

CITY OF CORAL GABLES

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, ARTICLE II OF THE CODE OF THE CITY OF CORAL GABLES, ENTITLED “RETIREMENT SYSTEM FOR CITY EMPLOYEES”, IMPLEMENTING ACTION TAKEN BY THE CITY COMMISSION TO ESTABLISH PROVISIONS OF THE 2009-2010 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF CORAL GABLES AND TEAMSTERS, LOCAL UNION 769; CREATING A DEFINITION OF “AVERAGE FINAL COMPENSATION” AND REVISING DEFINITIONS OF “COMPENSATION”, “DISABILITY”, “HIGHEST THREE-YEAR AVERAGE”, “NORMAL RETIREMENT DATE” AND “TOTAL EARNINGS”; REVISING EMPLOYEE CONTRIBUTIONS; REVISING NORMAL RETIREMENT INCOME; REVISING DISABILITY BENEFITS; REVISING DROP ELIGIBILITY; REVISING THE PURCHASE OF PRIOR CREDITED SERVICE; CREATING A NEW SECTION PROVIDING FOR BENEFITS OF EXCLUDED EMPLOYEES; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL ORDINANCES INCONSISTENT HERewith.

WHEREAS, the City Commission recently took action to resolve the impasse in negotiations between the City and Teamsters Local Union 769 for the 2009-2010 collective bargaining agreement; and

WHEREAS, among the terms and conditions of employment resolved by the City Commission were certain changes to the Coral Gables Retirement System; and

WHEREAS, the City Commission has determined that certain changes to the Coral Gables Retirement System are appropriate for excluded employees; and

WHEREAS, to implement the changes to the Retirement System it is necessary to amend the Retirement System ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. That the recitals and findings contained in the Preamble of this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. That Section 50-25 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

Sec. 50-25. - Definitions.

For purposes of this article, the following words and phrases shall have the meanings stated below unless a different meaning is plainly required by the context:

* * *

Average Final Compensation means the compensation paid to participants, other than police officers and firefighters, during the five years in which the participant's compensation was the highest preceding the earlier of the date of retirement or separation from employment, divided by five. The five years may, but need not be, consecutive years, but may not overlap. Provided, in no event shall average final compensation be less than the participant's highest three-year average as of September 29, 2010. For the purpose of this definition, a year means 26 consecutive full biweekly payroll periods. If a participant has less than 26 consecutive full biweekly payroll periods at termination of service or actual retirement date, the compensation in the actual number of full payroll periods will be divided by the actual number of years and fractional parts represented by the full payroll periods worked.

* * *

Compensation means as to:

(1) Hourly paid employees, hourly wages, inclusive of shift differential and special assignment pay, but excluding all overtime, lump sum payments for accumulated compensatory time and annual leave, annual and sick leave payouts upon termination of employment, vehicle allowance, uniform, equipment and all other payments ~~loyalty steps, special assignment, educational incentives,~~ plus any workers' compensation benefits received by the employee;

(2) Salaried employees, salary only exclusive of all other remuneration, plus any workers' compensation benefits received by the employee.

* * *

Disability means:

(1) for police officers and firefighters, either a permanent and total incapacity or temporary and total incapacity due to injury or illness.

(2) for participants other than police officers or firefighters, a medically determinable physical or mental impairment that totally and permanently prevents an employee from rendering useful and efficient service as an employee in any capacity.

* * *

Highest three-year average means the sum of the total earnings of a police officer or firefighter participant for the three years in which the participant's total earnings were the highest preceding the date of termination of service or actual retirement date, divided by three. The three years may, but need not, be consecutive years, but may not overlap. For the purpose of this definition, a year means 26 consecutive full biweekly payroll periods. If a participant has less than 26 consecutive full biweekly payroll periods at his termination of service or actual retirement date, the total earnings in the actual number of full pay periods will be divided by the actual number of years and fractional parts represented by the full pay periods worked.

* * *

Normal retirement date for police officers, firefighters and participants other than police officers and firefighters with ten or more years of credited service on September 30, 2010 means the first day of the month coincident with or next following the first to occur of the following dates:

(1) Date on which the participant attains 65 years of age, irrespective of the number of years of credited service, at which time the participant shall be deemed fully vested, irrespective of the number of years of credited service (effective retroactively to all plan years beginning after December 31, 1975);

(2) The date on which the participant's fully credited years of service and chronological age sum total 70, which may include military service; or

(3) The date on which a retiree or vested employee who no longer is employed by the city attains 52 years of age.

Normal retirement date for participants, other than police officers or firefighters, with less than ten years of credited service on September 30, 2010, and participants, other than police officers or firefighters, hired on or after October 1, 2010 shall be the earliest of:

- (1) age 65 with six years of credited service;
- (2) the date on which the sum of the participant's years of credited service and age equal 80; or
- (3) age 62 with ten years of credited service.

* * *

Total earnings means all remuneration paid by the city to police officers and firefighters, as provided in this paragraph. ~~Remuneration includes the employee,~~ including compensation, overtime, educational payments, shift differentials, special assignments, and the like, but excludes ~~exclusive of~~ lump-sum payments for unused annual and sick leave upon employee termination, or of the value of any automobile furnished to the employee by the city, and uniform, equipment and like allowances. Provided, however, that "total earnings" shall not include amounts paid for overtime hours worked in excess of 300 overtime hours in any year, as "year" is defined for purposes of "highest three-year average." Further provided, however, that for participants other than firefighter participants, "total earnings" shall not include amounts paid for overtime hours worked in excess of 600 overtime hours in any year, as "year" is defined for purposes of "highest three-year average" (this sentence shall be effective as of June 8, 2004, and this 600-hour cap shall not affect averages prior to June 8, 2004.) (Definition as amended September 23, 1998, is retroactive to November 21, 1989, at which time by reenactment of the retirement ordinance, the city continued the established policy of excluding lump-sum payments of unused annual and sick leave in calculating total earnings upon termination.) Notwithstanding any provision of this paragraph, effective September 30, 2009, "total earnings" for police officers shall not include: amounts paid

for overtime hours worked in excess of 300 overtime hours in any year, as "year" is defined for purposes of "highest three-year average" (provided, the 300-hour cap on overtime payments shall not affect averages prior to September 30, 2009); or lump sum payments for accumulated compensatory time.

SECTION 3. That Section 50-27 of the "Code of the City of Coral Gables" pertaining to "Pensions" is hereby amended to read as follows:

Sec. 50-27. - Purchase of credited service for period of military service and/or employment with other public employers.

(a) The definitions of section 50-25 to the contrary notwithstanding, participants of the system shall have the option to receive credited service for all purposes of this system for the time while in the active United States military service prior to city employment under the following conditions. Participants who wish to receive credit for this service will be required to make a contribution for such service in an amount established by a formula and by payment methods determined by the retirement board. Notwithstanding the preceding sentence, effective September 30, 2010 participants, other than police officers or firefighters, who wish to receive credit for military service prior to city employment will be required to make a contribution for such service in an amount equal to the full actuarial cost of the service as determined by the plan actuary. Each participant shall make an irrevocable election to purchase military service credit within 180 days following the date the participant attains five years of credited service under this system. If an election to purchase service credits is not received in this time period, no future election will be allowed. To be eligible to purchase credit for military service time, a participant must be an employee of the city at the date of the election and must have a total of five years of credited service with the city immediately prior to the date of application. If eligible to purchase credit for military service time, a participant may purchase United States military service time up to a maximum of five years, on a day-for-day basis. Under no circumstances may a participant purchase more military service credit (on a day-for-day basis) than actually spent in active United States military service. Once a time period is chosen for purchase, the period cannot be adjusted.

* * *

SECTION 4. That Section 50-34 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

Sec. 50-34. Employee contributions.

Effective October 1, 2005, all employees except police officers and elected and appointed officials shall contribute five percent of their total earnings to the system. Effective September 30, 2009, police officers and elected and appointed officials shall contribute five percent of their total earnings to the system, and all other excluded employees shall contribute ten percent of their total earnings to the system. Effective September 30, 2010, all participants in the bargaining unit represented by Teamsters Local Union 769 shall contribute ten percent of their compensation to the system.

SECTION 5. That Section 50-230 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

Sec. 50-230. - Normal retirement income.

(a) *Amount of monthly normal retirement income.*

(1) The monthly amount of retirement income payable to a participant with less than 40 years of credited service who retired on or after September 30, 1993, except as otherwise provided in paragraphs (3), (4) and (5) below, shall be equal to one-twelfth of three percent of the highest three-year average total earnings multiplied by the total years of credited service at the actual retirement date, not to exceed 75 percent of the highest three-year average total earnings; provided, however, that no police officer or firefighter shall receive benefits of less than two percent of his highest three-year average total earnings for each year of credited service.

(2) As to all participants, with the exception of members of the bargaining units represented by the Fraternal Order of Police, Lodge No. 7, and the International Association of Firefighters, Local 1210, who retire with 40 or more years of credited service on or after December 31, 1993, the monthly amount of retirement income payable to the participant who retires on or after the

normal retirement date as defined in section 50-25, shall be equal to 80 percent of the highest two-year average total earnings subject to the limitations set forth in section 50-237.

(3) Notwithstanding paragraphs (1) and (2) above, the benefits of all participants, other than police officers or firefighters, who are employed and not participating in the DROP on September 30, 2010, shall be frozen on that date. Such participants shall retain their accrued benefits under the Retirement System as of September 30, 2010. Effective September 30, 2010 for participants, other than police officers, firefighters or excluded employees, who are employed and not participating in the DROP on that date, the annual amount of normal retirement income shall be made up of two parts: (1) three percent of the highest three year average as of September 30, 2010 multiplied by the total years of credited service and any fraction thereof prior to October 1, 2010; and (2) two and one-fourth percent of average final compensation as of the date of retirement or separation from employment multiplied by the total years of credited service and any fraction thereof on and after October 1, 2010. The combined total annual retirement income paid to participants under this paragraph (3) shall not exceed 75 percent of average final compensation at the earlier of date of retirement or separation from employment; provided, in no event shall a participant's annual retirement income be less than his/her accrued benefit as of September 30, 2010, determined in accordance with the provisions of the System in effect on September 29, 2010.

(4) Notwithstanding any other provision of this Retirement System, any participant, other than a police officers or firefighter, who is employed and not participating in the DROP on September 30, 2010, may elect to receive his/her frozen accrued benefit as of that date, determined in accordance with the provisions of the System in effect on September 29, 2010, payable on the date and in the manner provided by the System in effect on September 29, 2010.

(5) Effective September 30, 2010 for participants, other than police officers, firefighters and excluded employees, hired on or after that date, the annual amount of normal retirement income shall be based on the following

formula: two and one-fourth percent of average final compensation multiplied by the total years of credited service and any fraction thereof; not to exceed 75 percent of average final compensation at the earlier of date of retirement or separation from employment.

* * *

(d) *Amount of ~~monthly~~ early retirement income.* The monthly amount of retirement income payable to a police officer or firefighter participant who retires on the early retirement date shall be equal to one-twelfth of three percent of the participant's highest three-year average total earnings, all multiplied by the total years of credited service at the early retirement date, not to exceed 75 percent of his highest three-year average total earnings multiplied by the appropriate factor below. Effective September 30, 2010, for participants, other than police officers and firefighters, who retire on or after October 1, 2010, the annual amount of retirement income payable to a participant who retires on the early retirement date shall be based on the formula set forth in subsection (a)(3) above, and multiplied by the appropriate factor below:

| Number of years early retirement date precedes earliest normal retirement date | Early Retirement Reduction Factor |
|--|-----------------------------------|
| 1 | 0.94 |
| 2 | 0.88 |
| 3 | 0.82 |
| 4 | 0.76 |
| 5 | 0.70 |

* * *

SECTION 6. That Section 50-231 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

Sec. 50-231. - Disability retirement.

(a) *Determination of disability.* A police officer or firefighter participant who applies for disability retirement benefits must submit a medical opinion from a physician stating the participant is permanently disabled and unable to perform the duties of the participant's occupation, along with all medical records, documents, and/or authorizations for the release of the same deemed relevant by the city and/or the retirement board. Effective September 30, 2010, a participant, other than a police officer or firefighter, who applies for disability retirement benefits must submit a medical opinion from a physician stating the participant has a medically determinable physical or mental impairment that totally and permanently prevents the participant employee from rendering useful and efficient service as an employee in any capacity, along with all medical records, documents, and/or authorizations for the release of the same deemed relevant by the city and/or the retirement board. The city may have the participant examined by a physician it selects, and submit that physician's opinion, along with any other relevant evidence, to the retirement board. The designation of a physician by the city shall be within the city's sole discretion, and shall be made on a case by case basis. The retirement board shall also have the participant examined by another physician or physicians selected by the board. The board shall consider the reports of all examining physicians and any other relevant evidence, and shall make a determination based on competent substantial evidence as to whether the participant meets the criteria for disability retirement contained in this article. Disability retirement will be reconsidered by the retirement board every year for continued disability. At the request of the board, the participant must submit renewed medical opinions, documents and/or authorizations for the release of the same, and submit to examination by physicians, as provided above for the initial application. Should the participant fail to submit the renewed medical opinions, documents, and/or authorizations, the board may suspend the participant's benefits. The retirement board may waive annual reconsideration of disability if after investigation it determines, for any reason, that the disabled participant will be unable to return to their pre-disability occupation at any time in the future. The annual reconsideration of disability will cease when the disabled participant reaches his normal retirement date.

(b) *Inadmissible case of disability.* A participant will not be entitled to receive any disability retirement income if the cause of the ~~disability~~mental or physical

~~incapacity resulting in his inability to engage in his own occupation for wage or profit~~ is a result of:

- (1) Excessive and habitual use by the participant of drugs, intoxicants or narcotics;
- (2) Injury or illness sustained by the participant while willfully and illegally participating in fights, riots, civil insurrections, or while committing a crime;
- (3) Injury or illness sustained by the participant while serving in any armed forces;
- (4) Injury or illness sustained by the participant after his employment has terminated;
- (5) Injury or illness sustained by the participant while performing duties outside the scope of his employment with the city, provided, however, that this subsection shall not apply to firefighters.

(c) *Disability.* The definition and acceptance of disability by the social security ~~administration board~~ is not to be considered binding or in any way affecting the definition of disability or proof of such disability under the system.

(d) *Disability retirement income—Nonservice-related disabilities.* The monthly amount of retirement income payable to a participant who retires from service of the city on a nonservice-related disability retirement due to a disability occurring prior to October 1, 2010 shall be equal to one-twelfth of the 23/5 percent of the participant's total earnings during the employee's period of credited service. Notwithstanding the preceding sentence, a participant other than a police officer or firefighter who sustains a nonservice-related disability on or after October 1, 2010 shall receive a benefit equal to his/her accrued benefit, but not less than 25 percent of the participant's average final compensation on the date of disability.

(e) *Same—Service-related disabilities.*

- (1) Notwithstanding the provisions of subsection (d) of this section and except as modified by subsection (f) of this section, the amount to be paid to a participant whose disability is a service-related disability occurring on or after October 1, 1989 and prior to October 1, 2010, shall be a minimum of \$100.00 per month or

75 percent of the monthly compensation paid to the participant at time of disability, whichever is greater. The participant will receive this amount for 24 months from the date the disability is granted, during which time he will undergo rehabilitation, retraining, and review, as defined in F.S. ch. 440. After this 24-month time period, the participant's benefits shall be reduced to 66 2/3 percent of the participant's monthly compensation at the time of the disability or a minimum of \$100.00 per month, whichever is greater. The board shall have the power to waive this benefit reduction if after rehabilitation and retraining the participant cannot engage in any occupation for wage or profit. Notwithstanding the above provisions, a participant whose service-related disability falls within the provisions of F.S. chs. 175 and 185 shall be exempt from this benefit reduction. Notwithstanding the above provisions, a participant, other than a police officer or firefighter, who sustains a service-related disability on or after October 1, 2010 shall receive a benefit equal to his/her accrued benefit, but not less than 42 percent of the participant's average final compensation on the date of disability.

(2) Provided, however, that subsection (e)(1) of this section shall not apply to firefighters or police officers, as to whom subsection (e)(3) of this section shall instead apply;

(3) Notwithstanding the provisions of subsection (d) of this section and except as modified by subsection (f) of this section, the amount to be paid to a police officer or firefighter participant whose disability is a service-related disability shall be the greater of 75 percent of the monthly compensation paid to the participant at time of disability or the participant's accrued benefit.

* * *

SECTION 7. That Section 50-246 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby amended to read as follows:

Sec. 50-246. Deferred retirement option plan (DROP).

(a) *Eligibility.*

(1) The effective date of the DROP is January 1, 1999.

(2) Any active participant under the system, except as provided in paragraph (3) below, may retire and participate in the DROP upon becoming eligible for normal retirement either as defined in section 50-25, if the employee has 25 years of service, or the employee is age 65, if earlier. A participant must make a written election to participate in the DROP within 180 days of attaining eligibility to participate in the DROP, or if eligible as of January 1, 1999, no later than 180 days from January 1, 1999. If an election is not made within the time frame provided herein, the participant will not be eligible to participate in the DROP in the future. Provided, however, that for the firefighter participants and effective September 30, 2009, for police officer participants, participation in the DROP may be elected no earlier than the earlier of the date the employee satisfies the "Rule of 70" (i.e., the provisions of subsection (2) of the definition of normal retirement date in section 50-25), or attains 25 years of service, or reaches age 65. Further provided, however, that for firefighter and police officer participants, the election to enter the DROP must be made no later than six months after the later of the date the employee satisfies the "Rule of 70," or the date the employee attains 25 years of credited service. Also further provided, however, that for firefighter and police officer participants, if such participant becomes eligible to enter the DROP by virtue of attaining age 65, the participant must elect to enter the DROP within six months of attaining age 65.

(3) Effective September 30, 2010, and notwithstanding the provisions of paragraph (2) above, a participant, other than a police officer or firefighter, who enters the DROP on or after October 1, 2010, shall be eligible to participate in the DROP upon attaining the earliest applicable normal retirement date as defined in section 50-25; provided, participants with ten or more years of credited service on September 30, 2010 must have 25 years of credited service or attain age 65, or attain the normal retirement date applicable to participants with less than ten years of credited service on September 30, 2010, to be eligible to participate in the DROP. Such participant must submit a written election to participate in the DROP at least 30 days prior to the DROP entry date. Such participant may defer entry into the DROP for up to three years following attainment of the earliest normal retirement date and participate in the DROP for the maximum 60 month period. If such participant defers entry into the DROP for

more than three years following attainment of the earliest normal retirement date, then the maximum DROP participation period shall decrease by one month for every month of deferred DROP entry beyond three years following attainment of the earliest normal retirement date.

(4) Except as otherwise provided in paragraph (3) above, the maximum DROP participation period will be a fixed 60-month period for all participants, except firefighter participants. The maximum DROP participation period for firefighter participants shall be a fixed 96-month period.

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SECTION 8. That a new Section 50-249 of the “Code of the City of Coral Gables” pertaining to “Pensions” is hereby created to read as follows:

Sec. 50-249. Excluded Employees.

Effective September 30, 2010, the retirement benefits and employee contributions for excluded employees shall be as provided in sections 50-25 through 50-248, except as otherwise provided in this section 50-249.

(a) The benefits of all excluded employees who are employed and not participating in the DROP on September 30, 2010, shall be frozen on that date. Such participants shall retain their accrued benefits under the Retirement System as of September 30, 2010. Effective September 30, 2010, the annual amount of normal retirement income for excluded employees shall be made up of two parts: (1) three percent of the highest three year average as of September 30, 2010 multiplied by the total years of credited service and any fraction thereof prior to October 1, 2010; and (2) the benefit specified for credited service on and after October 1, 2010 in subsections (b) through (e) below.

(b) For managerial employees as defined by City Personnel Rules and Regulations, who are employed and not participating in the DROP on September 30, 2010, part 2 of the annual amount of normal retirement income referenced in subsection (a) above, shall be based on the following for as long as they are employed as managerial employees: three percent of average final compensation multiplied by the first ten years of credited service from date of hire (excluding any credited service prior to October 1, 2010); plus two and one-fourth percent of

average final compensation multiplied by the years of credited service and any fraction thereof after the first ten years of credited service from date of hire (excluding any credited service prior to October 1, 2010); with the combined total not to exceed 75 percent of average final compensation. Provided, any managerial employee as defined by City Personnel Rules and Regulations, who is employed in a managerial position and not participating in the DROP on September 15, 2010, and who is subsequently transferred by reason of reorganization to a position that is not categorized as managerial, shall retain the normal retirement benefits as set forth in this subsection (b) for as long as he/she is employed by the City. For managerial employees as defined by City Personnel Rules and Regulations, hired on or after October 1, 2010, the annual amount of normal retirement income shall be based on the following formula: three percent of average final compensation multiplied by the first ten years of credited service; plus two and one-fourth percent of average final compensation multiplied by the years of credited service and any fraction thereof after the first ten years of credited service; with the combined total not to exceed 75 percent of average final compensation.

(c) For professional and supervisory employees as defined by City Personnel Rules and Regulations, who are employed and not participating in the DROP on September 30, 2010, part 2 of the annual amount of normal retirement income referenced in subsection (a) above, shall be based on the following for as long as they are employed as professional or supervisory employees: two and one-half percent of average final compensation multiplied by the first ten years of credited service from date of hire (excluding any credited service prior to October 1, 2010); plus two and one-fourth percent of average final compensation multiplied by the years of credited service and any fraction thereof after the first ten years of credited service from date of hire (excluding any credited service prior to October 1, 2010); with the combined total not to exceed 75 percent of average final compensation at date of retirement or separation from employment. For professional and supervisory employees as defined by City Personnel Rules and Regulations, hired on or after October 1, 2010, the annual amount of normal retirement income shall be based on the following formula: two and one-half percent of average final compensation multiplied by the first ten years of credited service; plus two and one-fourth percent of average final compensation multiplied by the years of credited service and any fraction thereof after the first ten years of credited service; with the combined total not to exceed 75 percent of average final compensation.

(e) For appointed officials who are employed and not participating in the DROP on September 30, 2010, part 2 of the annual amount of normal retirement income referenced in subsection (a) above, shall be based on the following for as long as they are employed as appointed officials: three percent of average final compensation multiplied by the years of credited service and any fraction thereof after October 1, 2010; with the combined total not to exceed 75 percent of average final compensation at date of retirement or separation from employment. For appointed officials hired on or after October 1, 2010, the annual amount of normal retirement income shall be based on the following formula: three percent of average final compensation multiplied by years of credited service and any fraction thereof; with the combined total not to exceed 75 percent of average final compensation.

SECTION 10. That this Ordinance shall become effective on September 30, 2010, except as otherwise specified herein.

(Moved: / Seconded:)
(Yeas:)

DONALD D. SLESNICK, II
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY