



To: OkMRF Defined Benefit Plans

From: Jodi S. Cox, Executive Director & CEO

Date: September 8, 2014

RE: Windsor Amendment

The OkMRF Board of Trustees, during their July 25, 2014, meeting, approved the Windsor Amendment to the Defined Benefit (DB) master plan. This amendment adds a new definition, "Spouse" and is noted as item 2.1 (mm). All subsequent definitions in the Master Plan are to be renumbered accordingly.

The attached plan amendment was prepared in accordance with the Internal Revenue Code (IRC) Revenue Ruling 2013-17 resulting from the United States vs. Windsor Supreme Court decision. The Windsor Amendment has to do with domestic partners, federal law and the definition of spouse. This plan amendment now needs to be approved by OkMRF members, individually, with a DB plan by **December 31, 2014**, to keep your plan in compliance with the IRC.

The IRS Revenue Ruling requires qualified plans (i.e. OkMRF) to recognize same sex spouses for Federal tax purposes and would affect the sections on **Required Minimum Distribution Rules** and **Rollover Rules** in the master plan. All other spousal provisions are not affected by the Windsor decision because these provisions are not required by specific code sections. Therefore, on these plan provisions, the definition of spouse will be controlled by Oklahoma law to the extent it is not preempted by federal law. These provisions are:

- Death benefits
- Survivor annuity distribution options
- Beneficiary designations
- Qualified domestic relations orders ("QDROs")

Bottom-line: Spouse, for Federal tax purposes, will be defined as same sex if the individuals were lawfully married under a state with laws to validate, recognize and authorize same sex marriages. Spouse, for all other provisions, will be defined as a spouse legally recognized in the State of Oklahoma (today as it stands that is opposite sex).

If the decision is overturned and Oklahoma law changes to recognize same sex marriages, your plan will still be in compliance with Federal law, State law and the master plan document.

As stated above, this amendment must be approved by your council/board by December 31, 2014. Please print 2 copies of the Amendment and after your board approves, then, return one signed original to our offices and keep the other original for your files. We appreciate your assistance with this matter. Please give Kari Baser, Chris Whatley or myself a call if you have any questions in regards at 1-888-394-6673 ext. 104, 103 or 102, respectively.

AN ORDINANCE OF THE CITY OF CLINTON, OKLAHOMA

ORDINANCE NO. 953

AN ORDINANCE AMENDING THE EMPLOYEE RETIREMENT SYSTEM, DEFINED BENEFIT PLAN OF THE CITY OF CLINTON, OKLAHOMA, TO INCORPORATE THE DEFINITION OF SPOUSE; PROVIDING FOR EFFECTIVE DATE, PROVIDING FOR REPEALER AND SEVERABILITY; AND DECLARING AN EMERGENCY.

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

Section 1. **AMENDATORY.** The Employee Retirement System, Defined Benefit Plan of the City of Clinton, is hereby amended, which is incorporated herein by reference.

Pursuant to the authority vested in the undersigned, Subsection 2.1(mm) of the Oklahoma Municipal Retirement Fund Master Defined Benefit Plan (the "Plan") is hereby amended to read as follows and to renumber the current Subsection (mm) and the subsequent Subsections accordingly:

“(mm) **Spouse:** Effective as of June 26, 2013 and in accordance with Revenue Ruling 2013-17 and IRS Notice 2014-19, for Federal tax purposes which may apply to qualified retirement plans under Code Section 401(a), the terms ‘spouse,’ ‘husband,’ and ‘wife’ include an individual married to a person of the same sex if the individuals are lawfully married under state law, and the term “marriage” includes such marriage between individuals of the same sex, and a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages. For all other Plan purposes and which are not required for Federal tax purposes as described in the preceding sentence, the term ‘spouse’ will be defined as a spouse which is legally recognized in the State of Oklahoma.”

Except as otherwise provided in this Windsor Amendment to the Oklahoma Municipal Retirement Fund Master Defined Benefit Plan (“Amendment”), the Plan is hereby ratified and confirmed in all respects. This Amendment shall be effective as of June 26, 2013.

Section 2. **REPEALER.** All ordinances in conflict herewith are hereby repealed.

Section 3. **SEVERABILITY.** If any part, article, section, or subsection of this ordinance shall be held invalid or unconstitutional for any reason, such holding shall not be construed to impair or invalidate the remainder of this ordinance, notwithstanding such holding.

Section 4. **EMERGENCY.** It being immediately necessary for the preservation of the public peace, health, safety, and welfare of the City of Clinton and the inhabitants thereof that this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage and approval.

END

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

ATTEST:

MAYOR

CITY CLERK

Approved as to form and legality on _____, _____.

CITY ATTORNEY