

ORDINANCE # 4-05

AN ORDINANCE ESTABLISHING A DEFERRED COMPENSATION
PLAN FOR THE CITY OF DIAMOND CITY, ARKANSAS.

WHEREAS, the City Council of Diamond City, Arkansas (hereinafter referred to as the "City", has determined that in order to attract and retain qualified employees, it is necessary to offer a deferred compensation plan;

WHEREAS, the City has reviewed the plan document for the Arkansas Municipal League ("AML") Deferred compensation Plan ("Plan") and to the extent it deemed necessary obtained legal advice regarding the Plan and the impact of participating in the Plan;

WHEREAS, the City wishes to participate in the Plan to provide benefits to its employees;

WHEREAS, the City has determined that by participating in the AML Plan it will reduce overall administrative costs of operating a Plan, and afford attractive investment options to its Employees;

WHEREAS, the City is an Employer as defined in the Plan;

WHEREAS, the City has executed an Adoption Agreement for the Plan; and

WHEREAS, the Council is authorized by law to adopt this ordinance approving the Adoption Agreement on behalf of the City,

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL
OF DIAMOND CITY, ARKANSAS:

Section 1, The City adopts the Plan and the Trust Agreement (“Trust”) for the Plan for its Employees.

Section 2. The City acknowledges that the Executive Committee of the AML will serve as the board of trustees of the AML Defined contribution and Deferred Compensation Plan (“Trustees”) and shall only be responsible for the Plan and have no responsibility for other employee benefit plans maintained by the City of Diamond City.

Section 3. The City is authorized to sign all documents necessary to adopt the Plan and by so signing, be bound by the terms of the Plan as stated in the Adoption Agreement and Plan other Plan Documents. The City reserves the right to amend its elections under the Adoption Agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

Section 4. (a) The City agrees that it shall abide by the terms of the Plan and the Trust, including amendments to the Plan and the Trust made by the Trustees of the Plan, all investment administrative and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The City accepts the administrative services to be provided by AML and any services to be provided by an outside Service Provider as selected by the Trustees. The City acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants’ Accounts.

Section 5. (a) The City may terminate its participation in the Plan, including but not limited to, its contribution requirements, by way of :

- (i) An ordinance of the City Council terminating its participation in the Plan.**
- (ii) The ordinance must specify when the participation will end.**

Trustees shall determine whether the ordinance complies with the terms of the Plan, and all applicable federal and state laws. The Trustees shall also determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The City acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 6. The City acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased by such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, are held as part of the Plan. All contributions to the Plan shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 7. It is the intent of the City that this ordinance and the approval of participation in the AML Deferred Compensation Plan


supercedes, revokes and repeals the City's prior approval of participation in the U.S. Conference of Mayors deferred compensation program and the City's prior approval of participation in the ICMA Retirement corporation deferred compensation plan or any other such program as may have been previously approved by ordinance or resolution. All new Deferred Compensation contributions made by employees after implementation of the Plan will be made to the Plan. Roll over of prior contributions into the AML plan will be at the discretion of each individual employee with respect to his/her individual account.

PASSED AND APPROVED THIS 18 DAY OF
April, 2005.

APPROVED:


Troy Burlison, Mayor

ATTEST:


Sandy Beaver
Recorder/Treasurer