

ORDINANCE NO. 1033

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN 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; 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 INVESTMENT AS 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, 2025**, the amended and restated Plan designated "Employee Retirement System of the City of Clinton, Oklahoma, Defined Benefit 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 Benefit 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

3. Eligibility.

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

- month(s) (any number of months up to twelve consecutive) after the Employee's Employment Commencement Date or the date the individual meets the definition of Employee in Section 2 hereof, provided that the individual has met the definition of Employee in Section 2 hereof throughout such period.
- On the Employee's Employment Commencement Date.

4. Definition of Compensation.

Compensation shall exclude the item(s) listed below:

- No exclusions.
- Overtime pay. Bonuses.
- Commissions. Longevity pay. Severance pay.
- Accrued vacation or sick leave paid upon termination of employment and moving expenses.
- Fringe benefits, expense reimbursements, deferred compensation and welfare benefits.
- Other: [must be definitely determinable]

5. Average Monthly Compensation.

The considered period for purposes of the definition of "Average Monthly Compensation" in Section 2.1 of the Plan is:

- sixty (60) consecutive months.
- thirty-six (36) consecutive months.

6. The Employer hereby elects the following Plan design:

- Mandatory Contribution Option.** A Participant shall be required to contribute to the Plan for each Plan Year the percentage of his Compensation ("Mandatory Contributions") required by the Plan in Section 8 of this Joinder Agreement. 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.

If the Participant's Mandatory Contributions pursuant to the preceding paragraph are to be taxed deferred:

- Pick Up Option.** The Employer hereby elects to have the provisions of Section 3.4 of the Plan apply. The Employer shall pick up and pay the percentage of each Participant's Compensation required to be contributed as of January 1, 1989 [insert date] in lieu of contributions by the Participant. No Participant shall have the option of receiving the contributed amounts directly as Compensation.

- Non-Contributory Option.** Participants shall not be required nor permitted to contribute to the Plan.

7. A. Payment Options. The Employer hereby elects the following minimum number of payments for employees eligible to receive benefits under Article IV of the Plan:

- Sixty (60) monthly payments.
- One hundred and twenty (120) monthly payments.

B. Plan Options. The Employer hereby elects the following plan designation and percentage used in calculating benefits under Section 5.1 of the Plan.

- Plan AAA – 3.00% with no maximum Years of Service
- Plan AAA – 3.00% recognizing a maximum of 22 Years of Service
- Plan AA 2.625% Plan BB 2.25% Plan CC 1.875%
- Plan A 1.50% Plan B 1.125% Plan C .75%

C. Normal Retirement Age. Normal retirement age shall be:

- age 65 with completion of five (5) Years of Service
- The earlier of (i) and (ii) as follows:
- (i) age 65 with completion of five (5) Years of Service
- (ii) the later of (a) or (b), where (a) and (b) are as follows:
- (a) age 62 _____
- (b) the age at which the Participant has completed 30 Years of Service.
- the age at which the Participant has completed _____ Years of Service

Examples: An employee hired at age 20 who worked for 30 years and terminated at age 50 would be entitled to unreduced payments at age 62.

An employee hired at age 30 who worked for 25 years and terminated at age 55 would be entitled to unreduced payments at age 65.

Modified Rule of 80:

The earlier of (i) and (ii) as follows:

- (i) age 65 with completion of five (5) Years of Service
- (ii) the later of age 55 and the age at which the sum of the Participant's age in completed years and the participant's number of completed Years of Service in the Fund total 80 or greater. To be eligible, the Participant's age plus Years of Service in the Fund must be at least 80 prior to termination of employment (or, after termination of employment in the case of a Participant who transfers to another Municipality in accordance with Section 8.1(b) of the Plan).

- Examples:**
- 1. An employee hired at age 30 who worked for 25 years and terminated at age 55 would be entitled to unreduced payments immediately. Age 55 plus 25 years equals 80.
 - 2. An employee hired at age 20 who worked for 30 years and terminated at age 50 would be entitled to unreduced payments at age 55. The employee has age plus Years of Service points at age 50 but the minimum age for payment is 55.
 - 3. An employee hired at age 25 who worked for 25 years and terminated at age 50 would be entitled to unreduced payments at age 65. Age 50 plus 25 years is less than 80, so the Normal Retirement Age is 65.

[Note: The Normal Retirement Age of an employer's plan must comply with the final NRA regulations under Treas. Reg § 1.401(a)-1(b) applicable to governmental pension plans effective for employees hired during plan years beginning on or after the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three (3) months after the final regulations are published in the Federal Register.]

- D. Vesting Options.** The Employer hereby elects the following vesting option to determine an Employee's eligibility to receive retirement benefits.
- Ten Year Cliff Vesting Schedule
 - Seven Year Cliff Vesting Schedule
 - Five Year Cliff Vesting Schedule
- E. Service Credit Prior to Effective Date.** The Employer hereby elects to include the following limitation of service prior to the effective date.
- No limitation
 - For all purposes under the Plan
 - With respect to Service for purposes of vesting and attainment of Normal Retirement Age
 - Service credit prior to the effective date shall not exceed years
 - For all purposes under the Plan
 - With respect to Service for purposes of benefit accruals.
- F. Service Buyback.** The Employer hereby elects
- No service buyback pursuant to Section 10.10 of the Plan
 - The service buyback provisions of Section 10.10 of the Plan.
- G. 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 benefits, but no Employee contributions shall be made with respect to the Participant for such period.
 - shall not be credited with Service for such period.
- H. Determination of Service for City Manager.** Any Participant in the position of City Manager for the City of Clinton and who was hired prior to November 1, 2004, and after September 14, 2003, shall be given Service Credit from the original hire date for purposes of calculating benefits under Section 5.1 of the Plan.
- I. Determination of Vesting for City Manager.** Any Participant in the position of City Manager for the City of Clinton as of August 4, 2014, shall receive an additional one (1) year of Service for purposes of vesting under the Plan.

8. Contributions by Participants.

If Participants are required to contribute to the cost of providing benefits under this Plan, such contributions shall be based on the plan designation selected in Section 7B above and shall apply to pay periods commencing on and after July 1, 2006.

a. The Participant contribution formula in Section 3.3 of the Plan shall use the following percentage for the Plan Option selected in Section 7B of this Joinder Agreement:

Plan AAA – 6.00%

Plan AA - 5.25% Plan BB - 4.50% Plan CC - 3.75%

Plan A – 3.00% Plan B - 2.25% Plan C - 1.50%

b. The contribution formula shall be 5.25% [insert number between 0 and twelve] of compensation.

c. The contribution as annually determined each year shall be shared by the Participant and Employer as follows: Employee portion % Employer portion %
(Participant plus Employer percentages must total 100%.)

The contribution will be actuarially determined based on Plan assets and liabilities as of January 1 of each year as a percent of payroll, which will then be shared between the Employer and Participant as noted above. These contribution rates will be in effect from July 1 of that year until June 30 of the subsequent year.

9. Cost-of-Living Option.

For purposes of adjusting retiree and beneficiary pensions, the Employer hereby elects the following:

No Cost-of-Living Option.

Cost-of-Living Option. This election applies to Sections 5.1 (Normal Pension), 5.2 (Early Pension), 5.3 (Disability Pension), 5.4 (Deferred Vested Pension), 6.2 (Death Prior to Commencement of Pension), 6.3(a) and 6.3(b) (Death After Commencement of Pension), and 6.4 (Spouse's Pension) and provides annual benefit increases or decreases of the smaller of three percent (3%) or the percentage change in the Consumer Price Index.

The effective date of the Cost-Of-Living Option shall be July 1, 1974, the original date that the Employer elected the Cost-Of-Living Option.

10. Retiree Plan Improvement Option.

Benefits payable to or on behalf of a former Employee under Article V, Article VI, or Article VII of the Plan, which are due or in the course of payment on or after the Effective Date of this Joinder Agreement, shall

be increased according to the Plan Option elected herein. Such increased benefits shall be reflected in any periodic payments due or paid on or after the Effective Date of the Joinder Agreement. It is not intended for this change to be retroactive and any periodic payments due prior to such date shall not be affected.

be increased by % effective . Such increased benefits shall be reflected in any periodic payments due or paid after such date. It is not intended for this change to be retroactive and any periodic payments due prior to such date shall not be affected.

not be increased unless such former Employee is subject to Section 10.8 or 10.9 of the Plan, but shall continue to be paid under the terms of the Previous Plan.

11. Limitations on Optional Benefit Forms.

Section 7.2 of the Plan provides for a lump sum payment form, an installment payment form that would be payable over a fixed number of years (at which time all payments would cease), or the purchase of an insured annuity. The Employer hereby elects the following:

Optional benefit forms under Section 7.2 of the Plan will not be permitted.

Optional benefit forms under Section 7.2 of the Plan will be permitted, subject to Retirement Committee approval for any such elections by a Participant, subject to the following limitation(s):

5% of Assets

(The above election has no effect on the joint and survivor optional benefit forms under Section 7.1).

12. Defined Contribution Option.

Not applicable.

Participant shall be entitled to the benefit under this option as described in Sections 3.6 and 6.8 of the Oklahoma Municipal Retirement Fund Master Defined Benefit Plan, in addition to the benefit determined according to Section 7B. Each Participant shall be required to contribute to the Plan ___% of his or her Compensation. Those 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.

This option shall be effective [include the earlier of the date this Option was originally adopted in a Joinder Agreement or the date of adoption in the current Plan Year].

13. 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 the 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)

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)

Required Disclosures. This Joinder Agreement is to be used only with the Oklahoma Municipal Retirement Fund Master Defined Benefit Plan. Failure to properly complete this Joinder Agreement may result in failure of the Plan to qualify under Code Section 401(a). In accordance with IRS Rev. Proc. 2017-41, the Provider (as defined in Rev. Proc. 2017-41) who has obtained Internal Revenue Service approval of the Oklahoma Municipal Retirement Fund Master Defined Benefit Plan has authority under the Plan document to amend the Plan on behalf of adopting employers for certain changes in the Code, regulations, revenue rulings, other statements published by the Internal Revenue Service, including model, sample or other required good faith amendments. The Provider will inform adopting employers of any such amendments or of the discontinuance or abandonment of the Pre-Approved Plan document. The name, address and telephone number of the Provider are: McAfee & Taft A Professional Corporation, 8th Floor, Two Leadership Square, 211 N. Robinson, Oklahoma City, OK 73102, telephone (405) 552-2231. Any inquiries by the adopting employer regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the Internal Revenue Service advisory letter on the Pre-Approved Plan may be directed to the Provider.

Reliance on Sponsor Opinion Letter. The Provider has obtained from the IRS an Opinion Letter (as defined in Rev. Proc. 2017-41) specifying the form of this Joinder Agreement and the basic plan document satisfy, as of the date of the Opinion Letter, Code §401. An adopting Employer may rely on the Preapproved Plan Sponsor's IRS Opinion Letter only to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.