc.)

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900 Phoenix, Arizona 86004 • (602) 955-8373 • (800) 458-9269

**TRUSTEE (or SUCCESSOR TRUSTEE) APPOINTMENT  
AMENDMENT OF TRUST AGREEMENT**

*THIS AMENDMENT OF TRUST AGREEMENT ("Agreement") is entered into by and between the employer named on the signature page hereof (the "Employer") and Wilmington Trust Retirement and Institutional Services Company ("WTRISC"), as non-discretionary trustee (the "Trustee") for the CITY OF LAVISTA Plan 107185 – The City of La Vista Police Officers Retirement Plan and Trust (the "Plan") and is entered into as of this **31st** day of **July, 2012**.*

**PRELIMINARY STATEMENTS**

WHEREAS, the Trustee is a trust company that is subject to supervision of the United States or a State;

WHEREAS, the Employer is a governmental entity;

WHEREAS, the Employer is adopting or has heretofore adopted the above referenced Plan;

WHEREAS, in connection with the adoption of the Plan, the Employer is entering into or has entered into a trust agreement or a combined plan and trust agreement (the "Trust Agreement");

WHEREAS, the Employer has duly appointed WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable, under the Trust Agreement, and WTRISC is willing to serve as non-discretionary directed trustee or non-discretionary directed successor trustee, as applicable; and

WHEREAS, the Employer is entering (or has entered) into an Administrative Services Agreement with ICMA Retirement Corporation ("Plan Administrator").

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound, the Employer and WTRISC hereby mutually agree as follows

1. The Employer hereby appoints WTRISC as non-discretionary directed trustee or non-discretionary directed successor trustee as applicable, and WTRISC hereby accepts such appointment subject to applicable law, regulations and other guidance and the terms of the governing Plan documents and Trust Agreement, as modified by this Agreement. The Employer hereby represents and warrants that the Plan is and, during the term of this Agreement, shall remain a "governmental plan" as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and pursuant to Section 4(b) of ERISA is exempt from Title I of ERISA, and the Employer hereby agrees that it shall notify WTRISC immediately if the Plan is or will no longer be exempt therefrom. To the extent applicable, the Employer agrees that it has or shall have in place internal controls commensurate with the risk to ensure compliance with U.S. economic sanctions programs administered by the Departments of Treasury and State, as well as controls (i) sufficient to ensure that funds flowing to Trustee or a third party with custody of Trust assets are not from suspect sources, and (ii) that meet all applicable U.S. anti-money laundering, anti-terrorism finance, and anti-corruption requirements.
2. The Employer and WTRISC agree that the following provisions are added to the Trust Agreement and shall control the interpretation thereof, notwithstanding anything to the contrary now or hereafter contained therein or in any other document governing the Plan:
  - (a) Unless and until otherwise agreed in writing between the Employer and the Trustee, the Trustee shall have no discretionary investment responsibility with respect to the trust fund, it being the intent of the parties that the Trustee be a directed trustee, and such discretionary investment responsibility shall be exercised by the Employer, the Participants, or one or more Investment Managers or other named fiduciary for the Plan (each, an "Instructing Party") (it being agreed that the Trustee shall have no responsibility for conveying investment instructions to any person or entity so long as it does not have custody of Trust assets); and further, the Trustee shall have no obligations or responsibilities with respect to developing a funding policy, any financial control functions (including, without limitation, account reconciliation, money movement or settlement

## WILMINGTON

### Trust

and participant disbursements), participant review for Office of Foreign Asset Control activity, complying with the accounting requirements of the Plan, the design or monitoring of the participant loan program, ensuring compliance with Section 404(c) of ERISA, If applicable, selecting or monitoring the selection of plan investments. The Employer or its designee agrees to notify the Trustee immediately in the event of any changes regarding plan investments.

- (b) The Trust Agreement is incorporated herein by this reference and, as modified by this Agreement, shall be construed and enforced against the Trustee according to the laws of the state of the Employer's residence, to the extent not preempted by ERISA, if applicable. The foregoing provisions shall control the Interpretation of the Trust Agreement notwithstanding anything to the contrary contained herein or in any other document governing the Plan.
- (c) Administrative Powers. The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise In Its sole discretion:
  - (i) With advance notice to and written consent of the Employer:
    - (a) To engage attorneys (who may also serve as counsel for the Employer or the Trustee), accountants and other professional advisors, and, anything contained herein to the contrary notwithstanding, to engage In legal or administrative proceedings as the Trustee deems reasonably required in connection with the administration of the Trust, and to compensate any persons so engaged at such wages, fees, remuneration, consideration or otherwise, and upon such terms and conditions as the Trustee deems reasonable under the circumstances. Unless otherwise noted in this Agreement, such compensation shall be a charge upon the Trust and may be paid from the Trust with prior notice to the Employer and shall in no event be deducted from any compensation payable to the Trustee.
    - (b) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned, unless specifically prohibited by the Employer or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder.
  - (ii) Judicial Settlement. With at least 10 days advance notice to and written consent of the Employer, the Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts or for determination of any questions of construction which may arise or for Instructions. The only necessary party defendant to any such action shall be the Plan Administrator, but the Trustee may, If It so elects, join in as a party defendant any other person or persons. The cost, including attorneys' fees, of any such accounting shall be a charge against the Trust with prior notice to the Employer.
  - (iii) Compensation. The Trustee shall receive compensation for the performance of Its services in the amount of \$850 per calendar year, with the first year's fee being prorated based on the number of days remaining in the current calendar year after the effective date of this Agreement as indicated above. In the event that the Trustee shall be called upon to render any extraordinary services, It shall be entitled to additional compensation as agreed in advance in writing by Employer and Trustee. To the extent not paid by Employer or another person or entity in its stead or on its behalf, such compensation shall constitute a charge against the Trust.

- (iv) Expenses. Expenses for legal, accounting and all other proper charges and disbursements of the Trustee in connection with the administration of the Trust shall constitute a charge to be paid by the Trust with prior notice to and written approval of the Employer.
- (d) Designation of Plan Administrator, Authorized Persons and Investment Manager. The Plan Administrator, Authorized Person and Investment Manager may be designated by providing the name and signatures of such person(s) to the Trustee. The Trustee shall be entitled to rely entirely, without having to make further inquiry, and shall not be held liable for any actions taken in assuming, that the Identity and duties of such persons so designated are valid until such time as it is otherwise notified in writing. Notice of authorization or removal of the Plan Administrator shall be accompanied by evidence of proper action of the Employer approving such instruction.
- (e) Reliance on Instruction. The Trustee may rely in all respects, without having to make further inquiry, upon Instructions appearing to be instructions from any person designated as the Employer, Plan Administrator, Investment Manager or Authorized Person. Instructions given by an Authorized Person in accordance with this Agreement shall be treated for all purposes hereof as instructions from the party appointing the Authorized Person. The Trustee shall be deemed to have received proper instructions upon receipt of written Instruction given to the Trustee in a form and manner required by or acceptable to the Trustee.
- (f) Conflicting Instructions. In the event of any ambiguous or conflicting Instructions to, or adverse claims or demands upon, the Trustee, the Trustee shall be entitled, at its option, to refuse to comply with any such Instruction, claim or demand as long as such ambiguity or conflict shall continue, and in so refusing the Trustee may elect not to make any payment or other disposition of assets held pursuant to this Agreement. The Trustee shall not be or become liable in any way for its failure or refusal to comply with any such ambiguous or conflicting Instructions or adverse claims or demands, and it shall be entitled to continue to so refrain from acting until such ambiguous, conflicting or adverse demands (i) have been resolved and it has been notified in writing thereof or (ii) have finally been determined in a court of competent jurisdiction.
- (g) Reliance on Professional Advisors. The Trustee may consult with a professional advisor who may also be an advisor for the Employer, and the Trustee shall be fully protected in respect of any action taken or suffered by the Trustee in good faith and in accordance with the advice or opinion of such professional advisor.
- (h) Bond. The Trustee shall not be required to give any bond or other security for the faithful performance of the Trustee's duties under this Agreement, except as may be required by Applicable Law.
- (i) Action By Employer. Except as otherwise agreed by Trustee, any action by Employer pursuant to any of the provisions of this Agreement, the Plan, or Applicable Law shall be, (i) in the case of a corporation, partnership or similar organization, evidenced by (1) a resolution of its governing body certified to the Trustee over the signature of its secretary or assistant secretary or other duly authorized agent under seal, if there be one, or (2) by appropriate written authorization of any person or committee to which the governing body had delegated the authority to take such action, and (ii) in the case of a sole proprietorship or any other entity, evidenced by written certification of a duly and legally authorized agent, individual or entity. The Trustee shall not be liable for any actions taken in accordance with any such resolution or other authorization.
- (j) Bankruptcy. Trustee shall have no duty, in the event of the Employer's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- (k) Scope of Trustee's Liability. To the full extent permitted by Applicable Law, the Trustee shall not be liable for assets that are not included in the Trust or for losses of any kind that may result (i) by reason of any action taken by it in accordance with the instructions of the Employer, the Plan Administrator, the Investment Manager, or Authorized Person, (ii) by reason of any failure to act as a result of the absence of, or ambiguity of instructions, or (iii) by reason of any actions taken by any prior trustee, additional trustee, successor trustee or Appointed Custodian; provided,



WILMINGTON  
Trust

- (l) however, the Trustee shall be liable for any losses arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees (as defined below), or any of them. The Trustee has no duty to perform any actions other than those specified in this Agreement or pursuant to proper instructions.
- (l) General Indemnity. The Employer shall, to the full extent permitted by Applicable Law, and subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, Indemnify and hold harmless the Trustee and the Trustee's directors, officers, employees, agents and affiliates ("Trustee Indemnitees") from and against any and all damages, losses, costs, judgments, fines, penalties, and expenses (including attorney's fees and disbursements) of any kind or nature (collectively, "Losses") imposed on or incurred by the Trustee Indemnitees, by reason of its or their service pursuant to this Agreement, including any Losses arising out of any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including any such action by or in the right of the Employer), except to the extent such Losses were caused by the negligence or willful misconduct of the Trustee or the Trustee Indemnitees, or any of them. Reasonable expenses incurred in defending any such claim, action, suit or proceeding shall be paid by the Employer upon a final disposition of such claim, action, suit, or proceeding, upon presentation of statements therefore by the Trustee.
- (m) Specific Indemnities. In addition to and not in derogation of any other Indemnification or hold harmless provisions in this Agreement, the Employer, subject to the Nebraska Political Subdivisions Tort Claims Act, as amended from time to time, including liability limitations thereunder, agrees to indemnify and hold the Trustee Indemnitees harmless from and against any liability that it or they may incur because of:
- (i) The Employer's failure to make any contribution to the Trust or the insufficiency of the Trust to discharge any liabilities under the Plan.
  - (ii) Actions taken or omitted by the Trustee pursuant to any instructions from the Employer, Plan Administrator, Investment Manager or Authorized Person, as the case may be, or actions not taken in the absence of any such instruction.
  - (iii) The application of any part of the Trust by the Trustee in accordance with the instructions of the Employer, Plan Administrator, Investment Manager or Authorized Person.
  - (iv) The failure of an individually directed account or participant loan to satisfy the requirements of the Plan and Applicable Law,
- Provided, however, the Trustee shall be liable for any liability arising out of or resulting from the negligence, acts or omissions of Trustee or Trustee Indemnitees, or any of them.
- (n) Waiver. The Trustee or Employer shall not, by act, delay, omission or otherwise, be deemed to have waived any right or remedy it may have either under this Agreement or generally, unless such waiver is in writing, signed by the Trustee or Employer, as the case may be, and such waiver shall only be effective to the extent expressly therein set forth. A waiver by the Trustee or Employer of any right or remedy granted by this Agreement shall not be construed as a bar to, or waiver of, the same or any other such right or remedy which it would otherwise have on any other occasion.
- (o) No Affiliation. The Trustee is not affiliated with the recordkeeper and there is no agency, partnership or joint venture relationship between the Trustee and the recordkeeper.

- (p) Removal or Resignation. The Trustee may be removed by the Employer at any time by written notice to the Trustee and the Trustee may resign at any time by written notice to the Employer; provided that, unless otherwise agreed, the effective date of such removal or resignation shall be sixty (60) days from the date that said written notice is given. Notice of removal shall be accompanied by evidence of proper action of the Employer approving such removal or shall be given by an Authorized Person or by any successor in office of an Authorized Person. -
- (q) Successor. The Employer shall appoint a successor trustee to act hereunder within sixty (60) days after notice provided. If within sixty (60) days after such notice the Employer has not designated a successor trustee, which has accepted such appointment, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or may appoint an employee of Employer as successor trustee in accordance with Applicable Law. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, Trustee shall provide Employer advance notice of any such merger, conversion, consolidation or successor.
- (r) Powers of Successor. Each successor trustee shall have the powers and duties conferred upon the Trustee in the Trust Agreement, as modified by this Agreement, and the term "Trustee" as used in this Agreement shall be deemed to include any successor trustee.
- (s) Notices. Except as the parties may otherwise agree in writing, all notices, reports, accounts and other communications from the Trustee to the Employer, the Plan Administrator, the Investment Manager(s) or any Authorized Person shall be in writing and deemed to have been duly given to the Investment Manager(s) when received at its principal place of business, and shall be deemed to have been given to the Employer, Plan Administrator or any Authorized Person when received at the address below:

City of La Vista  
Attention: City Clerk  
La Vista City Hall  
8116 Park View Blvd  
La Vista, NE 68128

. Except as the parties may otherwise agree in writing, all instructions, notices, objections and other communications to the Trustee shall be in writing and shall be deemed to have been given when received by the Trustee at its office below:

Wilmington Trust Retirement and Institutional Services Company  
P.O. Box 52129  
Phoenix, AZ 85072-2129  
Attn: Vice President — Client Services

Or, if by overnight mail:

Wilmington Trust Retirement and Institutional Services Company  
2800 North Central Avenue, Suite 900  
Phoenix, AZ 85004  
Attn: Vice President — Client Services

- (t) Inspections/Audits. Trustee's records and statements are to be open for inspection and audit by the Employer from time to time upon request. The Employer shall exercise such right with reasonable prior written notice to the Trustee, and except as required by applicable law, any such audit rights shall be exercised by the Employer not more frequently than annually.

WILMINGTON  
Trust

- (u) Force Majeure. The Trustee or Employer shall have no liability for any losses arising out of delays in performing the services which it renders under this Agreement when such delays result from events beyond its reasonable control, including without limitation, interruption of the business of the Trustee or Employer, as the case may be, due to acts of God, acts of governmental authority, acts of war, terrorism, riots, civil commotions, insurrections, labor difficulties (including, but not limited to, strikes and other work stoppages due to slow-downs), unauthorized access to its systems that may breach its reasonable protection against such access, or any action of any courier or utility, mechanical or other malfunction, or electronic interruption,
  - (v) Entire Agreement. This Agreement, including all Appendices hereto, the Account Application, and the Authorized Persons List, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
3. Except as amended and modified hereby, the terms and provisions of the Trust Agreement are hereby ratified, approved and confirmed.
4. Services to be Performed by Plan Administrator. The Employer has (or will) delegate to the Plan Administrator the sole responsibility to perform certain ministerial and administrative services to the extent set forth in the Administrative Services Agreement between the Employer and the Plan Administrator, and if so provided in the Administrative Services Agreement the Employer hereby instructs Trustee that Trustee shall relinquish any responsibility for the performance of said duties that it would otherwise have pursuant to the Trust Agreement as set forth below:
- (a) Receive contributions directly from the Employer or its Plan Committee;
  - (b) Make distributions at the Employer's directions, in accordance with the terms of the Plan and the Trust Agreement;
  - (c) Perform the accounting for all assets including cash, as well as contributions, loans and withdrawals and the allocation of credited interest and allocate all income, gains and losses;
  - (d) Remit fees for services rendered to the Plan as directed by the Employer, subject to the prohibited transactions provisions of ERISA, if applicable;
  - (e) Render reports to the Employer and the Trustee with respect to assets held as required or reasonably requested (e.g., SOC-1 or similar reports);
  - (f) Perform tax reporting and withholding in compliance with applicable Federal and State law in connection with payments to participants or beneficiaries and in accordance with instructions and directions provided by the Employer;
  - (g) Collect or cause to be collected all Income, distributions, and proceeds relating to Plan assets and to invest the same and all contributions as directed by the Employer or another Instructing Party;
  - (h) Process or cause to be processed dividends, including reinvestment and/or payment, if applicable; and
  - (i) Forward or cause to be forwarded to the Employer all applicable proxies, corporate actions and other notices relating to the Plan assets, which the Employer shall process.

[Remainder of page intentionally left blank]

WILMINGTON  
Trust

WTRISC is required to provide the name, address and share position(s) or the beneficial holder of securities to the issuing company unless the beneficial holder objects in writing to the provision of such information. Unless you check the box provided below, WTRISC will provide such information to the issuing company for all securities held in the account today and in the future.

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☒ Employer requests that Wilmington Trust Retirement and Institutional Services Company withhold providing its name, address and share positions(s) to issuing companies.

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Agreed To By:

TRUSTEE:

WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMPLOYER:  
CITY OF IAVISTA

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

[Corporate Seal]

**AUTHORIZED PERSON LIST**

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(Please select one):

- ☐ Any gag of the Individuals
- ☐ By each and every one of the individuals
- ☐ By Insert Number of Individuals, if applicable of the individuals shown below:
- ☐

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
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Wilmington Trust Retirement and Institutional Services Company  
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WILMINGTON TRUST RETIREMENT AND INSTITUTIONAL SERVICES COMPANY

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- ☐ WTRISC Appointment/Trust Amendment (please complete and execute)

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- ☐ WTRISC Authorized Person List (please complete and execute)

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\*Please return executed original documents and keep a copy for your records

\_\_\_\_\_

- ☐ Most current Asset Statement

\_\_\_\_\_

- ☐ IRS Determination Letter (If applicable)

\_\_\_\_\_

- ☐ Copy of executed Plan and Trust Document of prototype, copy of executed Adoption Agreement is also required)

\_\_\_\_\_

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In order to help the government fight the funding of terrorism and money laundering activities, law requires all financial Institutions to obtain, verify and record certain information that identifies each person or institution that opens a new account. We may request certain Information and documentation. The documentation is standard, and In some circumstances we may be required to ask for additional information.

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- ☐ Proof of Entity Status (I.e., copy at Certified Articles of Incorporation, Government Issued Business License, Secretary of State Filing, Certificate of Good Standing (issued within the last 6 months), Partnership Agreement, etc.)

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