

ORDINANCE NO. 920

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED CONTRIBUTION PLAN FOR THE **POSITION OF CITY MANAGER** FOR THE **CITY OF CLINTON, OKLAHOMA** BY ADOPTING A REVISED AND RESTATED RETIREMENT PLAN; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF THE **CITY OF CLINTON, OKLAHOMA**; PROVIDING FOR PURPOSE AND ORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY AND PARTICIPATION; PROVIDING FOR NON-ALIENATION OF BENEFITS; LOSS OF BENEFITS FOR CAUSE AND LIMITATIONS OF BENEFITS; PROVIDING FOR EMPLOYER AND EMPLOYEE CONTRIBUTIONS; PROVIDING FOR ACCOUNTING, ALLOCATION, AND VALUATION; PROVIDING BENEFITS; PROVIDING FOR REQUIRED NOTICE; PROVIDING FOR AMENDMENTS AND TERMINATION; PROVIDING FOR TRANSFER TO AND FROM OTHER PLANS; CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; PROVIDING FOR PAYMENT OF CERTAIN OBLIGATIONS; PROVIDING FOR DURATION AND PAYMENT OF EXPENSES; PROVIDING FOR EFFECTIVE DATE; PROVIDING FOR VESTING SCHEDULES; PROVIDING FOR A FUND TO FINANCE THE SYSTEM TO BE POOLED WITH OTHER INCORPORATED CITIES TOWNS AND THEIR AGENCIES AND INSTRUMENTALITIES FOR PURPOSES OF ADMINISTRATION, MANAGEMENT, AND INVESTMENTS PART OF THE OKLAHOMA MUNICIPAL RETIREMENT FUND; PROVIDING FOR PAYMENT OF ALL CONTRIBUTIONS UNDER THE SYSTEM TO THE OKLAHOMA MUNICIPAL RETIREMENT FUND FOR MANAGEMENT AND INVESTMENT; PROVIDING FOR REPEALER AND SEVERABILITY; ADOPTING THOSE AMENDMENTS MANDATED BY THE INTERNAL REVENUE CODE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF CLINTON, OKLAHOMA:

Section 1. That pursuant to the authority conferred by the laws of the State of Oklahoma, and for the purpose of encouraging continuity and meritorious service on the part of City employees and thereby promote public efficiency, there is hereby authorized created, established, and approved and adopted, effective as of **January 1, 2010**, the amended and restated Plan designated "Employee Retirement System of the City of Clinton, Oklahoma, Defined Contribution Plan," (hereinafter called System), an executed counterpart of which is marked Exhibit "A" (Joinder Agreement) and Exhibit "B" (amended and restated plan) and attached hereto as part hereof.

Section 2. FUND. A fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

Section 3. APPROPRIATIONS. The City of Clinton, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Clinton, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Contribution Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary expenses of operation and administration to be transferred to the trustees of the

Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

Section 4. EXECUTION. The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Clinton, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

Section 5. REPEALER. Any Ordinance inconsistent with the terms and provisions of this Ordinance is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.

Section 6. SEVERABILITY. If, regardless of cause, any section, subsection, paragraph, sentence or clause of this Ordinance, including the System as set forth in Exhibit "A" and Exhibit "B", is held invalid or to be unconstitutional, the remaining sections, subsections, paragraphs, sentences, or clauses shall continue in full force and effect and shall be construed thereafter as being the entire provisions of this Ordinance.

Section 7. EMERGENCY. Whereas, in the judgment of the City Council of the City of Clinton, Oklahoma, the public peace, health, safety, and welfare of the City of Clinton, Oklahoma, and the inhabitants thereof demand the immediate passage of this Ordinance, an emergency is hereby declared, the rules are suspended, and this Ordinance shall be in full force and effective on its passage, approvals and publication.

END

The undersigned hereby certifies that the foregoing Ordinance was introduced before the City Council of the City of Clinton on the _____ day of _____, 20____, and was duly adopted and approved by the Mayor and City Council, on the _____ day of _____, 20____, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et. seq.).

City of Clinton

By _____
Mayor

ATTEST:

Clerk

Approved as to form and legality on _____, _____.

CITY ATTORNEY

**OKLAHOMA MUNICIPAL RETIREMENT FUND
MASTER DEFINED CONTRIBUTION PLAN
JOINDER AGREEMENT**

City of Clinton, a city, town, agency, instrumentality, or public trust located in the State of Oklahoma, with its principal office at Clinton, Oklahoma, hereby establishes a Defined Contribution Plan to be known as the **City of Clinton Plan** (the "Plan") in the form of the Oklahoma Municipal Retirement Fund Master Defined Contribution Plan.

Except as otherwise provided herein, the definitions in Article II of the Plan apply.

1. Dates.

- This instrument is a new Plan effective _____.
- This instrument is an amendment, restatement and continuation of the Previous Plan, which was originally effective October 1, 2002. The effective date of this Joinder Agreement is **January 1, 2010**, except as otherwise stated in the Plan and the Joinder Agreement

2. Employee.

The word "Employee" shall mean:

- Any person, other than a Leased Employee, who, on or after the Effective Date, is considered to be a regular full-time employee in accordance with the Employer's standard personnel policies and practices, and is receiving remuneration for such services rendered to the Employer (including any elected official and any appointed officer or employee of any department of the Employer, whether governmental or proprietary in nature), including persons on Authorized Leave of Absence. Employees shall not include independent contractors. Elected members of the City Council shall not be considered to be Employees solely by reason of their holding such office.
- Any person, other than a Leased Employee, who, on or after the Effective Date, is considered to be a regular employee in accordance with the Employer's standard personnel policies and practices (including part-time, seasonal and temporary employees), and is receiving remuneration for such services rendered to the Employer (including any elected official and any appointed officer or employee of any department of the Employer, whether governmental or proprietary in nature), including persons on Authorized Leave of Absence. Employees shall not include independent contractors. Elected members of the City Council shall not be considered to be Employees solely by reason of their holding such office.
- Any person who, on or after the Effective Date, holds the position of City Manager.

The word "Employee" shall not include:

- Any person who is currently accruing benefits under any other state or local retirement system.
- Any person who .

3. Entry Date.

Eligible Employees shall commence participation in the Plan: (Select only one)

- ___ months (any number of months up to twelve) after the later of the Employee's Employment Commencement Date or the date the definition of Employee shown above was met.
- On the Employee's Employment Commencement Date. (If the Employer has opted out of Old Age and Disability Insurance (OADI), this option must be elected).

4. Definition of Compensation.

Compensation shall exclude the item(s) listed below:

- No exclusions.
- Overtime pay.
- Bonuses.
- Commissions.
- Severance pay.
- Fringe benefits, expense reimbursements, deferred compensation and welfare benefits.
- Other: .

5. Plan Design.

The Employer hereby elects the following Plan design:

- Pick-up Option. Each Employee shall be required to contribute to the Plan % of his or her Compensation. These contributions shall be picked up and assumed by the Employer and paid to the Fund in lieu of contributions by the Participant. No Participant shall have the option of receiving the contributed amounts directly as Compensation.
- Thrift Plan Option.
 - A Participant may elect to contribute to the Plan for each Valuation Period an amount which is at least 1%, but no more than % of his Compensation (“Mandatory Contributions”). Mandatory Contributions shall be made by payroll deductions. A Participant shall authorize such deductions in writing on forms approved by, and filed with the Committee.
 - The Employer shall contribute to the Fund an amount equal to % of the total Mandatory Contributions contributed by Participants.
The Employer contribution together with amounts forfeited, if any, shall be allocated in the proportion which the Mandatory Contributions of each such Participant for such Valuation Period bear to the total Mandatory Contributions contributed by all such Participants for such Valuation Period.
 - The Employer shall not contribute to the Fund a percentage of the total Mandatory Contributions contributed by Participants.
- Fixed Contribution. The Employer shall contribute to the Fund an amount which when added to amounts available from Amounts Forfeited in prior periods, if any, shall equal % of the total covered Compensation of all Participants for the Valuation Period. The Employer contribution together with amounts available from Amounts Forfeited in prior periods shall be allocated in the proportion which the Compensation of each such Participant for such Valuation Period bears to the Compensation paid to all such Participants for such Valuation Period.
- Variable Funding Option.
 - The Employer intends to make a contribution to the Plan for the benefit of the Participants for each Valuation Period. The contribution may be varied from year to year by the Employer. (Select one option below)
 - Option A: The Employer contribution together with Amounts Forfeited, if any, shall be allocated in the proportion that each such Participant’s total points awarded bear to the total points awarded to all Participants with respect to such year. A Participant shall be awarded one point for each Year of Service.
 - Option B: The Employer contribution together with Amounts Forfeited, if any, shall be allocated in the proportion which the Compensation of each such Participant for such Valuation Period bears to the Compensation paid to all such Participants for such Valuation Period.
 - Option C: A combination of Options A and B in the following ratios: % for Option A, and % for Option B.
- 401(k) Funding Option.
(This Option available only if elected prior to May 1, 1986)
 - Participant Deferral Elections shall be allowed under the provisions of Section 4.9 of the Plan. Participants shall be allowed to defer no more than % of their Compensation for each election period. The election period shall be the one month period preceding each [] Valuation Period [] calendar quarter of the Valuation Period.
 - Section 4.9(c) of the Plan (“Roth Elective Deferrals”) shall apply to contributions after (enter a date later than January 1, 2006), and the Plan will accept a direct rollover from another Roth elective deferral account under an applicable retirement plan as described in Code Section 402A(e)(1).
- No Employer Contribution Option.

6. Other Participant Contribution Options.

- Voluntary Nondeductible Contributions by Participants shall be allowed under the provisions of Section 4.5 of the Plan.
- A Participant may not withdraw Voluntary Nondeductible Contributions.
- Participants shall not contribute to the Plan.

7. Self-Directed Investments.

- Are permitted.
- Are not permitted.

8. Allocation of Forfeitures Available.

- Shall be added to Employer contribution.
- Shall reduce the Employer contribution.

9. Service for Worker's Compensation Period.

- If a Participant is on an Authorized Leave of Absence and is receiving worker's compensation during such Authorized Leave of Absence, such Participant
- shall be credited with Service for such period for purposes of vesting only and not for purposes of allocations of Employer Contributions.
 - shall not be credited with Service for such period.

10. Vesting.

For purposes of vesting under Section 6.4 of the Plan, the Employer hereby elects the following Option:

Option A

<u>Years of Service</u>	<u>Vested Percentage</u>	<u>Forfeited Percentage</u>
less than 1	0%	100%
at least 1 but less than 2	10%	90%
at least 2 but less than 3	20%	80%
at least 3 but less than 4	30%	70%
at least 4 but less than 5	40%	60%
at least 5 but less than 6	50%	50%
at least 6 but less than 7	60%	40%
at least 7 but less than 8	70%	30%
at least 8 but less than 9	80%	20%
at least 9 but less than 10	90%	10%
10 or more	100%	0%

Option B

<u>Years of Service</u>	<u>Vested Percentage</u>	<u>Forfeited Percentage</u>
Less than 3	0%	100%
at least 3 but less than 4	20%	80%
at least 4 but less than 5	40%	60%
at least 5 but less than 6	60%	40%
at least 6 but less than 7	80%	20%
7 or more	100%	0%

Option C

<u>Years of Service</u>	<u>Vested Percentage</u>	<u>Forfeited Percentage</u>
less than 5	0%	100%
at least 5 but less than 6	50%	50%
at least 6 but less than 7	60%	40%
at least 7 but less than 8	70%	30%
at least 8 but less than 9	80%	20%
at least 9 but less than 10	90%	10%
10 or more	100%	0%

Option D

<u>Years of Service</u>	<u>Vested Percentage</u>	<u>Forfeited Percentage</u>
Immediate Vesting	100%	0%

Option E

To comply with the Internal Revenue Service Regulations promulgated pursuant to the Code Section 3121(b)(7)(F), Participants who are part-time, seasonal or temporary Employees will have immediate vesting.

(If this Option E is elected, one of the other Options above must also be elected for Participants who are not part-time, seasonal or temporary Employees).

11. Participant Loans.

[] Participant loans shall be offered pursuant to Section 6.14 of the Plan.

[X] Participant loans shall not be offered.

12. The Employer has consulted with and been advised by its attorney concerning the meaning of the provisions of the Plan and the effect of entry into the Plan.

IN WITNESS WHEREOF **City of Clinton** has caused its corporate seal to be affixed hereto and this instrument to be duly executed in its name and behalf by its duly authorized officers this _____ day of _____, _____.

City of Clinton

By: _____

Title: _____

Attest:

Title: _____

(SEAL)

13. The foregoing Joinder Agreement is hereby approved by the Oklahoma Municipal Retirement Fund this _____ day of _____, _____.

OKLAHOMA MUNICIPAL RETIREMENT FUND

By: _____

Title: _____

Attest:

Secretary
(SEAL)