

## RETIREMENT PLAN SERVICES AGREEMENT

This Retirement Plan Services Agreement ("Agreement") has been entered into, effective June 21, 2016, by and between Sikich Capital Management LLC, d/b/a Sikich Financial ("Sikich RPS") and *Wheaton Park District* ("Client"), as Plan Sponsor and Plan Administrator of the *Wheaton Park District 457b Plan* ("Plan").

### Background

A. Sikich RPS is registered as an investment advisor in the states of Florida, Illinois, Missouri, Minnesota, and Wisconsin. It provides both fiduciary and non fiduciary services with respect to defined contribution retirement plans.

B. The Client wishes to engage Sikich RPS to provide the services specified in Appendix A on the terms and conditions set out in this Agreement, including the fee provisions of Appendix B.

In consideration of the premises, Sikich RPS and the Client, intending to be legally bound, hereby agree as follows:

### ARTICLE I GENERAL PROVISIONS

1.1. **Term of Agreement.** The term of this Agreement shall begin on the effective date specified in the first sentence hereof, and this Agreement shall remain in effect until amended pursuant to Section 7.1 or terminated pursuant to Section 7.2.

1.2. **Defined Terms.** For purposes of this Agreement, when capitalized herein, a term shall have the meaning specified in Section 9.1.

### ARTICLE II SIKICH RPS OBLIGATIONS

2.1. **Selected Services.** Sikich RPS shall perform the Selected Services specified in Appendix A attached hereto with respect to the Plan. Sikich RPS may perform the Selected Services through any qualified principal, employee, or agent.

2.2. **No Fiduciary Services.** Client and Plan agree and acknowledge that Sikich RPS shall not perform such services for the Plan as a fiduciary (within the meaning of Section 3(21)(A)(ii) of ERISA). Furthermore, Sikich RPS shall not act as a discretionary fiduciary or investment manager within the meaning of ERISA Section 3(38).

2.3. **Excluded Services.** The Selected Services do not include custody of assets, the authorization or execution of transactions; securities brokerage; legal advice, tax or accounting services; or professional services other than the Selected Services. Certain Excluded Services will be performed pursuant to agreements between the Client and its designated money managers, mutual funds, custodians, and other professional advisors. Sikich RPS is not authorized or qualified to give legal, tax or accounting advice, and Client acknowledges that

Sikich RPS shall not provide any such advice in performing the Selected Services.

**2.4. Voting of Proxies.** Sikich RPS does not accept any authorization, implied or explicit, to vote proxies or make recommendations with respect to proxies on behalf of the Client.

**2.5. Non-Exclusive Services.** The Client acknowledges that the services provided hereunder are non exclusive and that Sikich RPS performs investment consulting services for other clients. The Client further acknowledges that Sikich RPS may make recommendations, give advice, or take action in the performance of its duties for other clients that may differ from the recommendations made with respect to the Plan.

**2.6 Compensation Based on Capital Gains or Capital Appreciation of Funds.** Sikich RPS shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the Client, unless Sikich RPS adheres to the provisions in the Code of Federal Regulations, title 17, section 275.205-3.

### **ARTICLE III CLIENT OBLIGATIONS**

**3.1. Provision of Information.** The Client agrees to provide, or cause its Authorized Representatives to provide, information regarding income, investment performance, and other pertinent matters relating to the Plan as requested by Sikich RPS from time to time. The Client, directly or through its Authorized Representatives, also agrees to communicate pertinent needs and goals to Sikich RPS and to keep Sikich RPS informed of changes in the Plan's situation, needs, and goals. Sikich RPS shall not be required to verify the accuracy of information obtained from the Client or its Authorized Representatives, and it is expressly authorized to rely on all such information without investigation.

**3.2. Plan Administration.** The Client is responsible for overseeing the Plan administration and assuring that the Plan is operated and maintained in accordance with the provisions of the Plan Documents and the requirements of ERISA, as applicable, and the Code. The Client agrees that it is responsible for reviewing and approving the Selected Services performed hereunder, and it accepts full responsibility for the Selected Services performed hereunder.

**3.3. Indemnification Obligation.** The Client agrees to indemnify and hold Sikich RPS and its partners, officers, affiliates, employees, and agents ("Indemnified Parties") harmless from and against any and all claims, suits, actions, debts, damages, costs, charges, and expenses, including court costs and attorneys' fees, and against all liability, losses, and damages of any nature whatsoever that any of the Indemnified Parties shall, or may at any time, sustain in connection with the good-faith performance of services under this Agreement or in reliance upon Plan Documents or instructions or interpretations received from the Client, except where such liability or losses arise directly from Sikich RPS' negligence, bad faith or willful misfeasance.

**3.4. Client Responsibility for Excluded Services.** While Sikich RPS may refer the Client to other professionals, including its affiliated entities, the Client is responsible for

selecting its own attorney, accountant, tax advisor, and other providers of Excluded Services.

3.5. **Sikich RPS Fees.** In consideration of the Selected Services to be provided hereunder, the Client agrees to pay to Sikich RPS the fees required by Appendix B. Sikich RPS may charge a separate fee for special projects with the prior consent of the Client.

#### **ARTICLE IV CLIENT REPRESENTATIONS AND ACKNOWLEDGEMENTS**

4.1. **Client Representations.** The Client represents and warrants to Sikich RPS as follows:

(a) this Agreement does not violate any obligation by which the Client or the Plan is otherwise bound and, upon execution and delivery, will be binding on the Client and the Plan in accordance with its terms;

(b) the Client is authorized and empowered to sign this Agreement on behalf of the Plan and has all the necessary authority under the Plan to retain Sikich RPS to provide the Selected Services and to do any other act contemplated by this Agreement;

(c) the Client has received Sikich RPS's Form ADV, Parts 2A and 2B; Supplemental Adviser Brochure; and Privacy Policy at least 48 hours before signing this Agreement;

(d) the Client or its Authorized Representative has delivered to Sikich RPS, and from time to time hereafter will timely deliver to Sikich RPS, (i) a true and complete copy of all Plan Documents relevant to the Selected Services, including subsequently adopted Plan documents and/or amendments thereto; and (ii) all information that Sikich RPS may reasonably request in connection with the performance of its duties hereunder (and any material changes to previously provided information); and;

(e) the Client is independent of and unrelated to Sikich and its affiliates.

4.2. **Client Acknowledgements.** The Client acknowledges as follows:

(a) Sikich RPS may rely on Plan documents and instructions and interpretations received from the Client or its Authorized Representative as being current, genuine, complete, accurate, and consistent with all applicable laws and regulations;

(b) The Client qualifies as an "accredited investor" pursuant to Rule 501(a) of Regulation D, as promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act");

(c) Selected Services are provided subject to review and approval of the Client;

(d) Sikich RPS obtains information from a wide variety of public and private sources, and it makes recommendations and performs analysis in part based on this information. Although Sikich RPS does its best to ensure that such data is reliable, it cannot guarantee the accuracy or validity of data routinely provided by third parties;

(e) the prior performance of an investment manager, mutual fund, or other investment vehicle is not necessarily predictive of future results; and Sikich RPS does not assume any responsibility, nor shall it be liable for, the conduct or investment performance of any investment manager, mutual fund, or other investment vehicle selected on the basis of Sikich RPS's advice;

(f) Any forward-looking statements, including statements regarding target returns, assumptions and expectations of future performance are estimates. These assumptions and expectations can change as a result of many possible events or factors, in which case Client's financial condition, liquidity and actual returns may vary materially;

(g) Sikich RPS does not have any discretionary authority with respect to the Plan or its assets; and

(h) the Client is responsible for making informed judgments on the results of the Selected Services performed hereunder.

## **ARTICLE V SIKICH RPS'S REPRESENTATIONS AND ACKNOWLEDGEMENTS.**

Sikich RPS represents and/or acknowledges that (i) it is registered as an investment advisor with one or more State regulatory authorities; (i) it has delivered to the Client Sikich RPS's Form ADV, Parts 2A and 2B, Supplemental Adviser Brochure, and Privacy Policy at least 48 hours before signing this Agreement; and (iii) to the extent required by law and in accordance with its privacy policy, will treat as confidential any information obtained from or about the Client or the Client's investments through the performance of its obligations under this Agreement. Sikich RPS also agrees to take reasonable measures to protect confidential information obtained from Clients from cybersecurity threats.

## **ARTICLE VI LIMITATIONS ON SIKICH LIABILITY.**

In addition to any limitations provided for elsewhere in this Agreement, neither Sikich RPS nor any other Indemnified Party shall be liable for any loss, liability, cost, damage, or expense (including reasonable attorneys' fees and costs) (collectively, "Losses"), including Losses in connection with good faith errors of judgment, mistakes of law, actions performed or actions omitted in connection with providing services to the Client, except for Losses directly arising from Sikich RPS's negligence, bad faith, or willful misfeasance. Sikich RPS shall not be liable for the Client's or any other person's failure to comply with the governing Plan Documents, and the Client shall hold Sikich RPS harmless with respect thereto. Without limiting the generality of the foregoing, the Indemnified Parties shall not be liable for any investment loss or failure to achieve specific investment performance objectives of investment options recommended for the Plan. Except as otherwise provided by federal or state securities laws, the liability of Sikich RPS, acting in good faith, to Client for damages of any kind arising out of or in any way related to the services or to this Agreement shall be limited to the aggregate amount of fees paid by Client to Sikich RPS under Section 2 hereof for the immediately preceding twelve (12) months. If the Client's account under this Agreement contains only a portion of the Client's total assets, Sikich shall be responsible for those assets that the Client has designated to be the

subject of Sikich's services under this Agreement without consideration to those additional assets not so designated by the Client.

## **ARTICLE VII AMENDMENT AND TERMINATION**

7.1. **Amendment.** This Agreement may be amended only by written agreement of the parties hereto.

7.2. **Termination.** The Client may terminate this Agreement at any time upon effective written notice. Sikich RPS may terminate this Agreement upon providing written notice of termination to the Client at least thirty (30) days before the effective date of termination. Sikich RPS's fees for services performed before the termination date shall be payable within thirty (30) days following such date. If the Client terminates this Agreement within five (5) days after signing it, the Client will have the right to a full return of its fees hereunder.

## **ARTICLE VIII NOTICES**

Any notice given hereunder shall be deemed given if in writing and delivered and/or mailed by U.S. Mail to the following:

CLIENT: Wheaton Park District 457b Plan ("Plan")  
855 W. Prairie Avenue  
Wheaton, Illinois 60187

Sikich RPS:  
Attention: Jacquelyn Pikowski, CCO  
Sikich Capital Management LLC, d/b/a Sikich Financial  
1415 W. Diehl Road, Suite 400, Naperville, IL 60563

A Party may change the address at which notice is to be given by written notice provided as specified above.

## **ARTICLE IX DEFINED TERMS AND RULES OF CONSTRUCTION**

9.1. **Defined Terms.** For purposes of this Agreement, the following terms, when capitalized as set out below, have the following meanings:

(a) "Agreement" means this Agreement between Sikich RPS and the Client, as amended from time to time. For the avoidance of doubt, this Agreement includes all Appendices and Exhibits hereto.

(b) "Authorized Representative" means, with respect to the Client, its accountants, actuaries, investment managers, custodians, legal advisors, and/or other agents.

(c) "Client" has the meaning provided in the preamble.

(d) "Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations thereunder.

(e) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations thereunder.

(f) "Excluded Service" means any service that is not a Selected Service to be performed by Sikich RPS.

(g) "Parties" means Sikich RPS and the Client. A "Party" means any one of the Parties.

(h) "Plan" means the defined contribution retirement plan identified immediately following the first sentence of this Agreement.

(i) "Plan Administrator" means the plan administrator of the Plan within the meaning of ERISA Section 3(16)(A).

(j) "Plan Document" means the document or documents containing the Plan provisions and the provisions for the funding source (*e.g.*, trust agreement) for the Plan, as amended from time to time.

(k) "Plan Sponsor" means the sponsor of the Plan.

(l) "Selected Services" means the services to be performed by Sikich RPS pursuant to Appendix A.

(m) "Sikich RPS" means Sikich Capital Management LLC, a Delaware limited liability company, d/b/a Sikich Financial.

(n) "Third Party Payor" means the trustee, custodian, or other person holding Plan assets.

**9.2. Rules of Interpretation.** The following rules shall apply in interpreting this document:

(a) This Agreement shall be interpreted in accordance with the internal laws of the State of Illinois without regard to conflict of law principles, except to the extent preempted by federal law, or to the extent laws of the State of Illinois are inconsistent with Minnesota law as set forth in Minnesota Statute 80A and the rules promulgated thereunder, or as otherwise expressly provided herein.

(b) Reference to persons in the masculine gender shall include persons of the feminine gender, where applicable.

(c) References in the singular shall, if appropriate, include the plural, and *vice versa*.

(d) All section headings in this Agreement are for convenience of reference only, do not form part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement.

## **ARTICLE X RESOLUTION OF DISPUTES**

10.1. **Discussions.** If any dispute arises in connection with the performance under or alleged breach of this Agreement by any Party, the Parties to the dispute shall try in good faith to resolve such dispute as described in this Article. All discussions and communications during the dispute resolution process shall be, and shall remain, confidential to the fullest extent allowed by applicable law, and the disputing Parties shall treat all such discussions and communications as compromise and settlement negotiations for the purposes of any rules of evidence.

10.2. **Negotiation.** If the disputing Parties cannot resolve a dispute in the ordinary course of business, the party claiming a breach or failure by another Party shall give the other Party notice of the dispute in writing, stating the nature of the dispute and the relevant facts, including documentation. The other Party shall then have fifteen (15) calendar days to provide a complete written response to the other. The disputing Parties shall thereafter discuss the dispute and, if practicable and mutually desirable, they shall meet in person. If the dispute remains unresolved for any reason after 60 calendar days following the mailing of the response, the disputing Parties shall proceed to mediation as provided in Section 10.3.

10.3. **Mediation.** The disputing Parties shall, as soon as commercially reasonable after the 60 calendar day period referred to in Section 10.2, initiate the mediation process and endeavor in good faith to settle their dispute by mediation. Unless the disputing Parties agree to the contrary, the mediation shall conform to the then current Mediation Rules for Commercial Financial Disputes of the American Arbitration Association or such similar organization as the disputing Parties may agree. If the disputing Parties cannot agree on a neutral mediator, one will be appointed by the American Arbitration Association in accordance with its mediation rules. Mediation shall occur within 60 days of the initiation of the mediation process. The disputing Parties shall share equally in the fees and expenses of the mediator and the cost of the facilities used for the mediation, but they shall otherwise bear their respective costs incurred in connection with the mediation. The mediation shall be non binding. If the dispute remains unresolved for any reason after the completion of the mediation process, the disputing Parties may proceed to arbitration as provided in Section 10.4, or may proceed in the state courts of Illinois or Minnesota to resolve the dispute.

### **10.4. Arbitration.**

(a) If a dispute is to be resolved by arbitration, the arbitration proceeding shall take place in Hennepin County, Minnesota unless the disputing Parties agree to another location. The arbitration will be governed by the Federal Arbitration Act.

(b) There shall be three arbitrators, each of which will be selected, and the arbitration conducted, in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), except that the provisions of this Agreement shall control over the AAA

rules where this Agreement and the rules differ or the Rules are silent. The arbitrators must be attorneys (current members of the bar of the state where the arbitration is conducted or retired from active practice within the past 5 years) who are familiar with, and have practiced in, the areas of law relevant to the arbitration. The disputing Parties shall share equally in the fees and expenses of the arbitrators and the cost of the facilities used for the arbitration hearing. Each disputing Party shall bear all other costs and expenses that it incurs in connection with the arbitration.

(c) Depositions shall not be allowed, but information may be exchanged by other means.

(d) The disputing Parties shall use their best efforts to ensure that the arbitrators are selected promptly and that the arbitration hearing is conducted no later than three (3) months after the arbitrators are selected. The arbitrators must decide the dispute in accordance with the substantive law that would govern the dispute had it been litigated in court; provided, however, the arbitrator's award shall not be reviewable by a court for errors of law or fact.

(e) Following the arbitration hearing, the arbitrators shall issue an award and a separate written decision that summarizes the reasoning behind the award and the legal basis for the award. The arbitrators may not award punitive damages and may not require on party to pay another Party's costs, fees, attorneys' fees, or expenses. The award of the arbitrators will be binding on each Party, and judgment on the award may be entered in any federal district court.

**10.5. Rights under ERISA, State, or Federal Securities Laws.** The foregoing provisions of this Article are not intended to interfere with, and shall not be construed to interfere with, any rights that the Client may have against Sikich RPS pursuant to ERISA, state, or federal securities laws.

## **ARTICLE XI MISCELLANEOUS PROVISIONS.**

**11.1. Severability.** If any provision of this Agreement shall be held or made non enforceable by statute, rule, regulation, decision of a tribunal, or otherwise, such provision shall be automatically reformed and construed so as to be valid, operative, and enforceable to the maximum extent permitted by law or entity while most nearly preserving its original intent. The invalidity of any part of this Agreement shall not render the remainder of this Agreement invalid and, to that extent, the provisions of this Agreement shall be deemed to be severable.

**11.2. Confidentiality.** All information and/or advice furnished by either party to the other, including that provided by Authorized Representatives and employees of either party, shall be treated as confidential and shall not be used except as necessary to perform the services hereunder and shall not be disclosed to third parties except as agreed upon or required by law.

**11.3. Assignment.** No Party may assign this Agreement, as defined in the Investment Advisers Act of 1940, without the consent of the other parties.

**11.4. Merger.** This Agreement represents the complete agreement of the parties and supersedes any prior understanding or agreement, either oral or written.

11.5. **Governing Law.** Despite permitting venue of any dispute in Hennepin County, Minnesota, the validity of this Agreement and of any of its term or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the internal laws of the State of Illinois without regard to conflict of law principles, except to the extent preempted by federal law, or to the extent laws of the State of Illinois are inconsistent with Minnesota law as set forth in Minnesota Statute 80A and the rules promulgated thereunder, or as otherwise expressly provided herein.

11.6. **No Third Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties hereto. Client and Sikich each hereby confirm that there shall be no third party beneficiaries to this Agreement.

11.7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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## **APPENDIX A**

### **SIKICH RPS SERVICES**

The Client has engaged Sikich RPS to perform the Selected Services selected by Client below in this Appendix. Sikich RPS shall not be responsible for the provision of services to the Plan other than as set out in this Appendix, and such services shall be subject to the review and approval of the Client

- ☒ Assist the Client in the review, evaluation, and establishment of the investment policies and objectives of the Plan (the development, monitoring, and maintaining of the Investment Policy Statement ("IPS")). The IPS is intended to provide a structure for making investment decisions.
- ☒ Based on the Client's objectives, provide research and advice regarding selection of investment alternatives under the Plan, including advice regarding number of alternatives, asset classes, and funds within asset classes.
- ☒ Based on the Client's objectives, provide research and advice regarding the selection of replacement funds within an existing asset class in the Plan.
- ☒ Based on the Client's objectives, provide ongoing review, monitoring, and reporting with respect to investment alternatives under the Plan, including comparison of such performance with applicable peer groups and benchmarking, as provided in the IPS, on a semi-annual basis.
- ☒ Meet with Client on a periodic basis to review reports and discuss any questions of Client with respect to reports or investment performance.
- ☒ Advisor may provide investment education and information to Plan participants as agreed from time to time, including in-person group sessions and printed education materials (which may include posters, payroll stuffers, and emails) and other similar services. Advisor's services shall be limited to investment education services as defined by U.S. Department of Labor (DOL) Interpretative Bulletin 96-1.
- ☒ Analyze the fees of parties providing investment management, trust, custodial, and administrative services to Client. No investment review or recommendations will be provided as part of this review.
- ☒ Assist Client in communicating with investment managers and funds, custodians, banks, trustees, third party administrators, and legal counsel.
- ☒ Provide the Plan iduciaries wftH information and recommendations regarding ERISA compliance and best practices.

In addition to the services that Sikich RPS provides to retirement plans, Sikich RPS related persons or entities provide a wide variety of financial, tax, and accounting services for individuals. Sikich RPS and related persons (including Sikich RPS Investment Advisor Representatives (IAR), Registered Representatives (RR), and employees; Sikich RPS's Broker Dealer, and Sikich RPS employees who are Registered Insurance Agents) may provide services to individuals who are participants, but such services shall not include investment advice with respect to Plan assets. Such services are provided pursuant to separate written agreements with such individuals for whom the services are provided.

- ☒ The Client consents to the provision of services by Sikich RPS and related persons, as described immediately above, to Plan participants; provided, however, such consent does not represent an endorsement of such services by the Client.
- ☐ The Client does not consent to the provision of services by Sikich RPS and related persons, as described immediately above, to Plan participants.
- ☐ Not applicable.

**APPENDIX B  
SIKICH RPS FEE SCHEDULE**

Client will pay Sikich RPS, or cause to be paid to Sikich RPS, reasonable fees for services on as set forth below. Unless and until otherwise specified in a written amendment to this Agreement, such fees shall be at the rate of as follows:

**Billing and Responsible Party**

- ☐ Fees are to be calculated and invoiced by Sikich RPS directly to the Third Party Payor. Such fees shall be calculated by \_\_\_\_\_ using the method and on the frequency set out in the Third Party Payor's Authorization Form, which has been executed by the Client and a copy of which is attached as Exhibit I hereto. Billing frequency is specified below.
- ☒ Fees are to be calculated and invoiced by Sikich RPS directly to the Client. Fees shall be billed and payable as specified below.

Note: The Client is responsible for verifying all fees.

**Calculation of Fees.**

- ☒ Annual Flat Fee: \$6,000 annual fee, billed quarterly in arrears.

**Additional Provisions Related to Fees**

Payments for all services are due upon receipt of the invoice or at the time provided by the Third Party Payor Authorization Form. Interest may be charged on all accounts that have not been paid within 30 days after they are billed at a rate of 1½% per month or any fraction of a month. The annual percentage rate is 18%. In addition, if your account is more than 90 days past due, we may not perform any further work until the balance over 90 days is paid in full.

***Note: The fees payable to Sikich RPS pursuant to this Appendix B are in addition to any fees charged by the Plan's custodian or recordkeeper. Custodian and recordkeeper charges and fees are determined pursuant to the services agreement between the Client or Plan and the custodian or recordkeeper, as applicable.***

## SIGNATURES OF THE PARTIES

On the dates set out below, the duly authorized representatives of Sikich RPS, Client, and Plan have executed this Retirement Plan Services Agreement, including Appendices A and B, as set out on the preceding 12 pages hereof, all effective as of the date specified on page 1.

**Sikich Capital Management LLC d/b/a  
Sikich Financial ("Sikich RPS")**

By: Jacquelyn M. Pikowski  
Jacquelyn M. Pikowski, CCO

Date: 8/16/16

**Wheaton Park District**

By: [Signature]

Printed Name: Michael Benard

Title: Executive Director

Date: 8/15/16