

## ORDINANCE NO. 3505

AN ORDINANCE ADOPTING AN EMPLOYEE RETIREMENT SYSTEM, DEFINED CONTRIBUTION PLAN FOR THE POSITION OF CITY MANAGER FOR THE CITY OF BROKEN ARROW, OKLAHOMA; PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES OF CITY OF BROKEN ARROW, OKLAHOMA; PROVIDING FOR PURPOSE AND ORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR ELIGIBILITY AND PARTICIPATION; 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 COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF 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 NON-ALIENATION OF BENEFITS AND LOSS OF BENEFITS FOR CAUSE; ADOPTING THOSE AMENDMENTS MANDATED BY THE INTERNAL REVENUE CODE; PROVIDING FOR REPEALER AND SEVERABILITY; AND DECLARING AN EMERGENCY

**BE IT ORDAINED BY THE CITY COUNCIL OF BROKEN ARROW, 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 **March 1, 2018**, the funded Plan designated "Employee Retirement System of City of Broken Arrow, Oklahoma, Defined Contribution Plan," (hereinafter called System), an executed counterpart of which is marked Exhibit "A" (Joinder Agreement) and Exhibit "B" (Master Defined Contribution Plan) and attached hereto as part hereof.

**Section 2. ADMINISTRATION.** For the purpose of administration the System there is hereby established a Committee, which shall be the members of the City Council of City of Broken Arrow, Oklahoma, as now existing or as from time to time duly elected or appointed and constituted. The powers and duties of the Committee shall be as set forth in the System instrument attached hereto as Exhibit "B".

**Section 3. 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 4. APPROPRIATIONS.** The City of Broken Arrow, 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 Broken Arrow, 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 5. 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 Broken Arrow, 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 6. 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 7. 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 8. EMERGENCY.** Whereas, in the judgment of the City Council of the City of Broken Arrow, Oklahoma, the public peace, health, safety, and welfare of the City of Broken Arrow, 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 City of Broken Arrow on the 21<sup>st</sup> day of November, 2017, and was duly adopted and approved by the Mayor and City Council, on the 5th day of December, 2017, after compliance with notice requirements of the Open Meeting Law (25 OSA, Sections 301, et. seq.).

City of Broken Arrow

By \_\_\_\_\_  
Craig Thurmond, Mayor

ATTEST:

\_\_\_\_\_  
Clerk

Approved as to form and legality on \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY ATTORNEY