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ORDINANCE NO. _____

AN ORDINANCE RELATING TO PERSONNEL AND RETIREMENT SYSTEMS, AMENDING THE OKLAHOMA CITY MUNICIPAL CODE, 2020, CHAPTER 40, ARTICLE III, DIVISION 1, PART B, GENERAL PROVISIONS, BY AMENDING SECTION 40-86 WITH RESPECT TO THE LATEST DATE FOR COMMENCEMENT OF PAYMENT OF BENEFITS; AMENDING CHAPTER 40, ARTICLE III, DIVISION 2, DEFERRED COMPENSATION PROGRAM, BY ESTABLISHING A NEW PART A; BY AMENDING SECTION 40-131, TO EXPAND THE DEFINITION OF DEFERRED COMPENSATION PLANS AND AMENDING SECTION 40-132 TO CLARIFY EMPLOYEE PARTICIPATION IN DEFERRED COMPENSATION PLANS; BY ADDING A NEW PART B TO INCLUDE NEW SECTION 40-133, CREATING THE DEFERRED COMPENSATION BOARD, ESTABLISHING MEMBERSHIP ON THE BOARD, SETTING GENERAL POWERS OF THE BOARD AND RELATED PROVISIONS; AMENDING CHAPTER 40, ARTICLE III, DIVISION 5, HEALTHCARE AND INSURANCE BENEFITS FOR RETIREES, SURVIVORS AND DISABLED EMPLOYEES, BY AMENDING SECTION 40-203, TO UPDATE THE DEADLINE FOR THE TIMING OF AN AFFIRMATIVE ELECTION TO PARTICIPATE IN HEALTHCARE AND INSURANCE BENEFITS, AND PROVIDE FOR AN EFFECTIVE DATE OF COVERAGE.

ORDINANCE

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

SECTION 1. That Section 40-86 of Part B of Division 1 of Article III of Chapter 40 of the Oklahoma City Municipal Code, 2020, is hereby amended to read as follows:

**CHAPTER 40
PERSONNEL AND RETIREMENT SYSTEMS**

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ARTICLE III. PENSIONS AND RETIREMENT

DIVISION 1. EMPLOYEE RETIREMENT PROGRAMS

PART B. GENERAL PROVISIONS

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§ 40-86. Latest date for commencement of payment of benefits.

Distribution of a Participant's Retirement Benefit must be made or must commence no later than April 1 of the calendar year following the later of the calendar year in which the

Participant (a) attains age 70½ for a Participant who attains age 70½ before January 1, 2020, or effective for distributions required to be made after December 31, 2019, the calendar year in which the Participant reaches 72 years of age for a Participant who attains age 70½ after December 31, 2019; or (b) retires.

With respect to distributions from the System made for calendar years beginning on or after January 1, 2002 through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit requirements of Code Section 401(a)(9) in accordance with the regulations under Code Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision in this Division to the contrary.

With respect to distributions made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Code Section 401(a)(9) in accordance with the final regulations under Code Section 401(a)(9), ~~which were issued in April 2002 and June 2004, including Treasury Regulations Sections 1.401(a)(9)-1 through 1.401(a)(9)-9; provided, however, that for distributions required to be made after December 31, 2019, for individuals who attain 70½ years of age after December 31, 2019, such distributions shall take into account that age 70½ was stricken and age 72 was inserted in Code Section 401(a)(9)(B)(iv)(I), Code Section 401(a)(9)(C)(i)(I) and Code Section 401(a)(9)(C)(ii)(I),~~ notwithstanding any provision in this Division to the contrary.

All required distributions on or after January 1, 2005, shall be determined and made in accordance with the final regulations under Code Section 401(a)(9), including the minimum distribution incidental benefit requirements of the final regulations; provided, however, that for distributions required to be made after December 31, 2019, for individuals who attain 70½ years of age after December 31, 2019, such distributions shall take into account that age 70½ was stricken and age 72 was inserted in Code Section 401(a)(9)(B)(iv)(I), Code Section 401(a)(9)(C)(i)(I) and Code Section 401(a)(9)(C)(ii)(I).

Effective September 8, 2009, notwithstanding anything herein to the contrary, the System, which is a governmental plan (within the meaning of Code Section 414(d)) is treated as having complied with Code Section 401(a)(9) for all years to which Code Section 401(a)(9) applies to the System if the System complies with a reasonable and good faith interpretation of Code Section 401(a)(9).

SECTION 2. That Sections 40-131 and 30-132 of Division 2 of Article III of Chapter 40 of the Oklahoma City Municipal Code, 2020, are hereby amended to add Part A, Deferred Compensation Plans, and amending section 40-131 and section 40-132 to read as follows:

**CHAPTER 40
PERSONNEL AND RETIREMENT SYSTEMS**

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ARTICLE III. PENSIONS AND RETIREMENT

DIVISION 2. DEFERRED COMPENSATION PROGRAM

PART A. DEFERRED COMPENSATION PLANS

* * *

§ 40-131. Deferred compensation plans.

Plans mean any deferred ~~Compensation~~ compensation plan (including any defined contribution plan) under § 457(b) or § 401(a) of the Internal Revenue Code, as approved and sponsored by the Council.

§ 40-132. Employee participation.

~~Those Employees, as that term is defined in § 40-51(11), participating in the System or Money Purchase Plan and Trust, Elected Officials as defined in Section 40-51(9), "regular policing personnel" as defined in Section 40-26, and full-time, uniformed fire department employees may also voluntarily participate in a plan to the extent allowed by the Internal Revenue Code, but without contribution by the City. To the extent allowed by the Internal Revenue Code, but without an employer contribution by the City, all full-time employees of the City may voluntarily participate in the § 457 deferred compensation plan(s) sponsored by the City including, Elected Officials as defined in Section 40-51(12), "regular policing personnel" as defined in Section 40-26, and full-time, uniformed fire department employees. However, only those employees eligible under Section 40-61 may participate in the § 401(a) Money Purchase Plan(s) sponsored by the City.~~

SECTION 3. That Division 2 of Article III of Chapter 40 of the Oklahoma City Municipal Code, 2020, is hereby amended to add Part B, Board of Trustees of the Deferred Compensation Program and by adding new section 40-133 to read as follows:

**CHAPTER 40
PERSONNEL AND RETIREMENT SYSTEMS**

* * *

ARTICLE III. PENSIONS AND RETIREMENT

DIVISION 2. DEFERRED COMPENSATION PROGRAM

PART B. BOARD OF THE DEFERRED COMPENSATION PROGRAM

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§ 40-133. Deferred Compensation Board Created.

For the purposes of oversight and administration of the Deferred Compensation Program, which includes both the § 457 Deferred Compensation Plan(s) and the 401(a) governmental Money Purchase Plan(s) described in Section 40-51(20) and (21), there is hereby created a Board of the Deferred Compensation Program. The purposes of the Board include, but are not limited to, monitoring and overseeing the Deferred Compensation Program, the development and monitoring

of a slate of investment options available to Program participants in terms of variety of investment options, past performance of the options, the amount of fees and costs associated with the investment options, and to monitor and inform employees of the fees and costs associated with the available and selected investment options. The Board shall, subject to available funding, hire and retain such administrators, vendors, agents, consultants, experts and attorneys as needed to allow them to carry out their mission. Funding for administration and oversight shall be provided by the City subject to annual appropriations by the City Council and no funds of the Oklahoma City Employee Retirement System shall be used however plan expenses may be paid from the respective City deferred compensation plan.

(a) Membership of the Board.

(1) The Board of the Deferred Compensation Program (Board) shall be composed of seven (7) voting members, all selected and appointed by the City Manager as set forth herein. One member shall be either the Finance Director or an Assistant Finance Director. One shall be the City Treasurer or an Assistant City Treasurer. One shall be the City Auditor, or Assistant City Auditor. One shall be the Chief Human Resources Officer or the Assistant Human Resources Director, or the Total Rewards Manager. Two shall be employees and participants in a deferred compensation plan with at least one from one of the three recognized collective bargaining units selected by the City Manager from a list of three (3) names provided by each of the Presidents of the local collective bargaining units. One shall be an employee participant in one of the Money Purchase Plans. The City Clerk shall act as ex-officio, non-voting member of the Board and shall act as clerk and secretary of the Board.

(2) The Board members selected by the City Manager and serving by virtue of their position shall serve as long as they hold that position unless removed at the sole discretion of the City Manager. The City Auditor, while serving by virtue of such position shall serve as long as they hold that position unless removed at the sole discretion of the Mayor or Council. The Board members selected by the City Manager from the deferred compensation plan participants shall serve for terms of three (3) years. The Board member selected by the City Manager as the Money Purchase Plan participant shall serve for a term of four (4) years. All Board members may be removed with or without cause, at any time by the City Manager, excluding the City Auditor or Assistant City Auditor.

(3) No person shall receive compensation for his/her service on the Board.

(4) If at any time a vacancy occurs in the Board, the vacancy may be filled for the unexpired term, and if it is filled, it shall be filled in the same manner that the position was previously filled.

(b) Chair and Vice Chair.

The Board shall elect a Chair and Vice Chair from its members. The Chair and Vice Chair shall serve until a successor is elected. In the event the Chair and/or Vice Chair ceases to be a member of the Board, the Board shall elect from its members a successor to serve the unexpired term. The Board may adopt a policy or procedure for terms of the Chair and Vice Chair.

(c) Meetings.

- (1) The Board shall hold at least quarterly meetings pursuant to a regular schedule set by the Secretary as determined by the Board. The Board may meet upon the call of its Chair, and at such other times as the Chair deems necessary. Except as may otherwise be provided herein, Robert's Rules of Order Newly Revised shall govern the conduct of all meetings of the Board.
- (2) The Board shall keep a public record in summary form of its proceedings.
- (3) The majority of all members of the Board shall constitute a quorum and the quorum shall have the power to transact business. No modifications to any of the deferred compensation plans shall ever be made except upon a vote of a majority of all the members of the Board. No actions related to the Plans shall be made except upon a vote of a majority of all the members of the Board. The vote on such changes shall be taken by "yeas" and "nays" and the vote of each member shall be entered upon the proceedings.

(d) General duties and powers of the Board.

The Board, in addition to other powers contained in this division, shall have the power to administer the City's deferred compensation plans including the power and duties to:

- (1) Monitor the overall success of the investment program.
- (2) Develop, review, and revise the Investment Policy Statement.
- (3) Review the reasonableness of investment and other plan-related costs.
- (4) Select, monitor and evaluate the investment fund line-up.
- (5) Monitor the performance and management of the investment options on a regular basis.
- (6) Review investment performance with each plan's investment consultant at least quarterly.
- (7) Establish and follow a prudent process in the selection of investment professionals.
- (8) Appoint and remove investment professionals who assist in administering the investment program.
- (9) Communicate regularly with the investment related parties to ensure proper functioning and oversight of the investment program.
- (10) Provide for payment of all necessary expenses, as needed or required.
- (11) Formulate procedures, rules and regulations needed for its guidance in conformity with this Division.
- (12) Subject to funding by the City, work with the administrator and staff of the Oklahoma City Employee Retirement System to carry out the administration of the Deferred Compensation Program and enter into any contracts necessary to administer the Deferred Compensation Program.
- (13) Develop such procedures and require such information as it deems necessary to reasonably conclude that a potential rollover contribution is a valid rollover contribution under Section 1.401(a)(31)-1, Q&A-14(b)(2), of the Income Tax Regulations, as may be subsequently amended.
- (14) Select vendor(s) to assist in the administration of the City's deferred compensation plans.
- (15) Authorize and direct disbursements from the City's deferred compensation plans, including payment of plan expenses.
- (16) Construe, interpret and enforce the terms of the City's deferred compensation plans.
- (17) Appoint and retain for each of the City's deferred compensation plans any agents as it may deem necessary or appropriate and authorize an agent or designee to execute or

deliver any instrument, receive any notice, process and approve benefits applications, or make any payment on its behalf.

- (18) Delegate to one or more of the members of the Board the right to act on its behalf in all matters connected with the administration of each of the City's deferred compensation plans and trusts.

To the extent any of the City's deferred compensation plans provide that the employer or City take certain actions that Section 40-133 authorizes the Board to take, then the City hereby delegates the authority to take such action to the Board.

(e) Secretary's report.

The System Administrator, if retained, or the Secretary of the Board, with assistance from the City Treasurer or System Administrator shall report annually the condition of the Deferred Compensation Program, in such terms as requested and available to the Board.

(f) Legal services.

The Municipal Counselor or the Municipal Counselor's designee shall be the legal advisor of the Board and shall appear on behalf of the Board in all suits brought by or against the Board.

(g) Liability Limited.

In administering the Deferred Compensation Program, neither the Board or any member thereof, nor the City or any official or Employee thereof, shall be liable for any acts of omission or commission, except for his/her or its own individual willful and intentional malfeasance, misfeasance or nonfeasance. The employer and its officials and Employees, and each member of the Board shall be entitled to rely conclusively on all tables, valuations, certifications, opinions and reports which shall be furnished by the Municipal Counselor or by an accountant, attorney, investment consultant, insurance company or any other consultant or expert who shall be appointed, employed or otherwise engaged by the Board.

SECTION 4. That Section 40-203, Division 5 of Article III of Chapter 40 of the Oklahoma City Municipal Code, 2020, is hereby amended to read as follows:

**CHAPTER 40
PERSONNEL AND RETIREMENT SYSTEMS**

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ARTICLE III. PENSIONS AND RETIREMENT

**DIVISION 5. HEALTHCARE AND INSURANCE BENEFITS FOR RETIREES,
SURVIVORS AND DISABLED EMPLOYEES**

* * *

§ 40-203. Election to participate and payment of premiums required.

To participate in City sponsored group healthcare, dental insurance and life insurance plans, the retired/disabled Employee, Elected Official, survivor or contract Employees to whom the City has by contract extended benefits, must affirmatively elect to participate within 30 days from 60 days from the first month following the termination date of employment, with the City, or a Participating Public Trust, or within 30 days after approval of retirement benefits by the System or Retirement Program, whichever is later. Coverage will be retroactive back to the first day of the month following the termination date. Coverage elections will be dependent changes based on applicable contract language regarding allowable retroactive changes within the selected plan. Eligibility to participate as a retired Employee or a qualified survivor in City sponsored group health care, dental insurance and life insurance plans is dependent upon the payment of premiums for such coverage as established by the City Council.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect and be in full force from and after 12:00 a.m. on the _____ day of _____, 2022.

INTRODUCED AND READ in open meeting of the Council of The City of Oklahoma City, on the 27th day of September, 2022.

ADOPTED by the Council of The City of Oklahoma City, this _____ day of _____, 2022.

SIGNED by the Mayor of The City of Oklahoma City, this _____ day of _____, 2022.

ATTEST: (seal)

City Clerk

MAYOR

REVIEWED for form and legality.



Assistant Municipal Counselor