

**ORDINANCE NO. 2016-5**

**AN ORDINANCE AMENDING THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, TO PROVIDE FOR INTERNAL REVENUE CODE COMPLIANCE; PROVIDING FOR THE ELIGIBILITY OF DROP PARTICIPANTS TO ELECT AND TO SERVE AS MEMBERS OF THE BOARD OF TRUSTEES; PROVIDING CLARIFICATION WITH REGARD TO IN-SERVICE DISTRIBUTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on January 30, 2014 an application was filed with the Internal Revenue Service for a Favorable Determination Letter regarding the qualified status of the Plan under Section 401(a) of the Internal Revenue Code; and

**WHEREAS**, on April 9, 2015, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

**WHEREAS**, the Favorable Determination Letter is subject to the timely adoption of the amendments provided herein, and

**WHEREAS**, the City desires to provide expressly for the eligibility of DROP participants to elect and to serve as members of the Board of Trustees; and

**WHEREAS**, the City desires to clarify that in-service distributions are authorized under the plan in certain circumstances; and

**WHEREAS**, the trustees of the City of North Miami Beach General Employees' Retirement Plan have requested and approved such amendments as being in the best

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interests of the participants and beneficiaries as well as improving the administration of the plan, and

**WHEREAS**, the City Council has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida:

**Section 1.** The foregoing WHEREAS clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** Article II, Definitions, of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by deleting the following stricken language:

...

***Basic Compensation*** means base pay to be interpreted as the compensation actually paid to a participant by the City, exclusive of commissions, bonuses, overtime pay, expense allowances and all other extraordinary compensation. ~~For the purposes of applying the limitations under Sections 415 and 401(a)(17) of the Internal Revenue Code, Basic Compensation shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Subsection 6.08(a) hereof, Basic Compensation shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code.~~

**Section 3.** Article III, Section 3.05, "Purchase of Credited Service", of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding the following underlined language:

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(a) ***Purchase of Credited Service for Prior Military Services*** - Participants of the Plan shall have the option to receive credited service for all purposes of this Plan, for the time while in the active United States military service under the following conditions.

- (1) Participants who wish to receive credit for service will be required to make a contribution for such service which will be sufficient to pay for the full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase United States military service time in increments of six (6) months and up to a maximum of four (4) years or the time of military service. Once a time period is chosen for purchase, the period cannot be adjusted. The purchase of military service is subject to the Retirement Committee's receipt of proof of the employee's military service.
- (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this Ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such

credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the City or 30 days prior to the date that the Participant's first monthly pension benefit payment is due, whichever is earlier.

- (3) The Participant did not receive credited service for the time spent in the Armed Forces from any military retirement or pension system.
- (4) If, upon adoption of this Ordinance, a Participant has previously agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due the Plan pursuant to the procedures and provisions set forth above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three months after the adoption of this Ordinance.

- (5) Notwithstanding any other provision of this subsection (a), the purchase of credited service for prior military service shall not be available to any participant in the IUPA bargaining unit who has not purchased or agreed to purchase such credited service through payroll deduction prior to January 1, 2014.
- (b) ***Purchase of Credited Service for Prior Periods of Service with Other Public Employers or for Service with the City of North Miami Beach as a Contract Employee*** - Participants under the Plan shall have the option to receive credited service for all purposes of this Plan, for periods of service with other public employers or for service with the City of North Miami Beach as a contract employee, under the following conditions.
- (1) Participants who wish to receive credit for this service will be required to make a contribution for such service which will be sufficient to pay for the total full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase other public employee service time in increments of six (6) months and up to a maximum of the lesser of four (4) years or the number of full years of service with the other public employer or as a contract employee with the City of North Miami Beach. Once a time period is chosen for purchase, the period cannot be adjusted. The purchase of other public employer service time is subject to the Retirement Committee's receipt of proof of the employee's employment with the other public employer and participation in the other public employer's pension plan.
- (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this Ordinance or the execution of the payroll deduction authorization form.

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This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pick-up) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the City or 30 days prior to the date that the Participant's first monthly pension benefit payment is due, whichever is earlier.

- (3) The Participant did not receive credited service from any other retirement or pension system.
- (4) If, upon adoption of this Ordinance, a Participant has previously

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agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due to the Plan pursuant to the procedures and provisions set forth above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three (3) months after the adoption of this Ordinance.

- (5) Notwithstanding any other provision of this subsection (b), the purchase of credited service for prior service with other public employers or for service with the City of North Miami Beach as a contract employee shall not be available to any participant in the IUPA bargaining unit who has not purchased or agreed to purchase such credited service through payroll deduction prior to January 1, 2014.
- (c) ***Purchase of Permissive Service Credit*** - Participants of the Plan shall have the option to receive permissive credited service for all purposes of this Plan under the following conditions.
- (1) Participants who wish to receive permissive credited service will be required to make a contribution for such service which will be sufficient to pay for the full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase permissive credited service in increments of six (6) months and up to a maximum of four (4) years. Once a time period is chosen for purchase, the period cannot be adjusted.
  - (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption

of this Ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the Participant's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the city or 30 days prior to the date that the Participant's first monthly pension benefit payment is due, whichever is earlier.

- (d) Notwithstanding any other provision of (a), (b) and (c) of this section, the combined maximum number of years of credited service which a

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participant can purchase for periods of military service, periods of service with other public employers or with the City of North Miami Beach as a contract employee and for permissive credited service cannot exceed a total of four (4) years.

- (e) To the extent permitted by law, including relevant Internal Revenue Code provisions, as amended from time to time, in lieu or in addition to irrevocable employer pick up of Participant contributions, the Plan will accept inter-plan transfers (rollovers) as provided in Section 6.11.

**Section 4.** Article V, Administration of Plan, Section 5.01(a) of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding the following underlined language:

- (a) **Membership** - The Plan will be administered by the Retirement Committee consisting of the following:

...

- (ii) Two (2) members from employees participating in the Plan, including DROP Participants as defined in Article II.

**Section 5.** Article V, Administration of Plan, Section 5.01(b), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding the following underlined language:

- (b) **Election of Employee Members** – Under (ii) above, the members of the Retirement Committee will be elected by majority from the general employees, including DROP Participants as defined in Article II. Members from the selected groups will serve for a period of four (4) years.

**Section 6.** Article VI, Retirement Benefits, Section 6.01(a), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding the following underlined language:

- (a) **Normal Retirement Defined** - Normal retirement under the Plan is retirement from the service of the City on or after the normal retirement date. Any provision of this plan to the contrary notwithstanding, a Member's accrued benefit shall become 100% vested upon the attainment of the Normal Retirement Date.

**Section 7.** Article VI, Retirement Benefits, Section 6.04(a)(6)(B), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended as follows:

- (B) If a participant who is receiving monthly payments prior to his normal retirement date due to the election described in Section 6.04(a)(1) (Deferred Payment of Benefits) above subsequently re-enters the service of the City, benefit payments will cease effective immediately upon re-entry and he will immediately begin to make employee contributions and accrue credited service. Upon his subsequent retirement or termination of service, benefit payments will again commence as indicated in this Plan, except the value of those payments will be reduced by the value of the payments previously received. Except with respect to disability retirement, any other participant will, on re-entry into the service of the City (unless he has been on leave of absence pursuant to the provisions of Section 3.03), be treated as if he then first entered the service of the City. Nothing herein shall be construed to prohibit in-service distributions of monthly retirement benefits to an employee who continues in, or re-enters, employment by the City, to the extent that such distributions are permitted under the Internal Revenue Code and subsection 6.04(a)(11) below..

**Section 8.** Article VI, Retirement Benefits, Section 6.04, of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding a new subparagraph (a)(11) and a new subparagraph (d) as follows:

- (a) Benefit on termination of service.

...

- (11) Employment of Retirants. Effective March 1, 2014, a participant who retires after attaining the normal retirement

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date on or before March 31, 2016 may return to City employment without loss of retirement income as long as the employment is for less than twenty (20) hours per week or not more than five (5) months in any calendar year. A participant who retires after attaining the normal retirement date on or after April 1, 2016, and who has been in receipt of retirement income for a period of at least thirty (30) days may return to City employment without loss of retirement income as long as the employment is for less than twenty (20) hours per week or not more than five (5) months in any calendar year.

...

- (d) Death while performing USERRA-qualified active military service - In the case of a Member who dies on or after January 1, 2007 while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the Plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

**Section 9.** Article VI, Retirement Benefits, Section 6.08(a), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by deleting the language in its entirety and replacing it with the following underlined language:

- (a) Maximum Amount of Retirement Income.
- (1) The limitations of this Subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this Subsection (a) shall

supersede any provision of the Plan to the extent such provision is inconsistent with this Subsection.

The Annual Pension as defined in Paragraph (2) below otherwise payable to a Member at any time shall not exceed the Dollar Limitation for the Member multiplied by a fraction whose value cannot exceed one, the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no more than one year of service may be credited for any Plan Year. If the benefit the Member would otherwise accrue in a limitation year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Dollar Limitation.

(2) "Annual Pension" means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:

(A) For limitation years beginning on or after July 1, 2007

(I) the straight life annuity (if any) payable to the Member under the Plan commencing at the same Annuity Starting Date as the Member's form of benefit, or

(II) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

(B) For limitation years beginning before July 1, 2007

(I) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using the interest rate and mortality basis specified by the Board of Trustees for determining Actuarial Equivalence under the Plan for the particular form of payment, or

(II) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the

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mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

(3) "Dollar Limitation" means, effective for the first limitation year beginning after January 1, 2001, \$160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a Member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The Dollar Limitation shall be further adjusted based on the age of the Member when the benefit begins as follows:

(A) For Annuity Starting Dates in limitation years beginning on or after July 1, 2007

(I) If the Annuity Starting Date for the Member's benefit is after age 65

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the annual amount of a benefit payable in the form

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of a straight life annuity commencing at the Member's Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the Member's age based on completed calendar months as of the Annuity Starting Date).

- (ii) If the Plan does have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)(A)(I)(i) of this Subsection(a). For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age 65 and

has the same Accrued Benefit as the Member.

(II) Except with respect to a Member who is a “Qualified Member” as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the Annuity Starting Date for the Member’s benefit is before age 62

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

The Dollar Limitation at the Member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the Member’s age based on completed calendar months as of the Annuity Starting Date).

(ii) If the Plan does have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

The Dollar Limitation at the Member’s Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member’s Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under

the Plan at age 62, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)(A)(II)(i) of this Subsection (a).

(B) For Annuity Starting Dates in limitation years beginning before July 1, 2007

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p><u>The smaller of: (a) the actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</u>  <u>(b) the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u></p> <p><u>Any increase in the Dollar Limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p><u>The smaller of: (a) the actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</u>  <u>(b) the actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u></p> <p><u>This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</u></p>

(4) With respect to Subclause (3)(A)(I)(i), Subclause (3)(A)(II)(i) and Subparagraph (3)(B) above, no adjustment shall be made to the Dollar Limitation to reflect the probability of a Member's death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall

be treated as occurring upon the Member's death if the Plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member's death.

- (5) The term "limitation year" is the 12 month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the Member has never participated in a Defined Contribution Plan maintained by the City.
- (7) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a Member who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (3) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.
- (9) Any portion of a Member's benefit that is attributable to mandatory Member contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any Member participate in more than one defined benefit plan maintained by the City, in any case in which the Member's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the Member's benefit under this Plan shall be reduced so that the Member's combined benefits will equal the Dollar Limitation.
- (11) For a Member who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and

shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to §1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

- (12) The determination of the Annual Pension under Paragraph (2)(A) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in §411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant §1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.
- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.
- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise

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qualify as compensation and that are made by the later of: (a) 2 and ½ (two and one-half) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

**Section 10.** Article VI, Retirement Benefits, Section 6.08(c), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by deleting the stricken language and adding the underlined language as follows:

(c) Required Minimum Distributions.

...

(3) Requirements for annuity distributions that commence during participant's lifetime.

(A) *Joint life annuities where the beneficiary is not the participant's spouse.* If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section ~~1.401(a)(9)-6~~ 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

...

(6) *Definitions*

(A) *Designated beneficiary.* The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section ~~1.401(a)(9)-1~~, ~~Q&A-4~~, 1.401(a)(9)-4 of the Treasury regulations.

**Section 11.** Article VI, Retirement Benefits, Section 6.08(d), of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by deleting the stricken language and adding the underlined language as follows:

(d) Rollover Distributions

...

(2) Definitions

The following definitions apply to this Section:

(A) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;

(iii) ~~the portion of any distribution that is a hardship distribution described in Section 401(k)(2)(B)(i)(IV) of the Code~~ which is made upon hardship of the Member;  
and

...

**Section 12.** Article VI, Retirement Benefits, Section 6.08, of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding a new subparagraph (g) as follows:

- (g) **USERRA.** This plan shall at all times be administered in accordance with the Uniformed Services Employment and Reemployment Rights Act.

**Section 13.** Article VI, Retirement Benefits, Section 6.08, of the Retirement Plan for General Employees of the City of North Miami Beach is hereby amended by adding a new subparagraph (h) as follows:

- (h) This plan is intended to be a Governmental Plan within the meaning of Section 414(d) of the Code, and shall be administered at all times in accordance with Section 401(a) of the Code, as it relates to Governmental Plans.

**Section 14.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 15.** If any section, subsection, clause or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 16.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**Section 17.** This Ordinance shall take effect upon adoption.

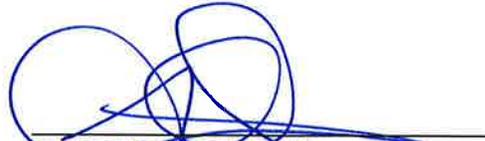
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**APPROVED** on first reading this **21st day of June, 2016.**

**APPROVED AND ADOPTED** on second reading this **5<sup>th</sup> day of July, 2016.**

ATTEST:

  
PAMELA L. LATIMORE  
CITY CLERK

  
GEORGE VALLEJO  
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &  
& LANGUAGE & FOR EXECUTION

 6/28/16  
JOSE SMITH  
CITY ATTORNEY

Sponsored by: Mayor and City Council.